

**HIGH COURT OF MADHYA PRADESH, PRINCIPAL SEAT AT
JABALPUR**

Writ Petition No.	15681 of 2016
Parties Name	Amit Dubey and others Vs. Collector, District Narsinghpur and others.
Bench Constituted	Single Bench
Judgment delivered by	Hon'ble Shri Justice Vishal Dhagat.
Whether approved for reporting	Yes/No
Name of counsel for parties	For petitioner : Shri Aditya Khandekar, Advocate. For respondents No. 1 & 2-State : Shri Rohit Sohgaura, Government Advocate. For respondent No.3 : Shri N.S. Ruprah, Advocate.
Law laid down	
Significant paragraph numbers	

(ORDER)
01.05.2020

1. Petitioners are residents of District Narsinghpur and doing agriculture. Respondent No.3 i.e. National Thermal Power Corporation, Gardarwara send a proposal on 11/04/2015 for acquisition of certain land in village Mankwara for construction of railway line for transportation of coal. Notification under Section 11 was issued in official gadget on 28/02/2014. Notification was published in local newspaper 'Deshbandhu' on 13/02/2015. Notices were issued to persons inviting their objections by Collector on 12/08/2015.
2. It is submitted by the counsel for the petitioners that petitioners were not included in the process and were not given proper

opportunity to raise their grievances. Collector passed award under Section 37(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. It is argued by the counsel appearing for the petitioners that social impact assessment study was not carried out by respondents, as mandated in section 4 of the Act of 2013. Section 7 of the Act of 2013, which provides for assessment of social impact report by expert group was also not done. It was further alleged that the respondents violated Section 12 of the Act. It has been averred in the writ petition in ground 6.E that petitioners are willing to give up their land subject to payment of proper compensation. Petitioners have made a prayer in the writ petition for quashing of land acquisition proceedings and setting aside the award passed by the Collector. From the averment, which is made in the writ petition, it is clear that petitioners are interested in getting proper and just compensation for their lands which have been acquired by the respondents.

3. Respondents had filed their reply and stated therein that petitioners have not preferred any objection under Section 11 of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The main object of the petitioners to file the present writ petition is to get enhanced compensation amount and therefore, they made a prayer for quashing of proceedings. Petitioners had not challenged the award passed under Section 37(2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. In absence of challenge to award, writ petition filed by the petitioners deserves to be dismissed. Respondents have also raised objection that there is alternate remedy of filing reference and therefore, writ petition deserves to be dismissed. The objection of alternate remedy has already been overruled by this Court vide order dated 14/12/2016. The present

petitioners, who were 12 in number, have filed the writ petition in respect of acquisition of 25.95 acres of land. Respondents had acquired the land of about 112 farmers and had acquired total 117.55 acres of land. Petitioners have not preferred any objection under Section 15 and only for purpose of enhancement of compensation amount, legality of the procedure of acquisition of land has been challenged.

4. Counsel appearing for respondents have relied on that judgment reported in *Special Agricultural Product Market Committee versus M Krishnappa, Civil Appeal No. 5248–5274/2014*, in which Apex Court has held that violation of statutory provision will not override the land acquisition in the national interest. Respondents has relied upon another judgment of Apex Court reported in *1996 (1) SCC 250*, wherein it is held that when no objection is filed by petitioners in enquiry under Section 5-A of Land Acquisition Act, 1894, the petitions filed subsequently are liable to be dismissed on the ground of laches. After filing of return, respondents has filed another additional return and have quoted case laws and also repeated some of the facts, which have been taken in their return earlier.
5. Respondent No. 1 and 2 have filed their return on 05/10/2017. It was averred that no objections were raised at any point of time and compensation has duly been paid to affected persons. Initially, study on social impact was done for Super Thermal Power Project which has been annexed as Annexure R/5. Additional land was required as Thermal Power Project could not succeed unless and until there is a railway line for bringing coal to Thermal Power Project, therefore, additional land is sought to be acquired. It was averred that entire acquisition proceeding was completed before coming into force of the new Act. The land acquisition is to be done for establishment of railway line and same was covered under sub-section (4) of Section

10 of the Act of 2013. In the proviso of sub-section (4) of Section 10 of the Act of 2013, it is laid down that Chapter 3, Section 10 will not be applicable in case of projects that are linear in nature, such as those relating to railways, highways, major district roads, irrigation canal, power lines and like. In view of aforesaid submission, request is made for dismissal of writ petition.

6. Considered the arguments of the petitioners as well as respondents.
7. The land of the petitioners has already been acquired and award has been passed. Petitioners in this writ petition has not challenged the award by which land was acquired by respondents. In absence of challenge to the award, same has become final. It is not the case of petitioners that award passed is null and void and not binding upon them. Since award passed by the Land Acquisition Officer has not been challenged by the petitioners in this writ petition, therefore, writ petition is liable to be dismissed. Further, the grounds raised by the petitioners regarding non-compliance of Chapter 2 and 3 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 is concerned, chapter 3 is not applicable for linear projects of railways and power lines etc. In order sheet dated 05/02/2015, it is noted that the Government of India has published the notification dated 31/12/2014 and as per this notification, there is relaxation to comply with Chapter 2 and 3 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 for projects related to electricity production. In view of above notification, there is no requirement to comply with Chapter 3 and 4 of the Act of 2013. It is also admitted by the petitioners in ground 6.E that they are ready to surrender their land in case they get just compensation. If petitioners are aggrieved by awarding of less compensation amount, they ought to have preferred a reference before the competent authority but same

was not done and it was argued by the counsel for the petitioners that petitioners are challenging non-compliance of the provisions of the Act, therefore, alternate remedy is not available to them. This Court has also overruled the primary objection regarding availability of alternate remedy and petitioners have to argue the case on merits. It is also mentioned in the award that no objections were received by the respondents. Petitioners have not preferred any objection after publication of notification under Section 11. Petitioners cannot raise the ground that they were not given opportunity of hearing. Publication was made in the newspaper and information was also notified in the Gram Panchayat. Petitioners themselves failed to make any objections before Authorities and now they cannot say that they were not given any opportunity of hearing. Petitioners have also not stated what is the compensation amount they are statutorily required to be paid and what less amount of compensation is paid to them. Enhancement of compensation amount is a disputed question of fact which cannot be adjudicated in writ petition before this Court.

8. Considering the aforesaid facts and circumstances of the case detailed in para 7, writ petition filed by the petitioner is **dismissed**.

(Vishal Dhagat)
Judge