

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

TUESDAY, THE TWENTY FIRST DAY OF FEBRUARY
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HON'BLE SRI JUSTICE MUMMINENI SUDHEER KUMAR

WRIT PETITION NO: 2606 OF 2023

Between:

G. Prabhaker, S/o G. Rajaiah, 33 years, Occupation Unemployee, R/o H. No. 9-82, Dubbhapally Village, Chelpur Post, Ghanpur Mandal, Jayashanker Bhupalapally District, Telangana State - 506168.

...PETITIONER

AND

1. The State of Telangana, Revenue (Land Acquisition) Department, Telangana Secretariat, Hyderabad, rep. by its Principal Secretary
2. The State of Telangana, Energy Department, Rep. by its Principal Secretary, T. S. Secretariat, Hyderabad.
3. The Commissioner, Rehabilitation and Resettlement, Government of Telangana. Budha Bhavan, Rani gunj, Hyderabad.
4. The District Collector, Jayashanker Bhupalapally District, Manjoor Nagar, Bhupalapally, Telangana- 506169
5. The Revenue Divisional Officer, Bhupalapally, Telangana- 506169.
6. Telangana State Power Generation Corporation Limited, 6- 3- 643, Vidyuth Soudha, Khiratabad, Hyderabad, Telangana - 500 082. rep. by its Chairman and Managing Director.
7. The Chief Engineer (O and M), Kakathiya Thermal Power Project (KTPP) Chelpur Village, Ghanpur Mandal, Jayashankar Bhupalapally District, Telangana - 506168.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue any appropriate writ, order or direction one particularly one in the nature writ of mandamus declaring the action of the 5th Respondent in not passing the award and the action of the 4th Respondent in going on extending the declaration time successively without completing the land acquisition proceedings pursuant to the requisitions dated 06-06-2012 and 17-04-2015 made by the 7th Respondent, for the purpose of construction of Ash Pond for KTPP Project and not considering the Petitioner's representations dated 25-11-2022, 06-12-2022,

21-12-2022 and 27-12-2022 and the representation dated 26-10-2022 made to the Chairman, Telangana State Human Rights Commission and the Order dated 30-11-2022 in HRC No. 4091 of 2022, not paying any rehabilitation and resettlement amounts, in terms of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (No. 30 of 2013), as arbitrary, illegal and violative of Articles 14, 21 and 300- A of the Constitution of India and consequently direct the 5th Respondent to pass the Award, duly obtaining the approval of the 3rd Respondent, duly providing the following benefits to the Petitioner and the displaced families of the Dubbhapally Village

- i) 2 BHK House will not be less than 1,000 Sft. or (Construction cost at the present Market Rate of the per Square Feet 1500/- minimum rate of construction).
- ii) Rs. 7,50,000/- each PDF as a R and R emolument (or Choice of Annuity or employment as per R and R Act. Schedule 2nd in 4th Element of R and R Entitlement.
- iii) 250 Sq. Yds Plot per each PDF.
- iv) Rs. 7,50,000/- additional compensation per each PDF from the year of 2012 it is effected year of R and R Policy, to the losses.
- v) Transportation costs, other benefits and amenities as per the R and R Act

IA NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the 5th Respondent to consider the Petitioners representations dated

25-11-2022, 06-12-2022, 21-12-2022 and 27-12-2022, while passing the Award, duly obtaining the approval of the 3rd Respondent, duly providing the following benefits to the Petitioner and the displaced families of the Dubbhapally Village (i) 2 BHK House will not be less than 1,000 Sft. or (Construction cost at the present Market Rate of the per Square Feet 1500/- minimum rate of construction). (ii) Rs. 7,50,000/- each PDF as a R and R emolument (or Choice of Annuity or employment as per R and R Act. Schedule 2nd in 4th Element of R and R Entitlement. iii) 250 Sq. Yds Plot per each PDF. iv) Rs. 7,50,000/- additional compensation per each PDF from the year of 2012 it is effected year of R and R Policy, to the losses. v) Transportation costs, other benefits and amenities as per the R and R Act, pending disposal of the above writ petition

Counsel for the Petitioner: SMT. K. V. RAJASREE

Counsel for Respondent Nos. 1 & 3 to 5: GP FOR LAND ACQUISITION

Counsel for Respondent No. 2: GP FOR ENERGY

Counsel for Respondent Nos. 6 & 7: SRI R. PAVAN REDDY

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE MUMMINENI SUDHEER KUMAR

WRIT PETITION NO.2606 OF 2023

ORDER:

Heard Smt K.V.Rajasree, learned counsel for the petitioner, learned Government Pleader for Land Acquisition, appearing for respondent Nos.1, 3 to 5 and Sri R.Pavan Reddy, learned Standing Counsel for respondent Nos.6 and 7.

2. This Writ Petition is filed seeking a writ of Mandamus to declare the action of respondent No.5 in not passing the Award in respect of the acquisition proceedings initiated by issuing a preliminary notification under Section 11 (1) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, 'the Act, 2013') *vide* proceedings No. G/204/2017, dated 28.05.2019, even after lapse of more than three years and the action of respondent No.4 in extending the time for passing the Award under first proviso to Section 23 of the Act, 2013, as arbitrary and illegal.

3. The facts of the case are that on the request made by respondent Nos.6 and 7 herein, the acquisition proceedings for acquiring an extent of Ac.32.30 guntas situated in Dubbapally Gramakantham, Hamlet of Chelpur Village,

Ghanpur (Mulug) Mandal, was initiated by respondent No.5 by issuing a preliminary notification, dated 28.05.2019 and thereafter, a draft declaration under Section 19 (1) of the Act, 2013 was published on 09.04.2020. In terms of the provisions of the Act, 2013, respondent No.5 is under obligation to pass an Award within a period of 12 months from the date of publication of the draft declaration under Section 19 (1) of the Act, 2013. But, in the instant case, the Award could not be passed and as such time for passing Award was extended from time to time and the same is extended till 02.05.2023 through proceedings No.G/204/2017, dated 01.12.2022 issued by respondent No.4. At that stage, the petitioner approached this Court by contending that the respondents are not serious in passing the Award and paying compensation even after District Level Land Negotiations Committee negotiated with the land owners and arrived at a conclusion for payment of compensation to land losers. It is further contended that under those circumstances, the petitioner approached this Court seeking appropriate direction to the respondents to pass Award immediately and to pay compensation for the land proposed to be acquired from the petitioner and others.

4. A perusal of the proceedings, dated 01.12.2022, under which time was extended for passing the Award upto 02.05.2023, shows that time was extended from time to time for want of availability of funds and the failure on the part of respondent Nos.6 and 7 in making available the required funds for payment of compensation for the land proposed to be acquired.

5. Sri R.Pavan Reddy, learned Standing Counsel appearing for respondent Nos.6 and 7 submitted that respondent No.6 has already deposited an amount of Rs.54,65,20,352/- as against the request for depositing the tentative amount of Rs.114,34,21,412.00 and respondent Nos.6 and 7 are ready to deposit the balance amount, once the Award is passed by respondent No.5.

6. In the light of the submissions made by Sri R.Pavan Reddy, learned Standing Counsel on instructions from respondent Nos.6 and 7, this Court does not find any reason for the delay in passing the Award for acquiring the proposed land and deem it appropriate to dispose of the writ petition with the following direction.

7. Accordingly, the Writ Petition is disposed of directing respondent No.5 to pass an Award pursuant to the

proceedings initiated by issuing preliminary notification under Section 11 (1) of the Act, 2013 through proceedings No.G/204/2017, dated 28.05.2019 on or before 02.05.2023 and conclude the said proceedings, in accordance with law.

8. Further, respondent Nos.6 and 7 are directed to make available the requisite funds within a period of two weeks from the date of passing of the Award by respondent No.5 for disbursing the same to the eligible land owners. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this writ petition shall stand closed.

//TRUE COPY//

SD/- T. SRINIVAS
DEPUTY REGISTRAR
SECTION OFFICER

To,

1. The Revenue Divisional Officer, Bhupalapally, Telangana- 506169.
2. Telangana State Power Generation Corporation Limited, 6- 3- 643, Vidyuth Soudha, Khiratabad, Hyderabad, Telangana - 500 082. rep. by its Chairman and Managing Director.
3. The Chief Engineer (O and M), Kakathiya Thermal Power Project (KTPP) Chelpur Village, Ghanpur Mandal, Jayashankar Bhupalapally District, Telangana - 506168.
4. One CC to Smt. K V Rajasree Advocate [OPUC]
5. Two CCs to GP For Land Acquisition, High Court for the State of Telangana. [OUT]
6. Two CCs to GP For Energy, High Court for the State of Telangana. [OUT]
7. One CC to Sri R. Pavan Reddy, Advocate(OPUC)
8. Two CD Copies

MBC
GJP

Handwritten signature

CC TODAY

HIGH COURT

DATED: 21/02/2023



ORDER

WP.No.2606 of 2023

DISPOSING OF THE WRIT PETITION

WITHOUT COSTS

12
4/3/23
JW+