

(2025) 11 J&K CK 1808
In the Jammu And Kashmir High Court
Case No : WP(C) No. 814 Of 2021

Tara Singh

APPELLANT

Vs

UT of J&K and Ors

RESPONDENT

Date of Decision : 25-11-2025

Acts Referred:

Citation : (2025) 11 J&K CK 1808

Hon'ble Judges : Javed Iqbal Wani, J

Bench : Single Bench

Advocate : Gagan Basotra, Navdeep Kour, Adarsh Bhagat

Final Decision : Disposed Of

Judgement

Javed Iqbal Wani, J

1. Through the medium of this petition, the petitioner has sought the following reliefs:-

a) Allow the writ petition;

b) Issue an appropriate writ, order or direction in the nature of mandamus commanding the respondents to appoint/engage petitioner as daily wager/ Contractual/need based employee in lieu of land having been donated by petitioner's father for construction of Food Store in the respective land, in compliance to SRO 520 dated 21.12.2017;

c) Or in the alternative, issue an appropriate writ, order or direction in the nature of mandamus commanding the respondents to pay compensation under the Land Acquisition Act in lieu of the said land measuring 01 Kanal 01 Marla comprising Khasra No. 1138 min Khewat No. 6/6 min Khata No. 27/23 min situated at Village Lowang, Tehsil Bani, District Kathua donated to the official respondents; and

d) Any other appropriate order or direction which the Court deems fit and proper

in the given facts and circumstances of the case may kindly be passed in favour of petitioner.”

2. According to the counsel for the petitioner, the father of the petitioner donated his proprietary land measuring 01 Kanal & 01 Marla falling under Khasra No. 1138min Khewat No. 6/6, Khata No. 27/23min situated at Village Lowang, Tehsil Bani, District Kathua, to the Food and Supplies Department for construction of Food Store building on the assurance by the respondents that the petitioner would be provided regular employment in the Food, Civil Supplies and Consumer Affairs Department and that though the respondents constructed a Food Store upon the land in question, also got a gift deed executed thereof with the father of the petitioner qua the land in question. According to learned counsel, the petitioner in terms of SRO 520 dated 21.12.2017 and being eligible for engagement as a casual worker, was not engaged in terms of the said SRO, feeling aggrieved thereof, the petitioner repeatedly approached the respondents for redressal of his grievance and also filed a representation before the Deputy Commissioner, Kathua in this regard, which till date has not been decided. It is being next stated by the counsel that the petitioner has neither received any compensation qua the land from the respondents nor have the respondents engaged him under SRO 520, resulting into filing of the instant petition.

3. Objections have been filed by the respondents to the instant petition wherein the petition is being opposed, inter-alia, on the ground that none of the fundamental rights of the petitioner has been infringed or violated and that the father of the petitioner donated the land to the respondent-Department for construction of food store at Lowang in the year 1994-95 and in furtherance thereof, a formal gift deed was also executed on 26.08.2018. It is also stated that case of the petitioner was forwarded by the Deputy Director(Supplies) FCS&CS Department, Jammu vide Communication No. 432/G/222/225 dated 22.01.2021 followed by communication No. 432/G/478-80 dated 16.02.2021 to the Administrative Department wherein it is stated that as per the Deputy Commissioner, Kathua in his letter No. DCK/Adm/2020-21/276 dated 09.01.2021 has submitted that petitioner has donated the land for construction of Food Store at Lowang, and the petitioner being handicapped, 12th Pass and having no source of income is requesting for consideration of his case for appointment against any post in the department and that since the land has been voluntarily donated, the petitioner cannot lodge any claim thereof.

4. Learned counsel for the petitioner while making his further submissions, invited the attention of this Court to the judgments passed in similar cases by the Division Bench of this Court in WP(C) No. 682/2018 along with connected matters, titled as “Chuni Lal Bhagat v. State of J&K and ors.” decided on 17.03.2023 and “Bashir Ahmad Lone Vs. State of J&K and ors.”, reported as 2009 (1) JKJ 121, wherein it has been authoritatively held that in case, the State Government is unable to provide employment to the applicant, it shall pay reasonable monthly compensation for use of the land as determined by the

Divisional Commissioner from the date possession was taken till date, while holding further that in addition, the applicant would be entitled to be paid compensation on acquisition of the land to be done at current market rates.

5. Admittedly, the land of the petitioner has been utilized by the respondents for construction of Food Store and it gets revealed from the record that no acquisition proceedings qua the land in question had been undertaken by the respondents, inasmuch as, no compensation has been paid thereof to the petitioner. The taking over of the said land of the petitioner by the respondents also gets authenticated by the contents of gift deed placed on record of the petition by the petitioner and it's contents are not disputed or denied by the respondents.

6. Keeping in view the aforesaid position obtaining in the matter, as also having regard to the judgments (supra) rendered by the Division Benches of this Court, it is manifestly clear that the aforesaid judgments are squarely applicable to the case of the petitioner.

7. Having regard to above, the instant petition succeeds, as a consequence whereof, the respondents are commanded to initiate steps for acquiring the land of the petitioner under Rights to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 within a period of three months from the date a copy of this judgment and order is produced by the petitioner before the respondents and the respondents shall also be liable to pay reasonable rentals to the petitioner for the use and occupation of the land in question from the date the land was taken over by the respondents till the aforesaid acquisition proceedings are initiated and concluded.

8. Disposed of along with connected CMs, if any.