

**Court No. - 21**

**Case :-** WRIT - C No. - 13489 of 2024

**Petitioner :-** Rampal Singh And 12 Others

**Respondent :-** National Highway Authority Of India And 2 Others

**Counsel for Petitioner :-** Manoj Kumar Dhuriya

**Counsel for Respondent :-** C.S.C.,Pranjal Mehrotra

**Hon'ble Manoj Kumar Gupta,J.**

**Hon'ble Kshitij Shailendra,J.**

1. Heard learned counsel for petitioner and Shri Pranjal Mehrotra, learned counsel appearing on behalf of NHAI.
2. The instant petition has been filed praying for a direction to the respondent no. 3 i.e. Collector, Muzaffar Nagar to pass award under the provisions of Section 31 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'the Act, 2013').
3. Indisputably, the land of the petitioners was acquired under the provisions of the National Highways Act, 1956 ( for short 'NH Act'). The competent authority passed an award on 10.10.2019. It is not disputed that National Highways Act, 1956 is duly specified in the fourth schedule of the Act, 2013. It has been held by this Court in Writ-C No. 21601 of 2022, Ranvir Singh and 35 others and connected matters, decided on 21.02.2023 that the beneficial provisions of the Act, 2013 including the provisions relating to rehabilitation and resettlement would also apply to acquisitions made under the NH Act. The operative part of the order is as follows:-

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"For the above, without entering into the merits of the claim of the petitioner, it is directed that the competent authority under the National Highways Act, 1956 shall prepare a proposal for the rehabilitation and resettlement award for affected families, within the meaning of Section 3(c) of the Act, 2013, in terms of the entitlements provided in the Second Schedule, with the assistance of the officers of the NHAI and submit the same before the Collector for making award in accordance with the provisions of Section 31 of the RECTLARR Act, 2013.

For preparation of the said proposal, the competent authority shall make necessary enquiry as per the provisions of the Sections 34, 35 and 36 of the RECTLARR Act, 2013 as contained in Chapter V of the Act, 2013, i.e before preparation of the rehabilitation and resettlement award, in relation to the acquisition in question.

It goes without saying that the representatives of the National Highways Authority and the affected tenure holders are entitled to participate in the proceedings for preparation of the award. The claim of the petitioners herein for the entitlements under the Second Schedule at serial no. (1) for provision of housing unit in case of displacement; serial no. (4) choice of annuity and employment and serial no. (10), one time resettlement allowance, shall be specifically considered by the competent authority in making such an award.

The entire exercise shall be completed, as expeditious as possible, preferably, within a period of six months from the date of receipt of copy of this order.

We may make it clear that, at this stage, no direction has been given for providing benefits of Third Schedule as no such demand has been raised by the petitioners herein.

In any case, while making such an award, independent consideration shall be given to the elements of rehabilitation and resettlement entitlements for the affected families provided in the Second Schedule, without being influenced by any of the observations made hereinabove.

With the above observations and directions, the writ petitions in this bunch are disposed of."

4. Shri Pranjal Mehrotra, learned counsel appearing on behalf of NHAI submits that the direction by the Co-ordinate Division Bench in the aforesaid decision to the Collector to pass rehabilitation and resettlement award is not consistent with the provisions of the NH Act whereunder the competent authority

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alone is invested with the power to hold enquiry and declare award. He submits that on the said limited aspect, the NHAI has challenged the judgment of this Court in Ranvir Singh (supra) by filing Special Leave Petition (Civil) Diary No. 12061/2024 before the Supreme Court and in which following order has been passed on 15.04.2024:-

"1. Delay condoned.

2. Heard Mr. Tushar Mehta, learned Senior Advocate and Solicitor General appearing for the petitioner-National Highway Authority of India and perused the record.

3. According to Mr. Mehta, the present Special Leave Petition has been filed only for a limited purpose of clarification in respect of the observation/direction given in the impugned order passed by the High Court which reads as follows:-

"For the above, without entering into the merits of the claim of the petitioner, it is directed that the competent authority under the National Highways Act, 1956 shall prepare a proposal for the rehabilitation and resettlement award for affected families, within the meaning of Section 3(c) of the Act, 2013, in terms of the entitlements provided in the Second Schedule, with the assistance of the officers of the NHAI and submit the same before the Collector for making award in accordance with the provisions of Section 31 of the RECTLARR Act, 2013.

For preparation of the said proposal, the competent authority shall make necessary enquiry as per the provisions of the Sections 34, 35 and 36 of the RECTLARR Act 2013 as contained in Chapter V of the Act, 2013, i.e. before preparation of the rehabilitation and resettlement award, in relation to the acquisition in question."

4. According to the learned Senior Advocate- Mr. Mehta, the direction to submit the scheme before the Collector for following the procedure under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 is not consonance with the provisions of NHA, particularly with Section 3 read with Section 3(g) and 3(i) of the NH Act.

5. In view of the above, let notice be issued only for the limited purpose of clarification as sought in the Special Leave Petition, returnable after four weeks.

6. Dasti service, in addition, is permitted."

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5. He submits that although he is not opposing the prayer of the petitioner for rendering rehabilitation and resettlement award in terms of the mandate of Act 2013, but the said exercise should be conducted by the competent authority and not by the Collector.

6. Section 23 read with Section 31 of the Act, 2013 empowers the Collector to pass rehabilitation and resettlement award for each affected family in terms of the entitlements provided in the second schedule. Under Section 3(g) of the Act, 2013 the Collector has been defined thus:-

"(g) —Collector means the Collector of a revenue district, and includes a Deputy Commissioner and any officer specially designated by the appropriate Government to perform the functions of a Collector under this Act;"

7. It is evident from the definition of Collector that it includes any Officer specially designated by the appropriate Government to perform the functions of the Collector under the said Act.

8. In NH Act, the power to declare award is conferred upon the competent authority under Section 3G. The competent authority has been defined under Section 3(a) of the Act of 1956 as follows:-

"(a) "competent authority" means any person or authority authorised by the Central Government, by notification in the Official Gazette, to perform the functions of the competent authority for such area as may be specified in the notification;"

9. It is not disputed that the Central Government had issued notification on 28.08.2015 under Section 105(3) of the Act, 2013 directing that the provisions relating to the second and third schedule shall apply to all cases of land acquisitions under the enactments specified in the fourth schedule to the said Act. The effect of said notification is to extend the beneficial provisions of the Act, 2013 to the acquisitions made under the NH Act. However, the machinery provided for holding enquiry and

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determining compensation does not get altered. The same is still to be done in the manner and by the authority stipulated under the Statutes under which acquisition was done. We, therefore, find force in the submission of learned counsel for NHAI that in matters relating to acquisitions under NH Act, it would be the competent authority, as defined under Section 3(a) of NH Act, which would be empowered to examine the claims pertaining to rehabilitation and resettlement and make award accordingly and not the Collector of the district.

10. We notice that in *Ranvir Singh* (supra), the issue was whether the provisions of rehabilitation and resettlement under the Act, 2013 would apply to the acquisitions made under the NH Act or not. The ratio of the judgment in *Ranvir Singh* (supra) is binding on this Court and not the directions issued in the operative part of the said order as the same is not the *ratio decidendi* of the said case. Therefore, we have no hesitation in issuing direction in the instant case to the competent authority as defined in Section 3(a) of the NH Act to examine the claim relating to rehabilitation and resettlement and declare award accordingly.

11. Before parting, we may note that large number of cases are coming up before this Court everyday complaining that rehabilitation and resettlement awards are not being made by the Competent Authority where acquisition is under the provisions of the NH Act. As the judgment of Division Bench of this Court in *Ranvir Singh* (supra) is not under challenge on merits, it is desirable that Central Government clarifies the legal position by issuing a circular so as to obviate filing of separate petitions by affected persons for direction to pass such an award.

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12. The instant petition stands **disposed of** with direction to the competent authority to proceed with the exercise of examining the claims pertaining to rehabilitation and resettlement and declare award on the said aspect having regard to the provisions of Chapter V of the Act, 2013 within twelve weeks from the date of the communication of the instant order.

13. **Registrar (Compliance)** is directed to send a copy of this order to Ministry of Road, Transport and Highways, Government of India for necessary compliance of directions contained in paragraph- 11 of this order.

**Order Date:-** 24.04.2024

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**(Kshitij Shailendra, J.) (Manoj Kumar Gupta, J.)**