

Shiv Singh & Ors. Vs State of Himachal Pradesh & Ors

Court: SUPREME COURT OF INDIA

Date of Decision: April 25, 2018

Acts Referred: Right To Fair Compensation And Transparency In Land Acquisition, Rehabilitation And Resettlement Act, 2013 " Section 15, 15(2),11

Citation: AIR 2018 SC 2159 : (2018) ALT (Rev) 116 : (2018) 2 MPWN 123 : (2018) 2 RCR(Civil) 840 : (2018) 6 Scale 407 : (2018) 4 Supreme 480 : (2018) 3 SCR 947 : (2018) 16 SCC 270

Hon'ble Judges: R.K. AGRAWAL, ABHAY MANOHAR SAPRE

Bench: Division Bench

Advocate: BHAGABATI PRASAD PADHY

Final Decision: Allowed

Judgement

[Abhay Manohar Sapre, J.

1) Leave granted.

2) This appeal is filed against the final judgment and order dated 01.11.2016 passed by the High Court of Himachal Pradesh at Shimla in Writ

Petition No. 2159 of 2016 whereby the Division Bench of the High Court dismissed the writ petition filed by the appellants herein wherein the

challenge was made to the land acquisition proceedings initiated by the respondent-State for acquisition of the appellants' land.

3) In order to appreciate the issues involved in the appeal, few relevant facts need to be mentioned hereinbelow.

4) The dispute in this case relates to acquisition of the land belonging to the appellants which is sought to be acquired under the provisions of

the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as

"the Act").

5) By notification dated 08.12.2015 issued under Section 11 of the Act, the State of Himachal Pradesh sought to acquire the appellants' land

measuring around 1-00-49 Hectares along with the lands of other landowners. The acquisition was for public purpose, namely, "construction of

road from Bus Stand Ruhil to Upper Ruhil via Kuper.

6) It is not in dispute that the appellants (writ petitioners) had filed their objections to the proposed acquisition on 05.01.2016 (Annexure P-8)

well within the time prescribed under Section 15 of the Act.

7) Under the scheme of the Act, once the objections are filed by the affected landowners, the same are required to be decided by the

Collector under Section 15(2) of the Act after affording an opportunity of being heard to the landowners, who submitted their objections and

after making further inquiry, as the Collector may think necessary, he is required to submit his report to the appropriate Government for

appropriate action in the acquisition in question.

8) In this case, we find that the Collector neither gave any opportunity to the appellants as contemplated under Section 15(2) of the Act and

nor submitted any report as provided under Section 15(2) of the Act to the Government so as to enable the

Government to take appropriate decision. In other words, we find that there is non-compliance of Section 15(2) of the Act by the Collector. In

our view, it is mandatory on the part of the Collector to comply with the procedure prescribed under Section 15(2) of the Act so as to make the

acquisition proceedings legal and in conformity with the provisions of the Act.

9) The aforementioned aspect of the case does not appear to have been taken note of by the High Court, resulting in dismissal of the

appellants' writ petition requiring interference by this Court.

10) Learned counsel for the respondent-State was also not able to show from the record that there was proper compliance of Section 15(2) of

the Act by the Collector. The counter affidavit filed by the State also does not show any averment to prove this fact.

11) It is for this reason and without going into any other issue arising in the case, we are inclined to

allow the appeal, set aside the impugned judgment and allow the appellants' writ petition in part.

12) We hereby direct the respondent No.2 herein (Collector, Winter Field, Shimla-3 HP) to decide the objections filed by the appellants on

05.01.2016 keeping in view the requirements of Section 15(2) of the Act and pass appropriate orders.

13) Let the objections be decided within three months from the date of this order as an outer limit uninfluenced by our observations made in

the order.

14) With these observations and directions, the appeal stands allowed.