

**(2012) 03 SHI CK 0452**  
**In the High Court Of Himachal Pradesh**  
**Case No : CWP No. 444 of 2009**

Sh. Amar Singh

APPELLANT

Vs

State of Himachal Pradesh and Others

RESPONDENT

**Date of Decision :** 06-03-2012

**Acts Referred:**

**Citation :** (2012) 03 SHI CK 0452

**Hon'ble Judges :** Rajiv Sharma, J

**Bench :** Single Bench

**Advocate :** Dharamvir Sharma, for the Appellant; Rajinder Dogra, Additional Advocate General with Mr. Vikas Rathore, D.A.G. for State of Himachal Pradesh, Mr. K.D. Shreedhar with Mr. Y.S. Thakur, Advocate, Chamera Hydro Electric Project and Mr. Sandeep Sharma, Assistant Solicitor General of India for Union of India, for the Respondent

## Judgement

Justice Rajiv Sharma, Judge

1. Since common questions of law and facts are involved in all these petitions, the same were taken up together for hearing and are being disposed of by a common judgment. However, for clarity sake, facts of CWP No. 444/2009 have been taken into consideration. The Chamera Hydro Electric Project was visualized in the year 1982. Thereafter, the process for acquiring land was initiated by the respondent-State. The lands of the petitioners and similarly situate persons were acquired for the purpose of constructing Hydro Electric Project vide various awards made under the Land Acquisition Act, 1894. A scheme was also prepared called "Settlement and Rehabilitation of Oustees of Chamera Hydro Electric Project (grant of Land) Scheme, 1992, vide notification dated 5.3.1993. The State Government has also constituted a High Power Committee on 5.3.2003 to re-assess the package to be released to Chamera Hydro Electric Project Phase-I and Phase-II oustees in lieu of employment and to identify their actual status. Cases of the petitioners were not considered only on the ground that they have not filed objections between 1.7.2004 to 31.7.2004. Petitioners and similarly

situate persons approached this Court by way of CWP No.374/2005 and CWP No. 411/2004. These writ petitions were decided on 12.6.2007 and 18.9.2007, respectively. The operative portion of the judgment rendered in CWP No. 374/2005 and other connected matters, reads thus:

- i) "The petitioners will make a representation to the respondents No.1 and 2 for inclusion of their names in the list seeking financial package within a period of four weeks from today;
- ii) The respondents No. 1 and 2 will decide the representations/objections within a period of four weeks thereafter; and
- iii) If, representations made by the petitioners are accepted by the respondents No.1 and 2, they will be considered for financial package in accordance with law."

2. Similar petitions bearing CWP No. 411/2004 and other connected matters were also decided on 18.9.2007 on the basis of the judgment rendered by this Court in CWP No. 374 of 2005. Thereafter, the Deputy Commissioner passed order on 29.12.2007. The Deputy Commissioner, i.e. respondent No.2 rejected the cases of the petitioners and similarly situate persons.

3. Mr. Dharamvir Sharma has strenuously argued that Deputy Commissioner has not decided the matters as directed by this Court pursuant to the judgments rendered in CWP No. 374 of 2005 and 411 of 2004 dated 12.6.2007 and 18.9.2007, respectively. According to him, Deputy Commissioner was required to consider the cases of all the persons individually after hearing. He further argued that the Government of India has also framed a National Policy notified on 17.2.2004 to redress the grievance of oustees.

4. Mr. Rajinder Dogra, Addl. Advocate General, Mr. K.D. Shreedhar, Senior Advocate and Mr. Sandeep Sharma, Assistant Solicitor General of India have argued that the cases of the petitioners and similarly situate persons have rightly been considered by the Deputy Commissioner vide order dated 29.12.2007. They have also argued that National Policy was notified on 17.2.2004 and thus cannot be applied in the present case.

5. I have heard the learned counsel for the parties and have perused the pleaded carefully.

6. This Court, as noticed above, had directed the Deputy Commissioner to decide the cases of the petitioners on 12.6.2007 and 18.9.2007. The Deputy Commissioner has though considered the case of the petitioner Amar Singh individually but has also considered the cases of 201 persons-oustees. These 201 persons-oustees were not before him and it was the duty cast upon the Deputy Commissioner to offer personal hearing to all the persons - oustees to redress their grievances. The Deputy Commissioner was specifically directed to decide the objections preferred by the petitioners and similarly situate persons, but the Deputy Commissioner instead of passing order on merits, has observed that as per instructions in letter dated 5.7.2003, he was competent to

recommend only 192 names and in case more names were to be added, he would be violating the instructions issued on 5.7.2003. The Deputy Commissioner has only made reference to the list filed alongwith the objections instead of dealing with each case individually. He has surely misdirected himself by not deciding the matter on merits and being influenced by letter dated 5.7.2003, which has lost its efficacy after the judgments were passed by this Court on 12.6.2007 and 18.9.2007. The Deputy Commissioner, i.e. respondent No.2 is remiss in discharge of his duties by not deciding the cases individually, as directed by this Court on merits. The purpose of filing the objections before the Deputy Commissioner was that the same will be decided by him in accordance with law.

7. Mr. Dharamvir Sharma has argued that the cases of the petitioners and similarly situate persons were required to be considered by the respondents as per the National Policy published on 17.2.2004. The Chamera Hydro Electric Project has already been commissioned and in view of this the policy cannot apply *stricto sensu* but the principles contained therein can always be considered by the respondents to redress the grievance of the petitioners and similarly situate persons. The National Policy has been framed to mitigate the hardships of the oustees, who have lost their land and hearth for the purpose of constructing Chamera Hydro Electric Project Stages-I and II. The lands of the petitioners have been acquired almost 15 years ago, but their genuine grievances have not been addressed by the respondents. The Deputy Commissioner, as noticed above, has failed to obey the judgments of this Court on a flimsy ground that he could not go beyond letter dated 5.7.2003. Cases of the petitioners and similarly situate persons are required to be looked into sympathetically by involving the Revenue Agency. Consequently, in view of the observations and discussions made hereinabove, all the petitions are disposed of with a direction to second respondent to decide the objections afresh preferred by the petitioners and similarly situate persons wholly uninfluenced by letter dated 5.7.2003 individually. Second respondent while deciding the objections preferred by the petitioners and similarly situate persons shall take into consideration the salient features of the National Policy published on 17.2.2004. The entire exercise shall be initiated and completed by the second respondent within a period of six months from today. The petitioners are also permitted to file supplementary objections. Pending application(s), if any, also stands disposed of. There shall, however, be no order as to costs.