

HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

LPA No. : 8 of 2004
Decided on: 31.7.2008.

Taul Dassi Appellant.
Versus	
Satluj Jal Vidyut Nigam Ltd. and othersRespondents.

Coram:

The Hon’ble Mr.Justice Deepak Gupta, Judge.

The Hon’ble Mr.Justice V.K. Ahuja, Judge.

Whether approved for reporting? No.

For the appellant: Mr.Vinay Kuthiala, Advocate.
For respondents No.1 and 2: Mr.Ramakant Sharma, Advocate.
For respondent No.3: Mr.Rajesh Mandhotra, Deputy Advocate General.

Deepak Gupta, J.(Oral):

This appeal is directed against the judgment, dated 4.8.2003, passed by a learned Single Judge of this Court in CWP No.543 of 1998, whereby the civil writ petition filed by the present appellant (here-in-after referred to as the writ petitioner) has been dismissed.

The undisputed facts are that the petitioner owned 0-58-41 hectares of land in Chak Majgaon, Tehsil Rampur, District Shimla. Out of this land, 0-47-43 hectares of land, which included the house of the petitioner, was acquired for the construction of the Nathpa Jhakri Power Project under the Land Acquisition Act. The Nathpa Jhakri Power Corporation had framed a Scheme for the rehabilitation of the persons who were rendered landless or displaced due to the construction of the Nathpa Jhakri Power Project. Under the terms of the Scheme, in addition to the compensation payable under

¹Whether reporters of Local papers may be allowed to see the judgment? Yes.

the Land Acquisition Act, the persons affected due to the construction of the Project were required to be given certain other benefits. Since we have to interpret the various clauses of the Scheme, it would be pertinent to quote the Scheme in extenso:

"Following is the Resettlement & Rehabilitation plan approved by the NJPC Board in respect of the persons having been displaced due to construction of NJP:

- (a) To allot developed agricultural land, to each family, who is rendered land less, equivalent of the area acquired or 5 bighas, whichever is less. This 5 bighas would include any land left with the family after acquisition. This would done only after the certificate of his having become landless is submitted duly signed by Sub-division Magistrate Rampur.*
- (b) To provide a house with a built up plinth area of 45 sqm. to each landless family whose house is acquired alternatively to pay Rs.45,000/- to each landless family, whose house is acquired and constructs his house at his own cost, with a plinth area of 45 sqm. or more. In case, any of such persons constructs less than 45 sqm. plinth area, then the amount to be given will be worked out in direct proportion to the area of house constructed viz-a-viz Rs.45,000/- as the cost of 45 sqm. plinth area.*
- (c) To provide water supply, electricity, street light and approach paths in the rehabilitation colonies at Project Cost.*
- (d) To provide transportation at Project cost for physical mobilization of all the displaced families, as soon as the houses get constructed.*
- (e) To give preference in allotment of shops in the proposed market to the shopkeepers being displaced from village Jhakri. The commercial premises/shops allotted to any oustee or preferential basis shall be utilized by the oustee for his bonafide use only.*
- (f) To provide suitable employment to one member of each displaced family according to his capability and qualifications subject to availability of vacancies. However, persons who are allotted shops would not be eligible for benefit of employment and vice-versa.*
- (g) To incur the estimated expenditure of Rs.184 lacs on rehabilitation against an adhoc provision of Rs.18 lacs in detailed Project report (September, 1986 price level)."*

The case set up by the petitioner was that she was a displaced person and, therefore, one of her children should be granted employment in terms of Clause (f) of the Scheme quoted here-in-above. When employment was not

granted to her, she approached this Court by means of the civil writ petition. The learned Single Judge rejected the civil writ petition by holding that from a combined reading of Clauses (e) and (f) of the Scheme, the only interpretation which can be given to Clause (f) is that a person for being eligible for employment should be shown to have been displaced from Jhakri, i.e. he should have been rendered landless in Jhakri. The learned Single Judge held that since the petitioner has not been rendered landless, she is not eligible to the benefit under the Scheme. This judgment is under challenge in the present appeal.

We have heard Mr.Vinay Kuthiala, learned counsel for the appellant and Mr.Ramakant Sharma, learned counsel for respondents No.1 and 2.

On a plain reading of the entire Scheme, which we have quoted above in extenso, it is clear that the interpretation given by the learned Single Judge is incorrect. Clauses (a) and (b) of the Scheme relate to persons who have been rendered landless due to the construction of the Project. Such persons, under Clause (a), would be entitled to allotment of developed agricultural land equal to the area acquired or 5 bighas, whichever is less. Under Clause (b), a family which is rendered landless would be provided a house with a built up plinth area of 45 square metres. In case such a house is not provided, then Rs.45,000/- would be paid to such a family. Other modalities have been mentioned in these Clauses to balance the compensation under the Scheme. Clauses (c) and (d) relate to general facilities to be provided. Clause (e) deals with the allotment of shops in the proposed market at Jhakri. It has been provided that these shops shall be given to the shopkeepers being displaced from Village Jhakri. In this Clause, the phrase used is "shopkeepers being displaced from village Jhakri". This Clause is obviously meant to rehabilitate the shopkeepers. Naturally, the shopkeepers displaced from Jhakri, would be entitled to shops in the proposed

market. This clause has no relevance to Clause (f). Clause (e) specifically deals with shopkeepers only who were having shops in Village Jhakri. Once their shops were acquired for the purpose of the Project, they obviously got displaced from Village Jhakri. The word 'landless' has not been used in Clause (e) and cannot be read into Clauses (e) or (f).

As far as Clause (f) is concerned, a bare reading of this clause makes it obviously clear that the purpose of the clause is to provide succour to the families who are displaced due to the construction of the Project. The word "displaced" cannot be equated with the word "rendered landless". The word "displaced" means, a person who had changed his place of abode due to the construction of the Project. Admittedly, the house of the petitioner was acquired. Major portion of her land was also acquired. She was left with a small holding at Jhakri. She has to be treated as a displaced person due to the construction of the Project.

Keeping in view the aforesaid discussion, we are of the considered view that the interpretation given by the learned Single Judge to Clauses (e) and (f) is incorrect and that the case of the petitioner is squarely covered under Clause (f) of the Scheme. Therefore, respondents No.1 and 2 are directed to consider the case of the petitioner for providing suitable employment to one member of the family of the petitioner in accordance with the provisions of the Scheme. The petitioner shall, within one month from today, give details of the member of her family to whom she wants employment to be provided by respondents No.1 and 2. On her doing so, respondents No.1 and 2, within three months thereafter, shall consider the case of the petitioner for providing suitable employment to her family member in accordance with the provisions of the Scheme.

With the above directions, the appeal stands disposed of accordingly.
However, there are no orders as to costs.

In view of the final disposal of the main appeal, all the pending applications shall also stand disposed of.

**(Deepak Gupta),
Judge.**

July 31, 2008.
(TILAK)

**(V.K. Ahuja),
Judge.**