

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (S) No.4221 of 2014

Vaibhav Raj Patel, S/o Rajkamal Patel, aged about 25 years, R/o Village Muraripali, Post Kirodimal Nagar, Police Station and District Raigarh (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, Revenue Department, Mantralaya, Mahanadi Bhawan, Mantralaya, New Raipur (C.G.)
2. Collector, Raigarh, District Raigarh (C.G.)
3. Sub-Divisional Officer (Revenue)/Land Acquisition Officer, Raigarh, District Raigarh (C.G.)
4. The General Manager, District Trade and Industries Centre, Raigarh, District Raigarh (C.G.)
5. Jindal Steel and Power Limited, through its Authorized Signatory, Raigarh, District Raigarh (C.G.)

---- Respondents

For Petitioner: Mr. Bharat Rajput, Advocate.

For State/Respondents No.1 to 4: -

Mr. Ashish Surana, Panel Lawyer.

For Respondent No.5: Mr. B.D. Guru & Mr. Aditya Bharadwaj, Advocates.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

11/09/2017

1. This writ petition is directed by the petitioner whose father's land was acquired for the benefit of the respondent Company named as Jindal Steel and Power Limited.
2. Learned counsel for the petitioner submits that in the award it has clearly been mentioned that member of the family of the land oustee would be granted permanent employment in the said industrial establishment within six months from the date of award, but that has not been done, though the award was passed on 17-7-2008, and

firstly, the petitioner was offered service by memo dated 21-5-2014 appointing him as Graduate Apprentice Trainee for a period of one year with a stipend of Rs.11,000/- per month which was not accepted by the petitioner and thereafter, again another offer letter has been issued on 24-6-2017 in which again he has been appointed as Trainee on a stipend of Rs.20,000/- per month, whereas the petitioner is entitled for permanent job without any condition. Even otherwise, in the offer letter dated 24-6-2017, only a stipend of Rs.20,000/- per month has been proposed and various rigorous conditions have been mentioned therein which is contrary to the commitment of respondent No.5 and the order of the Sub-Divisional Officer (Revenue) / Land Acquisition Officer.

3. Learned State counsel and learned counsel for respondent No.5 – Jindal Steel and Power Limited would oppose the submission and prayer of learned counsel for the petitioner and would submit that the petitioner has already been offered letter for engagement on 24-6-2017 which is strictly in accordance with law.
4. I have heard learned counsel for the parties and considered the rival submissions made herein-above and also gone through the record with utmost circumspection.
5. The word 'rehabilitation' has been defined in Black's Law Dictionary (Sixth Edition). It means, "investing or clothing again with some right, authority, or dignity. Restoring person or thing to a former capacity, reinstating, qualifying again. Restoration of an individual to his greatest potential, whether physically, mentally, socially, or vocationally."
6. The Supreme Court has occasion to define the meaning of

rehabilitation in its judgments. Some of them may be noticed herein usefully and profitably.

7. Way back in the year 1986, in the matter of **The Collector of 24 Parganas and others v. Lalit Mohan Mullick and others**¹ while defining the meaning of "rehabilitation", the Supreme Court highlighting the object of rehabilitation observed as under: -

"13. In Collins Dictionary of the English Language, the meaning for the word 'rehabilitate' is given as "to help a person (who is physically or mentally disabled or has just been released from prison) to readapt to society or a new job as by vocational guidance, retraining or thereby..... ". By rehabilitation what is meant is not to provide shelter alone. The real purpose of rehabilitation can be achieved only if those who are sought to be rehabilitated are provided with shelter, food and other necessary amenities of life. It would be too much to contend, much less to accept, that providing medical facilities would not come within the concept of the word 'rehabilitation'..... "

8. In the matter of **Narmada Bachao Andolan v. Union of India**², the Supreme Court noticed that displacement of people living on the proposed project sites and the areas to be submerged is an important issue and a properly drafted R&R plan would improve the living standards of displaced persons after displacement, and held as under in paragraph 241: -

"241. Displacement of people living on the proposed project sites and the areas to be submerged is an important issue. Most of the hydrology projects are located in remote and inaccessible areas, where local population is, like in the present case, either illiterate or having marginal means of employment and the per capita income of the families is low. It is a fact that people are displaced by projects from their ancestral homes. Displacement of these people would undoubtedly disconnect them from their past, culture, custom and traditions, but then it becomes necessary to harvest a river for the larger good. A natural river is

1 AIR 1986 SC 622

2 (2000) 10 SCC 664

not only meant for the people close by but it should be for the benefit of those who can make use of it, being away from it or near by. Realising the fact that displacement of these people would disconnect them from their past, culture, custom and traditions, the moment any village is earmarked for takeover for dam or any other developmental activity, the project-implementing authorities have to implement R&R programmes. The R&R plans are required to be specially drafted and implemented to mitigate problems whatsoever relating to all, whether rich or poor, landowner or encroacher, farmer or tenant, employee or employer, tribal or non-tribal. A properly drafted R&R plan would improve the living standards of displaced persons after displacement."

9. Similar is the decision rendered by the Supreme Court in the matter of **N.D. Jayal and another v. Union of India and others**³ in which

Their Lordships have held that the land oustees have a right under Article 21 of the Constitution of India to lead a decent life and earn livelihood in the rehabilitated locations, and further held that rehabilitation of the land oustees is a logical corollary of Article 21.

Paragraph 60 of the report reads as follows: -

"60. Rehabilitation is not only about providing just food, clothes or shelter. It is also about extending support to rebuild livelihood by ensuring necessary amenities of life. Rehabilitation of the oustees is a logical corollary of Article 21. The oustees should be in a better position to lead a decent life and earn livelihood in the rehabilitated locations. Thus observed this Court in *Narmada Bachao Andolan* case (2000) 10 SCC 664). The overarching projected benefits from the dam should not be counted as an alibi to deprive the fundamental rights of oustees. They should be rehabilitated as soon as they are uprooted. And none of them should be allowed to wait for rehabilitation. Rehabilitation should take place before six months of submergence. Such a time-limit was fixed by this Court in *B.D. Sharma v. Union of India* 1992 Supp (3) SCC 93 and this was reiterated in *Narmada*. This prior rehabilitation will create a sense of confidence among the oustees and they will be in a better position to start their life by acclimatizing themselves with the new environment."

³ (2004) 9 SCC 362

10. Likewise, in the matter of State of Madhya Pradesh v. Narmada Bachao Andolan and another⁴, the Supreme Court has clearly held that the land oustees are entitled to resettlement and rehabilitation as per the policy framed for the oustees of the project concerned and observed as under: -

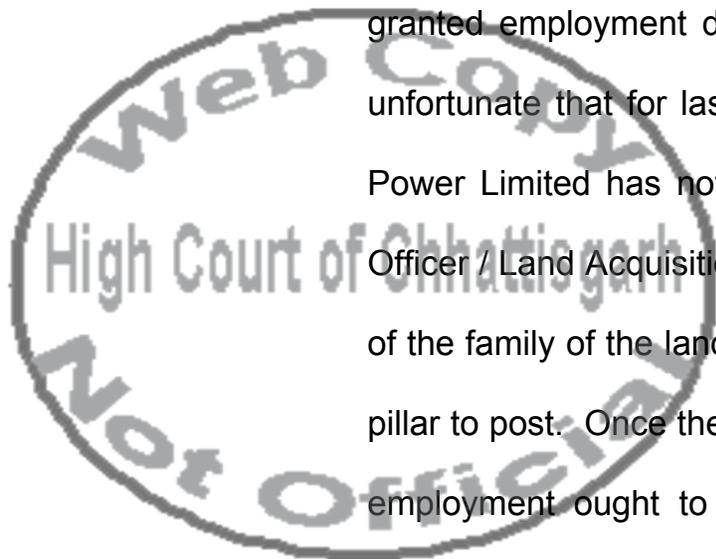
"Thus, from the above referred judgments, it is evident that acquisition of land does not violate any constitutional/fundamental right of the displaced persons. However, they are entitled to resettlement and rehabilitation as per the policy framed for the oustees of the project concerned."

11. The member of the affected family is entitled for resettlement and rehabilitation as per the policy framed in that behalf by the Government and as such, the policy framed for rehabilitation of a land oustee must be just, fair, reasonable and consistent with the provisions of the Constitution of India, particularly Articles 14 and 15.

12. The petitioner's father was not agreeable for land acquisition and ultimately, he was convinced that a member of his family will be given permanent employment in the industrial establishment and on that condition, he agreed and his land was acquired. The Sub-Divisional Officer (Revenue)/Land Acquisition Officer has clearly held that the family member of land oustees would be entitled for permanent employment and that too it should be granted within six months as per the rehabilitation policy as on 2007, but the two appointment orders issued to the petitioner would clearly show that respondent No.5 Jindal Steel and Power Limited is not ready and willing to grant permanent employment to the petitioner and only he has been twice offered appointment as Trainee and that too for 12 months on a

4 (2011) 7 SCC 639

stipend of Rs.11,000/- per month and Rs.20,000/- per month, respectively, which is against the spirit of the order passed by the Sub-Divisional Officer (Revenue)/Land Acquisition Officer. The petitioner ought to have been offered permanent job with a salary attached to that post, as his educational qualification is B.E. (Mech.). It is unfortunate that the order of the Sub-Divisional Officer / Land Acquisition Officer, though passed in favour of the beneficiary and land of the petitioner's father has been acquired as back as on 17-7-2008, yet, has not been followed in its letter and spirit. The fact remains that the family member of the land oustee has not been granted employment despite the award dated 17-7-2008. It is also unfortunate that for last nine years, the respondent Jindal Steel and Power Limited has not implemented the order of the Sub-Divisional Officer / Land Acquisition Officer granting rehabilitation to the member of the family of the land oustee and the petitioner is made to run from pillar to post. Once the land acquisition proceeding has become final, employment ought to have been granted as per the rehabilitation policy and as per the order of the Sub-Divisional Officer / Land Acquisition Officer. It is bad on the part of Jindal Steel and Power Limited of not providing permanent employment to the family member of the land oustee giving complete go-by to the object of rehabilitation as held herein-above that refusing to rehabilitate land oustee family as per the award is violation of Article 21 of the Constitution of India. Such an action on the part of a private company is highly deprecated. It is, therefore, directed that within 30 days from the date of receipt of a copy of this order, the award dated 17-7-2008 will be complied with in its letter and spirit and the petitioner will be offered a permanent job in the said company as per the order of the Sub-Divisional Officer



(Revenue) / Land Acquisition Officer. It is further directed that the petitioner will be entitled to salary and other all service benefits of a permanent employee from the date of filing of writ petition i.e. 13-8-2014 along with 7.5% interest till the date of appointment on regular service.

13. The writ petition is allowed to the extent indicated herein-above. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Soma



HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (S) No.4221 of 2014

Vaibhav Raj Patel

Versus

State of Chhattisgarh and others

Head Note

Refusal to rehabilitate the land oustee family as per award is violative of Article 21 of the Constitution of India.

शीर्ष टिप्पण

भूविस्थापित परिवार को अधिनिर्णय के अनुसार पुनर्वास प्रदान करने से इन्कार करना भारत के संविधान के अनुच्छेद 21 का उल्लंघन है।

