



**IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI**

\*\*\*

**W.P.No.18027 of 2021**

**Between:**

1. Pedamalli Venugopal Reddy, S/o.Ventaka Krishna Reddy, aged about 68 years, R/o.Thummuru, Naidupet town and Mandal, SPSR Nellore District.
2. Yerram Raghava Reddy, S/o.Ramakrishna Reddy, aged about 70 years, R/o.H.No.2/33A, 2<sup>nd</sup> ward, Medaramitla Village, Prakasam District.
3. Suddapalli Chandra Sekhar, S/o.Sambasivaiah, aged about 54 years, R/o.Kondayapalem Gate, Nellore City, SPSR Nellore District.
4. Pedamalli Bharathi, W/o.Venugopal Reddy, aged about 60 years, R/o.Thummuru, Naidupet town and Mandal, SPSR Nellore District.
5. Kattina Polaiah, S/o.Pondaiah, aged about 66 years, R/o.Pandluru Village, Naidupet Mandal, SPSR Nellore District.
6. Adala Masthan Reddy, S/o.Pedda Masthan Reddy, aged about 68 years, R/o.JSQ D-1/12, ACE Colony, Guklbarga, Karnataka State.
7. Pedamalli Chandana, W/o.Pavan Kumar Reddy, aged about 35 years, R/o.Thummuru, Naidupet town and Mandal, SPSR Nellore District.
8. Marri Sudhakar, S/o.Guravaiah, aged about 36 years, R/o.Vengamambapuram Village, Naidupet Mandal, SPSR Nellore District.
9. Pothuluru Syamala, W/o.P.Uday Bhaskar Reddy, aged about 55 years, R/o.Urja Nagar, Quarter No.C-76, Jeevra Project, Korda District, Chattesgarb.
10. Ponnapu Vinay Kumar, S/o.Masthanaiah, aged about 22 years, R/o.Vengamambapuram Village, Naidupet Mandal, SPSR Nellore District.
11. Lodari Dasaiah, S/o.Ramanaiah, aged about 47 years, R/o.Vengamambapuram Village, Naidupet Mandal, SPSR Nellore District.
12. Marri Guravaiah, S/o.Guravaiah, aged about 62 years, R/o.Vengamambapuram Village, Naidupet Mandal, SPSR Nellore District.
13. Peruvayila Gopalaiah, S/o.Venkaiah, aged about 60 years, R/o.Vengamambapuram Village, Naidupet Mandal, SPSR Nellore District.
14. Marri Guruprasad, S/o.Guravaiah, aged about 40 years, R/o.Vengamambapuram Village, Naidupet Mandal, SPSR Nellore District.
15. Koduru Chandra Sekhar Reddy, S/o.Balakrishna Reddy, aged about 75 years, R/o.H.No.24/2/148, Santhi Nagar, Dargamitta, Nellore City, SPSR Nellore District.
16. Dandigunta Srinivasamurthy, S/o.Venkata Chalapathi Rao, aged about 60 years, R/o.D.No.5-3-58, Agraharampetta, Naidupet Mandal, SPSR Nellore.
17. Dandigunta Teja, S/o.D.Srinivasamurthy, aged about 32 years, R/o.D.No.5-3-58, Agraharampetta, Naidupet Mandal, SPSR Nellore.



18. Kalki Pratap Reddy, S/o.Audishesha Reddy, aged about 54 years, R/o.Rajagopalapuram, Naidupeta Mandal, SPSR Nellore District.
19. Kalki Sujana, W/o.Pratap Reddy, aged about 48 years, R/o.Rajagopalapuram, Naidupeta Mandal, SPSR Nellore District.
20. Parvatha Reddy Suresh Reddy, S/o.Late Venkatasubba Reddy, aged about 53 years, R/o.Flat No.5, Jubilee Heights, Plot No.481/A, Road No.86, Phase-3, Jubilee Hills, Hyderabad.

... **Petitioners**

And

§ 1.The State of Andhra Pradesh rep.by its Prl.Secretary, Roads and Buildings Department, Secretariat Buildings, Velagapudi, Amaravathi, Guntur District.

2.The Deputy Executive Engineer, Roads & Buildings, Sub-Division, Naidupeta, SPSR Nellore District.

3.The District Collector, Nellore, SPSR Nellore District.

4.The Revenue Divisional Officer, Naidupeta, SPSR Nellore District.

... **Respondents**

**Date of Judgment pronounced on : 21-10-2021**

**HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO**

1. Whether Reporters of Local newspapers  
May be allowed to see the judgments? : Yes/No
2. Whether the copies of judgment may be marked  
to Law Reporters/Journals: : Yes/No
3. Whether the Lordship wishes to see the fair copy  
Of the Judgment? : Yes/No

**\*IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI****\* HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO****+ W.P.No.18027 of 2021****% Dated: 21-10-2021**

1. Pedamalli Venugopal Reddy, S/o.Ventaka Krishna Reddy, aged about 68 years, R/o.Thummuru, Naidupet town and Mandal, SPSR Nellore District.
2. Yerram Raghava Reddy, S/o.Ramakrishna Reddy, aged about 70 years, R/o.H.No.2/33A, 2<sup>nd</sup> ward, Medaramitla Village, Prakasam District.
3. Suddapalli Chandra Sekhar, S/o.Sambasivaiah, aged about 54 years, R/o.Kondayapalem Gate, Nellore City, SPSR Nellore District.
4. Pedamalli Bharathi, W/o.Venugopal Reddy, aged about 60 years, R/o.Thummuru, Naidupet town and Mandal, SPSR Nellore District.
5. Kattina Polaiah, S/o.Pondaiah, aged about 66 years, R/o.Pandluru Village, Naidupet Mandal, SPSR Nellore District.
6. Adala Masthan Reddy, S/o.Pedda Masthan Reddy, aged about 68 years, R/o.JSQ D-1/12, ACE Colony, Guklbarga, Karnataka State.
7. Pedamalli Chandana, W/o.Pavan Kumar Reddy, aged about 35 years, R/o.Thummuru, Naidupet town and Mandal, SPSR Nellore District.
8. Marri Sudhakar, S/o.Guravaiah, aged about 36 years, R/o.Vengamambapuram Village, Naidupet Mandal, SPSR Nellore District.
9. Pothuluru Syamala, W/o.P.Uday Bhaskar Reddy, aged about 55 years, R/o.Urja Nagar, Quarter No.C-76, Jeevra Project, Korda District, Chattesgarb.
10. Ponnapu Vinay Kumar, S/o.Masthanaiah, aged about 22 years, R/o.Vengamambapuram Village, Naidupet Mandal, SPSR Nellore District.
11. Lodari Dasaiah, S/o.Ramanaiah, aged about 47 years, R/o.Vengamambapuram Village, Naidupet Mandal, SPSR Nellore District.
12. Marri Guravaiah, S/o.Guravaiah, aged about 62 years, R/o.Vengamambapuram Village, Naidupet Mandal, SPSR Nellore District.
13. Peruvayila Gopalaiah, S/o.Venkaiah, aged about 60 years, R/o.Vengamambapuram Village, Naidupet Mandal, SPSR Nellore District.
14. Marri Guruprasad, S/o.Guravaiah, aged about 40 years, R/o.Vengamambapuram Village, Naidupet Mandal, SPSR Nellore District.
15. Koduru Chandra Sekhar Reddy, S/o.Balakrishna Reddy, aged about 75 years, R/o.H.No.24/2/148, Santhi Nagar, Dargamitta, Nellore City, SPSR Nellore District.
16. Dandigunta Srinivasamurthy, S/o.Venkata Chalapathi Rao, aged about 60 years, R/o.D.No.5-3-58, Agraharampetta, Naidupet Mandal, SPSR Nellore.



17. Dandigunta Teja, S/o.D.Srinivasamurthy, aged about 32 years, R/o.D.No.5-3-58, Agraharampeta, Naidupet Mandal, SPSR Nellore.
18. Kalki Pratap Reddy, S/o.Audisesha Reddy, aged about 54 years, R/o.Rajagopalapuram, Naidupeta Mandal, SPSR Nellore District.
19. Kalki Sujana, W/o.Pratap Reddy, aged about 48 years, R/o.Rajagopalapuram, Naidupeta Mandal, SPSR Nellore District.
20. Parvatha Reddy Suresh Reddy, S/o.Late Venkatasubba Reddy, aged about 53 years, R/o.Flat No.5, Jubilee Heights, Plot No.481/A, Road No.86, Phase-3, Jubilee Hills, Hyderabad.

**... Petitioners**

And

- § 1.The State of Andhra Pradesh rep.by its Prl.Secretary, Roads and Buildings Department, Secretariat Buildings, Velagapudi, Amaravathi, Guntur District.
- 2.The Deputy Executive Engineer, Roads & Buildings, Sub-Division, Naidupeta, SPSR Nellore District.
- 3.The District Collector, Nellore, SPSR Nellore District.
- 4.The Revenue Divisional Officer, Naidupeta, SPSR Nellore District.

**... Respondents**

- ! Counsel for petitioners : M/s.P.Ganga Rami Reddy
- ^Counsel for Respondents 1 & 2 : G.P. for Roads & Buildings
- ^Counsel for Respondent Nos.3 & 4 : G.P for Land Acquisition

<GIST:

>HEAD NOTE:

? Cases referred:

<sup>1</sup> AIR 1973 SC 2361

<sup>2</sup> AIR 2012 SC 2718

<sup>3</sup> (2011) Vol.10 SCC 714

<sup>4</sup> (2013) 4 SCC 210

<sup>5</sup> 2020 SCC online SC 847

**THE HON'BLE SRI JUSTICE R.RAGHUNANDAN RAO****WRIT PETITION No.18027 of 2021****ORDER:-**

The petitioners are owners of various extents of land of Pandluru, Vengamambapuram and Ayyappareddy palem Villages, Naidupet Mandal, SPSR Nellore District. A connecting road was initially planned to connect National Highway No.16 with the Industrial Cluster called 'Menakur SEZ'. This connecting road was to go through lands in L.A Sagaram Village. It is the case of the petitioners that this proposal was dropped and an entirely new alignment with Flyover on NH-16 was planned. This new alignment would take the road through the land of the above three villages.

2. A preliminary notification under Section 11(1) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (herein after referred as 'the Act'), was published in the daily newspapers on 25.02.2021 and 10.03.2021. Thereupon, the petitioners submitted their objection on 12.04.2021 to the 4<sup>th</sup> respondent, who submitted a report to the 3<sup>rd</sup> respondent. However, it is the case of the petitioners that this report was given without conducting any enquiry and without giving any opportunity to the petitioners. Thereafter, the 4<sup>th</sup> respondent had issued a declaration under Section 19(1) of the Act, which was published in the daily newspapers on 26.06.2021 and 30.06.2021.



3. The petitioners being aggrieved by these notifications, have approached this Court, seeking a writ declaring the notification issued by the 3<sup>rd</sup> respondent under Section 11(1) of the Act and the declaration under Section 19(1) of the Act proposing to acquire the lands of the petitioners situated in the above three villages to be illegal and violative of the provisions of the Act and to set-aside the said notification and declaration.

4. The contentions raised by the petitioners in this regard are;

- 1) Chapter-II consisting of Sections 4 to 9 of the Act requires the preparation of a social impact assessment study before undertaking any acquisition of land under the Act. This requirement can be waived by way of an exemption granted under Section 9 of the Act by the appropriate Government or by the State Government under Section 10A of the Act. In the present case, no social impact assessment study was carried out and an exemption granted by the District Collector is being relied upon by the respondents to claim that exemption from social impact assessment study has been granted under Section 10A of the Act. The said exemption given by the District Collector is not in accordance with the requirements of Section 10A of the Act as the Collector cannot be deemed to be the State Government.
- 2) Rule 4 (ii) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Compensation, Rehabilitation and Resettlement, Development Plan) Rules 2015, (herein after referred as "Rules"), stipulates that the requisitioning body has to deposit the estimated



cost of acquisition with the District Collector without which the process under the Act shall not commence. The petitioners contend, in the reply affidavit, that such a deposit has not been made and as such further process could not have been initiated. Section 11 (e) of the Act requires the notification issued under Section 11 of the Act should be done, in the affected area, in such a manner as may be prescribed. Rule 19(e) of the Rules prescribes that the notification has to be published by way of affixture in the lands, which are being acquired and no such affixtures had been carried out. The petitioners relied upon the judgments of the Hon'ble Supreme Court in State of **Mysore vs. Abdul Razak Sahib**<sup>1</sup>, **R.Prakash Vs. The Special Land Acquisition Officer & Ors.**,<sup>2</sup> and **J&K Housing Board Vs. Kunwar Sanjay Krishnan Kaul.**,<sup>3</sup> to contend that violation of this requirement would result in the entire process being set aside.

- 3) Section 15 of the Act states that every objection filed in relation to the notification issued under Section 11(1) should be made to the Collector in writing and the Collector shall give the objector an opportunity of being heard in person. The petitioners contend that personal hearing has not been given to the petitioners and as such, there could not have been a declaration under Section 19(1) of the Act.
- 4) Section 10 of the Act states that no irrigated multiple crop land should be acquired under this Act unless exceptional circumstances, as set out under Sub Section 2 are made out. The petitioners

---

<sup>1</sup> AIR 1973 SC 2361

<sup>2</sup> AIR 2012 SC 2718

<sup>3</sup> (2011) Vol.10 SCC 714



contend that in this case, the land of the petitioners is double wet crop land and no case, as required under Section 10(2), has been made out by the respondents.

5. The respondents 1 and 2 have filed a counter affidavit and respondents 3 and 4 have filed a separate counter affidavit. The respondents have disputed and denied all the aforesaid contentions raised by the petitioners. The salient contentions of the respondents are that the alignment of the road had been done after considering all the possible alternatives. It is further stated the petitioners had raised an objection for changing the proposed alignment and this objection was considered by the Collector, who addressed a letter to the Executive Engineer R & B Division, Gudur. The said Executive Engineer, after going through the objections relating to change of arrangement, had set out the reasons as to why the proposed alignment cannot be changed and thereafter, the declaration was issued as nothing further survives in the objection of the petitioners.

6. Heard Sri P. Gangarami Reddy, the learned Counsel for the petitioner, the learned Government Pleader for Roads and Buildings and the Learned government Pleader for Land Acquisition.

7. The first objection raised by the petitioners was that the exemption granted under Section 10A of the Act for conducting the social impact assessment study is an invalid exemption as it was given by the District Collector while the Act requires the said exemption to be granted by the State





Government. The respondents contend that Rule 2(b) of the Rules defines appropriate Government to include the Collector and Rule 2(d) defines the Collector to include the R.D.O and other Officials. The respondents have filed proceedings of the Collector in Rc.No.G5.1539/2020 dated 21.09.2020 exempting the acquisition in the present case, from the provisions of Chapter-II and Chapter-III of the Act as well as Rule 4 of the Rules. In view of the said proceedings, dated 21.09.2020 and the notification for exemption prepared on the basis of the said proceeding the requirement of a social impact assessment study stands waived. Further, as pointed out by the learned Government Pleader for Land Acquisition, the said exemption has not been challenged. As such, the contention of the petitioners on this ground would have to fail.

8. The second contention raised by the petitioners was that the acquisition process could not have gone forward without deposit of the estimated compensation with the District Collector and the same was not done. In reply, the respondents relied upon the above proceedings of the District Collector which had exempted the present acquisition process not only from the provisions of Chapter-II and Chapter-III of the Act but also from the provisions of Rule 4 of the Rules. In the circumstances, this objection of the petitioners would also have to fail.

9. The next contention raised by the petitioners is that the notice of the acquisition has not been affixed in a prominent place in the lands which are sought to be acquired.



It is the contention of the respondents that the said affixture has been done and the notice of the acquisition was done by tom tom also. The objections of the petitioners in this regard would also have to fail. The judgments of the Hon'ble Supreme Court relied upon by the petitioners are to the effect that any violation of the requirements of notification would result in cancellation of the acquisition process itself. In the present case, no such violation of the procedure has been demonstrated by the petitioners. In that view of the matter, the Judgments of the Hon'ble Supreme Court would not be of any avail to the petitioners and this objection also would have to be rejected.

10. Another objection raised by the petitioners was that the double wet crop land of the petitioners, in view of the prohibition under Section 10 of the Act, could not have been acquired. However, an exemption has already been granted, from this provision, under the proceedings of the Collector Rc.No.G5.1539/2020 dated 21.09.2020. Apart from this, the proviso to section 10 itself states that the said provision would not apply to linear projects such as highway and roads. Therefore, this objection would also have to give way.

11. The last objection raised by the petitioners is that the petitioners were not given a personal hearing before the declaration was issued under Section 19 of the Act. This fact has not been disputed by the respondents. The petitioners rely upon the judgement of the Hon'ble Supreme Court in **USHA STUD AND AGRICULTURAL FARMS PRIVATE LIMITED AND**



**OTHERS Vs. STATE OF HARYANA AND OTHERS<sup>4</sup>**, to contend that lack of personal hearing is fatal to the entire process. The stand of the respondents is that such a personal hearing would not have made any difference as the issue relates to alignment of the road and the said issue, which is technical in nature, cannot be resolved by way of a personal hearing and in any event, the report of the Executive Engineer, R & B is sufficient to demonstrate that the acquisition authorities could not have made any change in the alignment of the road.

12. The Hon'ble Supreme Court was considering the provisions of Section 5-A of the Land Acquisition Act, 1894, which is *pari materia* similar to section 15 of the Act and reads as follows:

**5-A.Hearing of objections.**—(1) Any person interested in any land which has been notified under Section 4, sub-section (1), as being needed or likely to be needed for a public purpose or for a company may, within thirty days from the date of the publication of the notification, object to the acquisition of the land or of any land in the locality, as the case may be.

(2) Every objection under sub-section (1) shall be made to the Collector in writing, and the Collector shall give the objector an opportunity of being heard in person or by any person authorised by him in this behalf or by pleader and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, either make a report in respect of the land which has been notified under Section 4, sub-section (1), or make different reports in respect of different parcels of such land, to the appropriate Government, containing his recommendations on the objections, together with the record of the proceedings held by him, for the decision of that Government. The decision of the appropriate Government on the objections shall be final.

(3) For the purposes of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land were acquired under this Act.

---

<sup>4</sup> (2013) 4 SCC 210



The Hon'ble Supreme Court after referring to various judgements cited before it, had reiterated that, the decision of the Government to go ahead with the acquisition process would be dependent on the report of the collector, which in turn would be based upon his consideration of the objections of the affected parties and as such the right of a personal hearing given to the affected parties is a mandatory requirement.

13. However, there has been an alternative view on the question of whether the absence of such a hearing is fatal to the concerned administrative process. The Hon'ble Supreme Court in STATE OF U.P. Vs. SUDHIR KUMAR SINGH<sup>5</sup>, after an extensive review of the judgments following that line of thought, had summarized the principles in this regard as follows:

An analysis of the aforesaid judgements thus reveals:

(1) Natural Justice is a flexible tool in the hands of the judiciary to reach out in fit cases to remedy injustice. The breach of the Audi Alteram partem rule, cannot by itself, without more, lead to the conclusion that prejudice is thereby caused.

(2) Where procedural and/or substantive provisions of law embody the principles of natural justice, their infraction per se does not lead to invalidity of the orders passed. Here again, prejudice must be caused to the litigant, except in the case of a mandatory provision of law which is conceived not only in Individual interest, but also in public interest.

---

<sup>5</sup> 2020 SCC online SC 847



(3) No prejudice is caused to the person complaining of breach of natural justice where such person does not dispute the case against him or it. This can happen by way of estoppel, acquiescence, waiver and by way of non challenge or non denial or admission of facts, in cases in which the court finds on facts that no real prejudice can therefore be said to have been caused to the person complaining of the breach of natural justice.

(4) In cases where facts can be said to be admitted or undisputable, and only one conclusion is possible, the court does not pass futile orders of setting aside or remand when there is, in fact, no prejudice caused. This conclusion must be drawn by the court on an appraisal of the facts of the case, and not by the authority who denies natural justice to a person.

(5) The “prejudice” exception must be more than an apprehension or even a reasonable suspicion of a litigant. It should exist as a matter of fact, or be based upon a definite inference of likelihood of prejudice flowing from non observance of natural justice.

14. In the present case, it could be argued that a personal hearing would have made no difference to the case of the petitioners and may not cause prejudice to their interest as a personal hearing would not make out any case which would run counter to the reasons given by the Executive Engineer, R & B, Gudur Division. However, the guideline No. 2, set out above also stipulates that where there is a mandatory provision of law which is conceived not only in Individual interest, but



also in public interest, requiring a personal hearing, any violation of such a requirement would have to be treated as a violation of principles of natural justice requiring the said process to be set-aside, irrespective of whether a prejudice can be demonstrated or not. Section 15 of the Act has been incorporated to ensure that the public authorities exercising the right of Eminent Domain of the State shall take care to see that the property of a person shall not be taken away without hearing the objections of such a person. The requirement of a personal hearing ensures that the affected persons are heard and their distress and difficulties can be brought home better to the authority hearing their objections. As such, this requirement under section 15 would have to be treated as a mandatory requirement conceived in public interest.

15. In these circumstances, this writ petition is partly allowed rejecting the challenge to the notification issued under Section 11(e) of the Act while setting aside the declaration issued under Section 19 of the Act, leaving it open to the 3<sup>rd</sup> respondent to give a personal hearing to the petitioners and thereafter, determine whether a declaration under Section 19 of the Act can be issued or not. It would be open to the respondents to take further action depending upon such a determination by the 3<sup>rd</sup> respondent. There shall be no order as to costs.

Miscellaneous petitions, pending if any, in this Writ Petition shall stand closed.

---

**JUSTICE R.RAGHUNANDAN RAO**

Date : 21-10-2021  
RJS



**THE HON'BLE SRI JUSTICE R.RAGHUNANDAN RAO**

**WRIT PETITION No.18027 of 2021**

**Date : 21-10-2021**

RJS