

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
BEFORE
HON'BLE SHRI JUSTICE PURUSHAINDR KUMAR KAURAV
ON THE 10th OF MARCH, 2022**

WRIT PETITION No. 2474 of 2019

Between:-

**MOHAN PATEL KURMI S/O SHRI
NANHELAL, AGED ABOUT 45 YEARS,
OCCUPATION – AGRICULTURIST, R/O
VILLAGE – GORA KHURD, TEHSIL –
BANDA, DISTRICT – SAGAR (M.P.)**

.....PETITIONER

(BY SHRI HAKIM KHAN - ADVOCATE)

AND

- 1. THE STATE OF MADHYA PRADESH
THROUGH PRINCIPAL SECRETARY,
DEPARTMENT OF IRRIGATION,
VALLABH BHAWAN, BHOPAL (M.P.)**
- 2. THE COLLECTOR AND PRESIDING VICE
SECRETARY, STATE OF MADHYA
PRADESH, DEPARTMENT OF REVENUE,
SAGAR, DISTRICT – SAGAR (M.P.)**

.....RESPONDENTS

(BY MS. PRIYANKA MISHRA, GOVERNMENT ADVOCATE)

This petition coming on for admission this day, the court passed the following:

ORDER

The petitioner in the instant writ petition is seeking directions to the respondents to grant proper compensation as per Schedule II and III of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement, Act, 2013 (hereinafter referred to as “The Act of 2013”).

2. The case of the petitioner is that he is the owner of certain lands as has been mentioned in the petition. A notification was issued for acquisition of the land for Sanjali Madhyam Pariyojana Jalashay in District – Sagar. The preliminary notification under Section 11 of the Act of 2013 was issued on 07.04.2017, thereafter, declaration under Section 19 of the Act of 2013 was made and final award has been passed on 12.06.2018. The petitioner states that he is entitled for various benefits as per Schedule II and III of the Act of 2013, which has not been granted to him. He places reliance on a decision of this Court in the matter of **Smt. Pooja Modi Vs. Housing and Environment Department**¹.

3. The learned Government Advocate appearing for the State submits that the compensation for the land situated in village Gora Khurd

¹ Writ Petition No.6318 of 2015, order dated 29.03.2016

was determined at the rate of Rs.7,25,000/- for irrigated land and Rs.3,95,000/- for un-irrigated land. The other benefits provided in the Schedules were granted while passing the award dated 12.06.2018 and on different other dates. The State did not receive any objection before passing of the final award. The representation dated 07.01.2019 were filed belatedly and there was no proper receiving in the office of the Collector concerned. It is further submitted that the appropriate remedy in the instant case available to the petitioner is to file a reference under Section 64 of the Act of 2013 and under such circumstances, the petition is not maintainable. The learned Government Advocate places reliance on a Division Bench decision of the High Court of Bombay in the matter of **Shri Balaso Namadev Patil and others Vs. The State of Maharashtra and others**² and Single Bench decision of this Court in the matter of **Smt. Urmila Pandey Vs. The State of Madhya Pradesh and others**³.

4. In response to the submissions made by the learned Government Advocate for the State, the learned counsel for the petitioner submits that the petitioner may be granted liberty to approach the concerned Collector to point out that notwithstanding the fact that the

² 2017 SCC Online Bom 2487

³ 2016 SCC Online MP 11573

award has not been challenged under Section 64 of the Act of 2013, the petitioner is still entitled for certain benefits under the various schemes.

5. Bare reading of Section 64 of the Act of 2013, this Court is of the opinion that any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Authority, as the case may be, whether his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable, the rights of Rehabilitation and Resettlement under Chapters V and VI or the apportionment of the compensation among the persons interested.

6. The Second Schedule provides for element of rehabilitation and resettlement entitlements for all the affected families (both land owners and the families whose livelihood is primarily dependent on land requirement) in addition to those provided in the First Schedule. The Third Schedule provides for provision of infrastructural amenities. In short Second and Third Schedules are related to the rights of Rehabilitation and Resettlement. Section 64 of the Act of 2013, includes objection with respect to the measurement of the land, the amount of the compensation, the person to whom it is payable, the rights of Rehabilitation and Resettlement under Chapters V and VI or the

apportionment of the compensation among the persons interested. It is, therefore, seen that even for enforcement of the rights of Rehabilitation and Resettlement, the Act of 2013 provides for remedy of reference under Section 64. The State Government vide Gazette notification dated 08.09.2016 (Annexure-R-2) notified all District Judges (ex-officio) as Presiding Officer for exercising the jurisdiction, powers and authority within their territorial jurisdiction to decide the reference made to them under Section 64 of the Act of 2013. In view of the aforesaid, the petitioners cannot claim any relief under the provisions of the Act of 2013 outside the ambit of Section 64 of the Act of 2013. The petitioners are at liberty to approach the concerned Collector while filing appropriate application in accordance with law. If such an application is filed, the concerned Collector is directed to deal with the same as per the provisions of Section 64 of the Act of 2013.

7. So far as the judgment relied upon by the learned counsel for the petitioners in the case of **Smt.Pooja Modi**¹ is concerned, the issue was not whether any person can claim for any benefit beyond the award without resorting to the provisions of Section 64 of the Act of 2013 and, therefore, the same would not be applicable in the present case.

8. With the aforesaid directions, the petition stands disposed off.

(PURUSHAINDR KUMAR KAURAV)
JUDGE

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