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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP-21270-2021 (O&M)
Date of decision: 08.12.2022**

**NUCLEAR POWER CORPORATION OF INDIA.LTD.
...Petitioner**

VS

STATE OF HARYANA AND ORS ...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Ashish Chopra, Senior Advocate with
Ms. Gurpreet Randhawa, Advocate
Ms. Rupa Pathania, Advocate,
for the petitioner.

Mr.Saurabh Mohunta, D.A.G, Haryana.

Mr. Anil Chawla, Advocate,
for respondent No.7.

Mr. Satya Pal Jain, Additional Solicitor General of India with
Ms. Alisha Arora, Advocate,
for the respondent-Union of India.

Mr. Sandeep Goyat, Advocate,
for private respondents.

Mr. Ankur Mittal, Advocate and
Ms. Kushaldeep Kaur, Advocate,
for respondent no.4.

ARUN MONGA, J. (ORAL)

Petition herein filed by a Government of India entity against the State Government, is, *inter alia*, for issuance of a writ in the nature of certiorari for quashing an order dated 19.01.2021 (Annexure P-10),

whereby, allegedly, an additional obligation unacceptable to the petitioner-corporation, for providing jobs to the land oustees, has been imposed under Haryana State Rehabilitation and Resettlement Policy, 2010.

2. Given the nature of controversy, at the outset, on the oral request of private respondents (land oustees), Union of India through Secretary, Ministry of Power and New & Renewable Energy, Govt. of India, Shram Shakti Bhawan, Rafi Marg, New Delhi is arrayed as a party i.e., respondent No.47. Registry to carry out necessary changes in Memo of Parties.

2.1. Notice is also issued to respondent No.47.

2.2. On the asking of Court, Ms. Alisha Arora, present in Court accepts notice on behalf of respondent No.47. She is led by Senior Advocate Mr. Satya Pal Jain, learned Additional Solicitor General of India.

3. Before adverting to the rival contentions on merits, pertinent it is to mention that in a welfare State it does not augur well on the part of one Government to be in *lis* with another Government, by invoking provisions of Article 226 of Constitution of India. It goes against the very grain of Westminster module of governance, wherein an independent and non-partisan civil service of executive wing advises on and implements the policy and decisions of democratically elected governments, but at the same time ensures to maintain institutional continuity as well as administrative propriety. Lack of institutional continuity as well as administrative propriety also shakes the confidence of the electorate in the Government, which on one hand makes a promise and on the other, when it comes to implementation thereof, shifts the burden from federal to

State Government or *vice-versa*, as seems to be the case herein. A Central government entity is before this Court, assailing the decision of State government contending that the same is in violation of the administrative arrangement, which was *inter se* arrived at before acquiring the land of the private respondents.

4. Due to sheer callousness, if one may call it, of tossing the responsibility back and forth between Centre and State, the oustees have been left high and dry *qua* the reciprocal assurances given to them, while acquiring their land. No doubt, one time compensation has though been paid to them, but rest of the benefits, including that of providing job to one family member of each oustee land owner, remain unfulfilled, though the land was acquired way back 10-12 years ago.

5. Livelihood is integral part of right to live and life, and is thus a fundamental right envisaged under Article 21 of Constitution of India. Compensation remains a poor substitute of loss of livelihood. As already stated, it does not reflect well on a Welfare State to indulge in such harsh and capricious practice to deprive fundamental rights of a citizen.

6. While issuing notice of motion on 14.10.2021, following order was passed wherein *inter-se* controversy was succinctly summed up as below:

“ Inter alia contends that, so far as the provision of providing employment to the land oustees qua the land acquired by State Government on behalf of the petitioner, the Rehabilitation and Resettlement Policy, 2010 is not applicable to the petitioner. Further argues that the obligation of the petitioner under the Land Acquisition Scheme is confined only to provide monetary compensation and certain other incentives. Further argues that, in any case, responsibility of providing jobs to the land oustees by petitioner, can be fastened on petitioner corporation only in case an undertaking qua the same was given by it, before initiation of acquisition proceedings. Learned Senior counsel submits that no such undertaking was given by the petitioner-

Nuclear Power Corporation, a Government of India entity. Given the specialized nature of work undertaken by the Nuclear Power Corporation, it has its own norms of employing human resource depending upon the expertise involved therein.

Notice of motion.

On advance service, learned State counsel joins proceedings and accepts notice on behalf of the respondent-State of Haryana and seeks time to file return.

Adjourned to 15.02.2022.

Meanwhile, implementation of impugned order dated 19.01.2021 (Annexure P-10) shall be kept at abeyance till the next date of hearing.”

7. This Court as well as, Apex Court in past, on numerous occasions, has deprecated the practice of PSUs of State/Central governments to lock horns in court room at the public expense and loss of time, in what is otherwise avoidable and inappropriate litigation, only if prior exercise is undertaken, by holding high level meetings amongst the competent officers to take the necessary corrective measures. Pertinently, for such like stalemates a special machinery has also been set up i.e. *Administrative Mechanism for Resolution of CPSES Disputes (AMRCD)*.

8. In somewhat similar circumstances, when one of a State Public Sector Undertaking was pitted against the Central Government, earlier I had an occasion to deal with CWP No. 17212 of 2012 & other connected cases titled as *Haryana State Warehousing Corporation vs. Union of India and others* and the same was disposed of making following observations:

“By this common order, the above mentioned 3 CWPs are being disposed of as the point in issue involved in all these petitions is identical.

2.) *Learned Senior counsel appearing for respondent Nos.2 and 3 points out that vide Annexure R-2/1 dated 22.5.2018 which is office memorandum issued by Government of India in respect of settlement of Commercial Disputes between Central Public Enterprises (CPSES) inter se and also between CPSES and Government*

Departments/Organizations. All such disputes inter se are to be referred to Administrative Mechanism for Resolution of CPSES Disputes (AMRCD). Learned Senior counsel contends that in view of Clauses 4, 5 and 6 thereof wherein it has been clearly stated that at the first level such commercial dispute shall be referred to committee comprising of Secretaries of Administrative Ministries followed by referring the same to the second tier constituted by the Cabinet Secretary, in the event of dispute remains unresolved by the first tier.

3.) *In view thereof, after hearing the rival contentions of both sides, I am of the view that in view of Circular dated 22.05.2018 Annexure R-2/1, the petitioners ought to have pursued their remedy according to the mechanism provided.*

4.) *Accordingly, present writ petitions are disposed of with a direction to the Committee Secretaries of Administrative Ministries, constituted/to be constituted as per office Memo dated 22.05.2018 (R-2/1), to pass a speaking order on merits adjudicating the disputes between the parties herein. It is made clear that all the rival contentions of the respective parties are kept open to be raised before the first tier Committee of Secretaries. The said Committee of Secretaries is directed to pass a speaking order after taking into consideration the rival contentions within the time frame as prescribed in the Circular dated 22.05.2018 Annexure R-2/1.”*

9. I see no reason why in the present case as well, similar exercise be not carried out, as aforesaid.

10. In the premise, the writ petition is disposed of with a direction to respondent no.47 in particular, but equally applicable to petitioner Corporation as well as all the official respondents i.e. No.1 to 3, to take effective measures to constitute a High Powered Committee (HPC) headed by the Secretary, Government of India, Ministry of Power and New and Renewable Energy, as its Chairman and of which the necessary constituents shall be Additional Chief Secretary to Government of Haryana, Power Department (respondent No.2), Managing Director of the petitioner-Nuclear Power Corporation as well as Managing Director, Haryana Power Generation Corporation Limited (respondent No.4). The Secretary to Government of India shall be at liberty to include a fifth

member of his choice, who shall also act as Member Secretary of the Committee for carrying out the necessary procedural/administrative formalities of convening of the meeting as well as maintain its records etc.

11. The HPC shall look into the *inter se* disputes between the petitioner-Corporation vis-à-vis respondent No.4-Corporation. It shall also formulate the issues to be resolved *inseriatim*. After holding threadbare discussions and going through the relevant record, it shall also give a conclusive report as to which R&R policy is applicable and who is to be held responsible for implementation thereof. Committee's report/opinion, needless to say, shall be binding on both Government of India as well as State Government.

12. As regards rights of the private respondents/landowners, if still aggrieved on the report of the Committee, they shall be at liberty to challenge the same by seeking appropriate legal remedy.

13. Necessary exercise shall be carried out as expeditiously as possible, but not later than six months from today, since the landowners have already been waiting inordinately. Process of acquisition of their land began/was carried out somewhere in the year 2010. Thus, for the past 12 years they have been sanguine that one of their family members would be provided with a compensatory job against the loss of livelihood.

14. On a Court query, learned counsel for respondent No.4-HPGCL fairly states that it will be in fitness of the scheme that till a final decision is taken by HPC and/or a report is rendered by it, the order impugned herein shall be put on hold.

15. At this stage, learned Senior counsel for the petitioner Corporation expresses concern and urges that order impugned herein must necessarily be set aside, in view of the direction issued for setting up of an

HPC. I do not really subscribe to his concerns, but it is expected of respondents No.1 to 4 not to give effect to the same in view of the statement made by the learned counsel for the respondent no.4. In any case, they shall have to pass fresh orders after the HPC report is rendered, unless of course, the HPC subscribes to the same view as has been taken in the order assailed in instant proceedings.

16. In the parting, I may hasten to add here that those of the eligible family members of the landowners, who were entitled/desirous of seeking a job, but in the interregnum have become overage, they shall not be later debarred on the ground of eligibility age bar for applying for the job, commensurate of course with their education. Delay herein is since entirely attributable on the part of the official respondents/petitioner Corporation herein.

17. Disposed of.

DECEMBER 08, 2022
Shalini/vandana

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No