
(1993) 07 P&H CK 0030
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 863 of 1992

Gopal Krishan Gupta and Others	Vs	APPELLANT
The State of Haryana and Others		RESPONDENT

Date of Decision : 23-07-1993

Acts Referred:

Land Acquisition Act, 1894 — Section 5A

Citation : (1993) 105 PLR 560

Hon'ble Judges : H.S. Bedi, J

Bench : Single Bench

Advocate : Viney Mittal and Raman Walia, for the Appellant; H.L. Sibal, A.G. and S.K. Kapur, A.A.G., for the Respondent

Final Decision : Allowed

Judgement

H.S. Bedi, J.—By this judgment I propose to dispose of Civil Writ Petition Nos. 863, 864, 865, 866, 867, 996, 997, 1035, 1072, 1075, 1110, 1117, 1124, 1216, 1219, 1246, 1355, 1487, 1582, 1583, 1668, 1695, 1834, 3465, 3466 and 3467 of 1992. The facts have been taken from the first case.

2. The petitioners are the owners of land measuring about 5500 sq. yards comprised in Khasra Nos. 16/4, 6/2, 7, 6/3 and 4/2 situated in village Shahpur, Tehsil and District Ambala. The State of Haryana issued a notification dated 8th February, 1989 u/s 4 of the Land Acquisition Act (hereinafter called the Act) which was published in the official gazette on 8th February, 1989 proposing to acquire some land including the land of the petitioners for the development of a commercial, residential and industrial area to be developed by the Haryana Urban Development Authority. It is the conceded case that the petitioners held their objections u/s 5A of the Act within time. The report by the field staff was obtained by the Collector and thereafter he proceeded to record his report thereon and ultimately recommended to the State Government that the land be acquired and pursuant thereto the declaration u/s 6 of the Act was made on 7th February, 1990. By this petition the notifications under Sections 4 and 6 of the

Act have been assailed by the petitioners on the short ground that while disposing off the objections filed u/s 5A of the Act there had been non-application of mind and non-compliance with its provisions with the result that the notification u/s 6 of the Act could not be sustained. In the written statement filed the stand of the respondent-State is that the declaration u/s 6 of the Act had been issued after the objections u/s 5A of the Act had been duly considered and there had been full and complete compliance with the provisions of the section as even a personal hearing had been afforded to petitioners.

3. Mr. Viney Mittal, learned counsel for the petitioners urged on the strength of *Shri Farid Ahmed Abdul Samad and Another Vs. The Municipal Corporation of the City of Ahmedabad and Another*, Pt. Mehar Chand and Ors. v. *The State of Haryana and Anr.* 1983 P.L.J 25 and *Om Parkash v. The State of Haryana and Anr.* (1988) P.L.R. 645 that the hearing envisaged u/s 5A was not illusory in nature, and should be substantial in which the objections filed should be duly considered and decided. He urged that the action of the Government in acquiring the land was undoubtedly administrative in nature but the decision on the objections filed u/s 5A of the Act was a quasi-judicial act and as such the order disposing off the objections was required to be self-speaking and must display the reasons that compelled the concerned officer to dispose them off in a particular manner.

4. After hearing the learned counsel for the parties, I find that the petition deserves to succeed. The Supreme Court in *Farid Ahmad Abdul Samad's* case has held that under Sub-section (2) of Section 5 of the Act a personal hearing was mandatorily provided for, and that being the legal position I think, it would be wholly appropriate that the personal hearing that is envisaged must be of substance and not an empty formality. In the other cases cited above, this Court has also held that the enquiry u/s 5A of the Act was quasi-judicial in nature as an acquisition has the civil consequence of depriving a person of his property, it must be made after following the procedure laid down in the Act and Standing Orders issued by the Financial Commissioner.

5. The stand of the petitioners that no proper hearing was afforded to them is fully supported by the record produced by the official concerned. I have gone through the record myself and find that although a large number of objections had been filed, they have been disposed of in a very perfunctory and casual manner. The report of the Collector is to the effect that he had heard the objections at site at village Shahpur on 20.6.1990 and had also inspected the spot. It has also been stated that the objections had been appended with the file and the notification u/s 4 of the Act had been duly issued as required and has accordingly recommended that the acquisition would be in the public interest. It is, therefore, apparent that what has weighed with the Collector is the benefit to the interest of the public but the objections raised by the petitioners have not even been alluded to. Undoubtedly the Collector functions as an agent of the State Government and his primary duty is to safeguard the public interest, but when he acts in a quasi-judicial manner he must also project and consider the

point of view of the objectors and a one-sided report suggesting that the land be acquired as proposed without meeting such objections would be meaningless.

6. No other point was urged.

7. For the reasons recorded above, the petition is allowed and the notification dated 7.2.1990 Annexure P-2 to the petition is quashed qua the land of the petitioner. There will be no order as to costs.