

HARYANA STATE INDUSTRIAL AND INFRASTRUCTURE
DEVELOPEMNT CORPORATION LIMITED & ORS.

A

v.

RAMESHWAR DASS (DEAD) & ORS.

(Miscellaneous Application Nos. 926-930 of 2019)

B

In

(Civil Appeal Nos. 363, 388, 413, 475 & 485 of 2019)

APRIL 08, 2021

**[UDAY UMESH LALIT AND DR. DHANANJAYA Y
CHANDRACHUD, JJ.]**

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*Land Acquisition Act, 1894: Land acquisition – *Wazir vs. State of Haryana's case – Clarification of, sought by landowners from certain villages – In Wazir's case compensation in respect of one set of village assessed at Rs. 39,54,666/- per acre and other set of village at Rs.29,77,333/- per acre – Thus, compensation in respect of lands from the concerned villages assessed at Rs.29,77,333/- per acre – Filing of applications before this Court seeking clarification of Wazir's case – Land owners submitting that the lands coming from all the villages were always considered by the Reference Court and the High Court without any inter se distinction between two sets of villages; that the decision in HSIDC vs. UDAL contemplated award of compensation at the minimum rate of Rs.37,40,000/- per acre; that after the decision of this Court in HSIDC vs UDAL, the only issue was to consider whether landholders were entitled to increased compensation and that there could not be any decrease in the rate of compensation; that in terms of the decision in HSIDC vs. UDAL, additional compensation at the rate of Rs.9,24,644/- per acre was received by the landholders, who have spent all the compensation money received and it would be impossible for them to pay the difference as directed in Wazir's case; that the burden of additional compensation paid to the landholders in terms of the HSIDC v UDAL, was passed on by the authorities and recovered from the subsequent allottees of the land – HELD: It cannot be said that there could be no occasion to scale down the rate of compensation – Matters have to be considered on*

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- A *their own merits and in the process, if the facts on record justified, there could be fixation of compensation at a reduced rate for the lands from the concerned villages – As against their entitlement of Rs.29,77,333/- per acre as found in Wazir vs. State of Haryana, the landholders have received Rs.7,62,667/- per acre over and above their entitlement – Any adjustment in terms of the direction in Wazir’s*
- B *case, would entail in recovery of money from the landholders – Thus, to relieve the landholders from the burden of returning the amounts over and above their entitlement, it is directed that the amount of compensation fixed at Rs.29,77,333/- per acre in respect of lands from the concerned villages as held in Wazir’s case remains*
- C *unchanged – As the compensation at the rate of Rs.37,40,000/- per acre has been received by the landholders from the concerned villages, they need not return the amounts over and above what has been found due to them – Subsequent allottees of the lands would not be entitled to maintain any action for refund only on account of orders passed in these proceedings – Constitution of India – Art.*
- D *142 – Judgment/order.*

****Wazir v. State of Haryana (2019) 13 SCC 101 : [2019] 2 SCR 571 – clarified.***

- E *Haryana State Industrial Development Corporation v. Pran Sukh & Ors. (2010) 11 SCC 175; Haryana State Industrial Development Corporation Limited v. UDAL and Others (2013) 14 SCC 506; Madan Pal (II) v. State of Haryana 2015 SCC OnLine P&H 20321; Satish Kumar Gupta and Others v. State of Haryana and Others (2017) 4 SCC 760 : [2017] 1 SCR 767; Madan Pal (III) v. State of Haryana and Another etc. Hsidc v. UDAL 2018 SCC OnLine P&H 2871 – referred to.*
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Case Law Reference

- | | | | |
|---|--------------------------|--------------------|----------------------|
| | [2019] 2 SCR 571 | Clarified. | Para 8-10, 12 |
| G | (2010) 11 SCC 175 | referred to | Para 2(C) |
| | (2013) 14 SCC 506 | referred to | Para 2(G) |
| | [2017] 1 SCR 767 | referred to | Para 2(I) |

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HARYANA STATE INDUSTRIAL AND INFRASTRUCTURE DEVEL. CORP. 33
LTD. v. RAMESHWAR DASS (DEAD) [UDAY UMESH LALIT, J.]

CIVIL APPELLATE JURISDICTION : Miscellaneous A
Application Nos. 926-930 of 2019 in Civil Appeal Nos. 363, 388, 413,
475 & 485 of 2019.

From the Judgment and Order dated 09.03.2018 of the High Court
of Punjab and Haryana at Chandigarh inter-alia in RFA Nos. 3137 of
2010, 3164 of 2010, 3388 of 2010, 3944 of 2010 and 3965 of 2010. B

With

IA No.118262 of 2019 in Slp (C) Nos.22234 -22241 of 2018.

Alok Sangwan, AAG Haryana, Narender Hooda, Rajiv Dhavan,
Sr. Advs., Jasbir Singh Malik, Ms. Usha Nandini. V, Swetank Shantanu, C
Pratap Shankar, Ms. Shilpi Shrivastava, Sanjay Kr. Choudhary, Amit K.
Nain, Sunny Kadiyan, Dr. Monika Gusain, Advs. for the appearing parties.

The Order of the Court was passed by

UDAY UMESH LALIT, J.

1. Miscellaneous Application Nos.926-930 of 2019 and I.A. D
No.118262 of 2019 are preferred by landholders from villages Bas
Khusla, Bas Haria and Dhana ('the concerned villages', for short) seeking
clarification with regard to the Judgment¹ passed by this Court in Civil
Appeal Nos.264 – 270 of 2019 and other connected matters (*Wazir vs.*
*State of Haryana*²). E

2. The facts leading to the aforesaid Judgment have been set out
in sufficient detail in the Judgment and for the purposes of these
applications, the relevant facts are: -

A) In respect of acquisition initiated pursuant to notifications dated
06.03.2002, 07.03.2002 and 26.02.2002 issued under Section 4 of the F
Act³ with regard to Phases II, III and IV respectively of Industrial Model
Township, Manesar, Gurgaon, corresponding awards were made by the
Sub-Divisional Officer (C)-cum-Land Acquisition Collector, Gurgaon on
22.07.2003, 24.12.2003 and 20.05.2004.

B) While dealing with the References preferred under Section 18 G
of the Act, by orders dated 16.12.2009 and 27.01.2010 compensation in
respect of lands covered under Phases II and III respectively was

¹ Dated 11.01.2019 as modified by Order dated 08.02.2019.

² (2019) 13 SCC 101

³ The Land Acquisition Act, 1894

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A assessed at Rs.28,15,356/- per acre and Rs.28,15,849/- per acre respectively.

C) By order dated 17.08.2010 passed in *Haryana State Industrial Development Corporation vs. Pran Sukh & Ors.*⁴, in relation to acquisition of some other lands from villages Manesar, Naharpur Kasan, B Khoh and Kasan, this Court assessed the compensation at the rate of Rs.20 lakhs per acre. In that case the notification under Section 4 of the Act was issued on 15.11.1994.

D) Relying on the decision of this Court in *Pran Sukh*⁴, the Reference Court by order dated 30.11.2010 assessed the compensation at Rs.37,40,230/- per acre in respect of land from Phase IV in the instant acquisition. C

E) The matters concerning acquisition for Phases II and III of the instant case, were considered by the High Court in RFA No.2373 of 2010 (*Madan Pal vs. State of Haryana*) and the landholders were held D entitled to the compensation at the rate of Rs.37,40,000/- per acre along with other statutory benefits. This decision of the High Court was subject matter of challenge in this Court at the instance of Hsidc⁵ and some landowners. While issuing notices by its order dated 10.08.2011, this Court directed: -

E “The Haryana State Industrial Development Corporation shall, within four months from today, deposit the amount of compensation at the rate of Rs.28,15,356/- per acre along with other statutory benefits in terms of judgment dated 27.1.2010 of Additional District Judge, Gurgaon.

F With a view to obviate intervention of middle man in the matter of payment of compensation to the land owners we direct that:

G 1. The Land Acquisition Collector shall depute an officer not below the rank of Tehsildar of the area, who shall contact the landowners and/or legal representatives and apprise them about their entitlement to receive compensation determined by the Reference Court.

2. The concerned officials shall also ask the landowners and/ or legal representatives to open bank accounts if they have already

⁴ (2010) 11 SCC 175

H ⁵ Haryana State Industrial Development Corporation Ltd. now Haryana State Industrial and Infrastructure Development Corporation Ltd.

not done so. This exercise must be completed within one month from the date of receipt of copy of this order. A

3. The concerned Tehsildar shall give the list of landowners and/or their legal representatives along with their bank account numbers to the Land Acquisition Collector within fifteen days.

4. Within next fifteen days, the Land Acquisition Collector shall deposit the amount of compensation in the accounts of the landowners and/or legal representatives. Fifty per cent of this amount be deposited in the form of Fixed Deposit Receipt, the validity of which shall be one year in the first instance.” B

F) As there was no compliance of the aforesaid directions, Contempt Petition (Civil) Nos.70-75 of 2012 and other connected petitions were preferred. While dealing with the Contempt Petitions, this Court in its Order dated 07.05.2012 observed:- C

“We have heard Dr. Rajeev Dhawan, learned senior counsel appearing for the applicants and Shri Gopal Subramaniam, learned senior counsel appearing for the respondents and perused the record. D

In our view, the explanation given by the respondents for non-compliance of the directions contained in order dated 10.08.2011 is not satisfactory. However, we accept the oral request made by learned senior counsel appearing on their behalf and grant them six weeks further time to deposit the amount in terms of order dated 10.08.2011.” E

Thereafter, the Contempt Petitions were disposed of on 05.09.2012 after recording:- F

“Shri H.P. Raval, learned Additional Solicitor General appearing for the non petitioners, invited our attention to affidavit dated 18.7.2012 of non petitioner no.1.

Shri Jasbir Malik, learned counsel for the petitioners, fairly admitted that his clients have received fifty per cent amount in terms of the directions given by the Court and remaining fifty per cent has been deposited in the fixed deposits. G

In view of the above development, the contempt petitions are disposed of as infructuous.” H

A G) The appeals from the decision of the High Court were finally disposed of by this Court by its decision dated 02.07.2013 (*Haryana State Industrial Development Corporation Limited vs. UDAL and Others*⁶). This Court found that the High Court had erred in granting annual increase at a flat rate of 12 % over the compensation determined by this Court in *Pran Sukh*⁴ and that it had not considered Ex. PW9/A dated 23.11.1999. This Court, therefore, remitted the matters to the High Court for fresh consideration without being influenced by any observations made by this Court. The relevant paragraphs from the decision were as under:-

C “33. In view of the above conclusions, we do not consider it necessary to deal with the other points argued by the learned counsel for the parties/intervenors and feel that the ends of justice will be served by setting aside the impugned judgment and remitting the matters to the High Court for fresh disposal of the appeals and cross-objections filed by the parties subject to the rider that the State Government/Hsiidc shall pay the balance of Rs 37,40,000 to the landowners along with other statutory benefits.

D 34. In the result, the appeals are allowed, the impugned judgment¹ is set aside and the matter is remitted to the High Court for fresh disposal of the appeals filed by the parties under Section 54 of the Act as also the cross-objections. The parties shall be free to urge all points in support of their respective cause and the High Court shall decide the matter uninfluenced by the observations contained in this judgment.

... ..

F 36. The State Government/Hsiidc shall pay the balance of compensation determined by the High Court i.e. Rs 37,40,000"Rs 28,15,356 = Rs 9,24,644 per acre to the landowners and/or their legal representatives along with all statutory benefits within a period of four months from today. The payment shall be made to the landowners and/or their legal representatives by following the procedure laid down in the interim orders passed by this Court.”

G H) Post remand, the matters were dealt with by the High Court by its decision dated 06.10.2015 (*Madan Pal (II) vs. State of Haryana*⁷)

⁶ (2013) 14 SCC 506

⁷ 2015 SCC OnLine P&H 20321

and other connected matters). The High Court was of the view that the beneficiaries of acquisition, such as Maruti Suzuki India Limited ought to have been given a chance to place relevant material before the Court. It, therefore, remitted the matters back to the Reference Court for fresh disposal giving liberty to all the concerned parties to produce relevant evidence in support of their submissions. A

I) The ruling of the High Court was not accepted by this Court and in its decision in *Satish Kumar Gupta and Others Vs. State of Haryana and Others*⁸, this Court held that the post-acquisition allottees could not be treated as a necessary or proper party for determining matters concerning compensation. It, therefore, set aside the view taken by the High Court in *Madan Pal (II)*⁷ and remanded the matters back to the High Court for a fresh decision. B C

J) Consequently, by its decision in *Madan Pal (III) vs. State of Haryana and Another etc.*⁹ the High Court assessed the compensation in respect of lands from all the villages at Rs.41.40 lakhs per acre which decision was subject matter of challenge before this Court; and by the Judgment in Civil Appeal Nos. 264-270 of 2019 and other connected matters (*Wazir vs. State of Haryana*²) this Court concluded: - D

“32. In the circumstances, we direct:

a) In respect of lands under acquisition from villages Naharpur Kasan and Kasan, the market value shall be Rs.39,54,666/- per acre. Additionally, all statutory benefits would be payable. E

b) In respect of lands under acquisition from Villages Bas Kusla, Bas Haria and Dhana, the market value shall be Rs.29,77,333/- per acre. Additionally, all statutory benefits would be payable. F

c) In respect of lands from village Manesar the market value shall be Rs.59,31,999/- per acre. Additionally, all statutory benefits would be payable.

d) M/s. Kohli Holdings Private Limited shall not be entitled to any severance charges. G

e) If any sum in excess of what has been found in this Judgment to be the entitlement of any landowner from any of the villages under acquisition was made over to him, the same shall be returned

⁸ (2017) 4 SCC 760

⁹ 2018 SCC OnLine P&H 2871

- A by the landowner to the State by 30th June, 2019. If the excess sum is returned by 30th June, 2019, no interest on said sum shall be payable by the landowner. However, if the sum is not returned by said date, the said sum shall carry interest @ 9% per annum from 1st July, 2019 till realisation and can be realised in a manner known to law.”
- B 3. The compensation in respect of lands from the concerned villages was thus assessed at Rs.29,77,333/- per acre.
4. This has led to the filing of instant applications, submitting *inter alia*:-
- C a) The lands coming from all the villages were always considered by the Reference Court and the High Court without any *inter se* distinction between two sets of villages.
- b) Paragraph 36 of the decision in *Hside vs. UDAL*⁶ contemplated award of compensation at the minimum rate of Rs.37,40,000/- per acre.
- D c) After the decision of this Court in *Hside vs. UDAL*⁶ the only issue was to consider whether landholders were entitled to increased compensation and that there could not be any decrease in the rate of compensation.
- E d) In view of Orders dated 10.08.2011, 07.05.2012 and 05.09.2012 all the landholders had received compensation at the rate of Rs.28,15,356/- per acre with other statutory benefits. Moreover, in terms of paragraph 36 of the decision of this Court in *Hside vs. UDAL*⁶, additional compensation at the rate of Rs.9,24,644/- per acre was also received by the landholders.
- F e) The landholders spent all the compensation money that they received and it would be impossible for them to pay the difference as directed by this Court in terms of the Judgment in *Wazir vs. State of Haryana*².
- G f) The burden of additional compensation paid to the landholders in terms of the paragraph 36 of the decision in *Hside vs. UDAL*⁶, was passed on by the authorities and recovered from the subsequent allottees of the land.
- H 5. After considering rival submissions, this Court framed some questions with respect to which response from Hsiidc was called for, which response was to the following effect: -

“Query (a) What is the extent of land from three villages for which the compensation has been determined @ Rs.29,77,333/- per acre by the Hon’ble Supreme Court. A

Ans. The extent of land covered from three villages i.e. Bas Haria, Bas Khusla and Dhana is 980.70625 acres. B

| Sr. No. | Name of village | Area of land acquired (in acres) |
|---------|-----------------|----------------------------------|
| 1 | Bas Haria | 133.88125 |
| 2 | Bas Khusla | 435.50625 |
| 3 | Dhana | 411.31875 |
| | Total | 980.70625 |

Query (b) How much compensation was paid to each of the individual landholders coming from these three villages.

(Rs. In Crores) D

| | | | |
|------|------|---|---------------|
| Ans. | (i) | Paid enhanced compensation to each of individual landholder (Area 912.439 acre) Copy of summary of enhanced compensation paid to the landowners is annexed herewith and marked as Annexure A-1 [Page no.4 to 130] | 749.50 |
| | (ii) | Balance enhanced compensation payable out of 912.439 acre of land is in process and to be released shortly. Copy of summary of enhanced compensation payable to the landowners is annexed herewith and marked as Annexure A-2. [Page No.131 to 169] | 51.17 |
| | (ii) | Amount pending decision of ADJ Court / DRO u/s 30 & 28 (A) of Land Acquisition Act, 1894 (balance area 68.26725 acres) Copy of details of pending payments of enhanced compensation is annexed herewith and marked as Annexure A-3. [Page No.170 to 171.] | 124.59 |
| | | Total | 925.26 |

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- A Query (c) Whether the entire extent of land coming from these villages has been allotted to any of the allottees and if so at what rate.
- Ans. The entire extent of salable land coming from these three villages (except 3.75 acre) has been allotted at different stages/ rates and the average weighted selling rate per sqm. is Rs.2784/-.
- B Query (d) What was the sum demanded by way of additional compensation from the allottee in question after the compensation in terms of para 36 of judgment in (2013) 14 SCC 506 was made over.
- C Ans. The sum demanded by way of additional compensation from the allottees in question in plots falling in these villages is Rs.921.41 Crore + proportionate interest of Rs.135.99 Crore from the date of payment to the DRO-cum-LAC, till the date of demand notice of recovery issued to the allottees after the judgment in 2013.”
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6. In reply to the details submitted by HSIIDC, one of the applicants has responded as under:-

- E “5. ... In this affidavit in para 2 the HSIIDC has disclosed that the total land acquired in 3 villages was 980.70625 acres. In para 2 itself in reply to Query (b) the HSIIDC has disclosed that they paid a sum of Rs.925.26 crores to the land owners for the said acquisition. Similarly, in the same para in reply to Query (c) the HSIIDC has disclosed that the entire extent of saleable land coming from the said 3 villages had been allotted at an average rate of Rs.2784 per sq.meter. Thus, calculated at the said rate a sum of Rs.1100.25 crore (i.e. Rs.2784 X 976.95 X 4046). Against Query (d) the HSIIDC has disclosed that a total sum of Rs.1057.40 crore (i.e. Rs.921.41 crore + Rs.135.99 crore) has been collected by it by way of additional compensation pursuant to para 36 of judgment (2013) 14 SCC 506.
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- G 6. It is submitted that as per its own disclosure by HSIIDC, a sum of Rs.2157.65 crore (i.e. Rs.1100.25 crore + Rs.1057.40 crore) has been collected by HSIIDC from the subsequent allottees and whereas, only a sum of Rs.925.26 crore has been paid by HSIIDC
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to the land owners pursuant to various orders of the hon'ble courts including para 36 of judgment (2013) 14 SCC 506. Thus, admittedly a sum of Rs.2157.65 crore has been collected by HSIIDC for the acquired land from the subsequent allottees. Thus, as per its own admission, HSIIDC has earned a profit of Rs.1232.39 crore (Rs.2157.65 crore – Rs.925.26 crore) from the acquired land in the said 3 villages. A B

7. In view of the above, it is clear that if the land owners are not directed to refund the excess amount of compensation as determined by this Hon'ble Court vide order dt.11-1-2019 as amended by order dt. 8-2-2019, no prejudice or financial loss will be caused to the HSIIDC, whereas, if the land owners are directed to refund the excess amount paid to them they will be driven to misery and penury as explained in additional affidavit dt.11-12-2019 filed by one of the applicants." C

7. The submissions that after the decision of this Court in *Hsidc vs. UDAL*⁶, the only issue pertained to the upward revision in the compensation payable to the landholders and that there could be no occasion to scale down the rate of compensation, are not correct. Paragraph 34 of the decision in *Hsidc vs. UDAL*⁶ expressly left all the points to be decided afresh uninfluenced by any of the observations made in said decision. The appeals preferred by HSIIDC, therefore, had to be considered on their own merits and in the process, if the facts on record justified, there could be fixation of compensation at a reduced rate for the lands from the concerned villages. We, therefore, reject submissions (a), (b) and (c). D E

8. However, the fact remains that during the pendency of challenge against the decision of the High Court in *Madan Pal vs. State of Haryana*, in terms of orders dated 10.08.2011, 07.05.2012 and 05.09.2012 passed by this Court, compensation at the rate of Rs.28,15,356/- per acre was released to landholders from all the villages including the concerned villages. Further, paragraph 36 of the decision in *Hsidc vs. UDAL*⁶ directed that the balance at the rate of Rs.9,24,644/- per acre be made over to all the landholders including those from the concerned villages. Consequently, everyone has received compensation at the rate of Rs.37,40,000/- per acre. The compensation finally awarded in *Wazir vs. State of Haryana*² for villages other than the concerned villages, being greater than the figure of Rs.37,40,000/- per acre, no difficulty H

A arises on that score. But, with respect to the lands from the concerned villages, the anomaly definitely stares in the face.

9. The record now indicates that about Rs.750 crores have already been made over as compensation to the landholders from the concerned villages at the rate of Rs.37,40,000/- per acre. As against their entitlement of Rs.29,7,333/- per acre as found in *Wazir vs. State of Haryana*², the landholders have thus received Rs.7,62,667/- per acre over and above their entitlement. On a rough estimate, an amount of Rs.152 crores out of the disbursed sum of Rs.750 crores is thus beyond their entitlement.

C It is also clear that the concerned authorities have passed on the entire burden to the subsequent allottees of the acquired land and have received amounts in excess of what have been made over to the landholders of the concerned villages by way of compensation.

D 10. The compensation as aforesaid, was made over to the landholders from the concerned villages, without they being required to furnish any security. Any adjustment in terms of direction (e) in the Judgment in *Wazir vs. State of Haryana*², at this length of time, will thus entail in recovery of money from the landholders through revenue recovery proceedings and in recalculating and conferring the corresponding benefits upon the allottees of the acquired land.

E 11. Considering the entirety of circumstances, in our view, the instant case calls for exercise of powers vested in this Court under Article 142 of the Constitution of India, to relieve the landholders from the burden of returning the amounts over and above their entitlement.

12. We, therefore, allow the instant applications and direct:-

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| F | a) | The amount of compensation fixed at Rs.29,77,333/- per acre in respect of lands from the concerned villages as held in the Judgment in <i>Wazir vs. State of Haryana</i> ² remains unchanged. |
| G | b) | As the compensation at the rate of Rs.37,40,000/- per acre has been received by the landholders from the concerned villages in the circumstances stated hereinabove, such landholders need not return the amounts over and above what has been found due to them. |
| H | c) | To the extent as indicated above, direction (e) in the Judgment in <i>Wazir vs. State of Haryana</i> ² , stands modified. |

- d) The subsequent allottees of the lands in question will not be entitled to maintain any action for refund only on account of Orders passed in these proceedings. A

13. The instant applications are disposed of in aforesaid terms without any order as to costs.

ORDER

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UDAY UMESH LALIT, J.

1. These special leave petitions filed by various land holders seek to challenge the decision dated 09.03.2018 passed by the High Court of Punjab and Haryana at Chandigarh in RFA No.2373 of 2010 (O&M) and other connected matters) i.e. in *Madan Pal-III v. State of Haryana and another*⁹. This decision of the High Court was subject matter of challenge in this Court which was dealt with by the Judgment in *Wazir v. State of Haryana*². C

2. In all these cases there has been delay in preferring special leave petitions. However, considering the facts on record, we condone the delay. D

3. The Judgment passed by this Court in *Wazir v. State of Haryana*² as explained by the instant Order in M.A. Nos.926-930 of 2019 and IA No.118262 of 2019 herein above is to apply to all cases of land holders from the concerned villages under the present acquisition. E

4. Since all the issues already stand dealt with by the Judgment in *Wazir v. State of Haryana*², nothing further need be done in the present petitions except to state that these cases shall be governed in every respect by the directions issued by this Court in its Judgment in *Wazir v. State of Haryana*², as explained by the instant Order. F

5. The petitions stand disposed of in above terms.