



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Civil Writ Petition No. 6195/2020

1. Narendra Singh Bhati S/o Shri Lakh Singh Bhati, Aged About 42 Years, B/c Bhati, R/o Village Kan Singh Ki Sid, Tehsil Bap, District Jodhpur (Raj.).
2. Shrawan Kumar S/o Shri Bhopal Ram, Aged About 30 Years, B/c Darji, R/o Village Kan Singh Ki Sid, Tehsil Bap, District Jodhpur (Raj.).
3. Pratap Singh S/o Shri Devi Singh, Aged About 36 Years, B/c Rajput, R/o Village Kan Singh Ki Sid, Tehsil Bap, District Jodhpur (Raj.).
4. Mohan Singh S/o Shri Gulab Singh, Aged About 25 Years, B/c Rajput, R/o Village Kan Singh Ki Sid, Tehsil Bap, District Jodhpur (Raj.).

----Petitioners

Versus

1. State Of Rajasthan, Through The Secretary, Department Of Revenue, Secretariat, Jaipur (Raj.).
2. District Collector, Jodhpur (Raj.).
3. Sub Division Officer, Bap Tehsil, District Jodhpur (Raj.).
4. Tehsildar Bap, District Jodhpur (Raj.).
5. Gram Panchayat, Village Kan Singh Ki Sid, Tehsil Bap, District Jodhpur (Raj.) Through Sarpanch, Gram Panchayat Bhawan, Village Kan Singh Sid, Tehsil Bap, District Jodhpur (Raj.).
6. Power Grid Corporation Of India Limited (Government Of India Enterprise), Through Manager, Office At Jodhpur (Raj.).
7. Jodhpur Vidhyut Vitran Nigam Limited, Through Chairman, Head Office Jd.v.v.n.l Jodhpur (Raj.).

----Respondents

For Petitioner(s)	:	Mr. Narpat Singh Charan. Mr. Om Singh Chauhan.
For Respondent(s)	:	Mr. Sunil Beniwal, Aag. Mr. Prahlad Singh. Mr. Pramod Kumar Panwar on behalf of Mr. Muktesh Maheshwari.



HON'BLE MR. JUSTICE SANDEEP MEHTA
HON'BLE MR. JUSTICE KULDEEP MATHUR

ORDER

11/01/2023

Reportable

(BY THE COURT:)

1. The instant writ petition in the nature of Public Interest Litigation has been preferred by the petitioners herein being residents of the Gram Panchayat Kan Singh Ki Sid, Tehsil Bap, District Jodhpur for assailing the action of the respondents in dereserving and declassifying land admeasuring 451 Bighas from the *Gochar* land of Kan Singh Ki Sid and allotting it to the Power Grid Corporation Of India Limited (hereinafter referred to as 'the PGCIL') for installation of 765/400/220 K.V. Grid Sub Station.

2. We have considered the submissions advanced at bar and have gone through the pleadings of the parties and the other material placed on record.

3. The petitioners seek to question validity of the action of the respondents in declassifying 451 Bighas of *Gochar* land from Khasra No.240, Village Kan Singh Ki Sid. In this regard, challenge has primarily been laid to the order (Annexure-4) dated 28.08.2019 issued by the District Collector, Jodhpur whereby, acting upon the letter dated 06.05.2019 issued by the Sub Divisional Officer, Bap, the District Collector accepted the recommendation and directed declassification of the above chunk of *Gochar* (Pasture) land and recommended the allotment thereof to the PGCIL on payment to the tune of Rs.5,19,51,324/-. At the



same time, 451 Bighas of land from Khasra No.491, Village Kan Singh Ki Sid (classified as '*Gair Mumkin Magra*') was allotted by way of compensating the reduction in *Gochar* land on account of above allotment. The foundation of the petitioners' challenge to the impugned order is two fold:

- (i) that the consent of the Gram Panchayat for making the allotment is mandatory as per Rule 7 of the Rajasthan Tenancy (Government) Rules, 1955 (hereinafter referred to as 'the Rules of 1955') and that the Gram Panchayat never gave any such consent for the allotment in question, and
- (ii) that the land of Khasra No.491 set apart by way of compensation for the *Gochar* land, is categorised as '*Gair Mumkin Magri*' and thus, the same would not serve the purpose of grazing area for the village cattle.

4. Reply to the writ petition has been filed by the State authorities (respondents Nos.1 to 4) wherein, it is submitted that the Gram Panchayat issued the consent letter (Annexure-R/3) dated 02.05.2019 which bears the signatures of the Sarpanch as well as Gram Sevak of Gram Panchayat Kan Singh Ki Sid. On the basis thereof, the plea raised by the writ petitioners that the declassification of the *Gochar* land has been done without taking consent of the Gram Panchayat as per Rule 7 of the Rules of 1955, is controverted. It has further been submitted that the total *Gochar* area reserved in the village Kanji Ki Sid is admeasuring about 14249-11 Bighas. Total cattle population of the village is only 1800 odd and thus, available *Gochar* land, even after allotment made in favour of PGCIL, is more than enough to sustain the grazing need of the entire cattle population. It has



further been submitted that the allotment of the land has been made to PGCIL which a Government of India undertaking and that too on payment of cost of land and thus, there was no oblique motive on part of the respondents in making the allotment. The allotment has been made for benefit of public at large and the petitioners' claim that the writ petition has been filed in public interest, has been refuted.

5. Reply to the writ petition has also been filed by the respondent No.6 PGCIL wherein, it has been averred that the subject allotment of the land for establishment of the grid sub station was made after following the due process of law and that alternate land of equal measurement has been allotted for compensating the reduction in the *Gochar* land. It has further been submitted in the reply that the grid sub station is being constructed to meet the requirement of the Jawahar Lal Nehru National Solar Mission launched by the Ministry of Power, Government of India. It is further stated that the Corporation has already started raising construction on the land lawfully allotted by the Government of Rajasthan.

6. Reply to the writ petition has been filed on behalf of the respondent No.5 Gram Panchayat Kan Singh Ki Sid wherein, the averments made in the writ petition are supported and it is claimed that the allotment of land in question was made without taking consent of the Gram Panchayat and that the consent letter (Annexure-R/3 dated 02.05.2019 is forged/fraudulent as the Gram Panchayat never issued the same.



However, it is relevant to mention that in this reply, which is sworn by the Village Development Officer Shri Devi Singh, who is also one of the signatories to the consent letter dated 02.05.2019, there is no denial that this letter bears the signature of the Sarpanch and the Gram Sevak.

7. During the course of arguments, learned counsel Shri Narpat Singh Charan representing the petitioners, vehemently and fervently urged that the impugned order is bad in the eyes of law as no valid consent of the Gram Panchayat was taken before declassifying a huge chunk of *Gochar* land and allotting it to PGCIL. It was further submitted that the land allotted for compensating the reduction in the *Gochar* area is not meeting the requirements of the Rules because it is categorised as '*Gair Mumkin Magri*' and is not suitable for grazing. In support of his contentions, Shri Charan placed reliance on the Supreme Court Judgment in the case of State of ***Jharkhand & Ors. vs. Pakur Jagran Manch & Ors.***, reported in ***(2011)2 SCC 591***. He vehemently contended that the impugned allotment order is *ex-facie* based on a forged consent letter and hence, the same should be quashed.

8. Shri Sunil Beniwal, learned AAG representing the State authorities, urged that the allotment of land in question has been made to PGCIL, a Government of India undertaking which has already started construction of the grid sub station which is a project of national importance and would subserve the power requirements by transmitting Solar Energy. This grid sub station is being established to harness the electricity generated from the



solar farms/ projects being set up in Western Rajasthan. The purpose of setting up the grid sub station has great sanctity and importance. Shri Beniwal further submitted that though the Gram Panchayat, in its reply, has denied having issued the NOC but the fact remains that the signatures appended thereupon are not disputed and thus, the document (Annexure-R/3), being the consent letter issued by the Gram Panchayat Kan Singh Ki Sid, cannot be branded as forged. He further submitted that the requirement of taking consent of the Panchayat under Rule 7 of the Rules of 1955 has been held to be directory by the Division Bench of this Court in the case of **Gulab Chand & Ors. vs. State of Rajasthan & Ors.** reported in **2007 (2) ILR (Raj.) 633** and thus, there was no requirement in law to take such consent before proceeding to declassify the pasture land and in allotting the same for a project of national importance. On these submissions, Shri Beniwal sought dismissal of the writ petition.

9. Learned counsel Shri Pramod Kumar Panwar associate to Shri Muktesh Maheshwari, learned counsel representing the respondent No.6, also supported the submissions advanced by learned AAG Shri Beniwal and urged that the impugned allotment order was passed strictly in accordance with law. The writ petition does not involve any issue of public interest and hence, the same should be dismissed.

10. We have given our thoughtful consideration to the submissions advanced at bar and, have gone through the material available on record.



11. It may be stated that the allotment order dated 28.08.2019, which is being questioned in this writ petition, was issued by the State Government in favour of the respondent No.6 PGCIL for setting up of the grid sub station which is definitely a project of national importance. The land was allotted on payment of market value. Hence, any imputation of vested interest or oblique motive in making such allotment is unacceptable on the face of record. Rule 7 of the Rules of 1955 empowers the District Collector to declassify *Gochar* land and allot the same for the purposes mentioned in the Rule which reads as below:

"7. Allotment or setting apart of Pasture Land.- (1) The Collector may, in consultation with the Panchayat, change the classification of any pasture land, as defined in sub-section (28) of Section 5 of the Act or any pasture land set apart under section 92 of the Rajasthan Land Revenue Act, 1956 (Rajasthan Act of 1956), as unoccupied cultivable Government land (Sawai Chak), for allotment for agricultural or any non-agricultural purposes.

Provided that in case where the area of the land sought to be so allotted or set-apart exceed 4 hectares, the Collector shall obtain prior permission of the State Government.

[XXX Second proviso deleted XXX]

Provided also that any such land, falling within the boundary limits of the Jaipur Region as defined in the Jaipur Development Authority Act, 1982 (Act No.25 of 1982) or within the periphery of 2 kms. of a municipality, shall not be allotted except for the purpose of a public utility institution or for expansion of abadi.

(2) Where classification of any pasture land is changed under sub-rule(1), the Collector may set-apart an equal area of unoccupied cultivable Government land, if available, as pasture land in the same village."

As per position of the revenue record, total of 14249-11 Bighas of *Gochar* land is available in the village Kan Singh Ki Sid. Hardly 3.16% land from this huge area has been allotted for setting up of the grid sub station. As per the contents of the reply





filed on behalf of the revenue authorities, there are 1800 head of cattle in the village. As per Rule 6 of the Rules of 1955, while making the assessment for earmarking the pasture land, rough scale of one half Bigha per head of cattle would have to be followed. Though language of this rule is directory but, even if it is considered as a guideline, only 900 Bighas of land would be required for the grazing needs of the entire cattle population of the village Kan Singh Ki Sid. The land available, after allocation made to the grid sub station, is 15 times of this requirement. It is an established fact that Western Rajasthan more particularly the Bap Tehsil wherein, the land in question is situated, records the highest solar radiation in the world and that is why, the Government of India has made it a mission to set up huge solar electricity generation farms and projects in this area.

In order to ensure smooth transmission of clean and green electricity generated from the solar power plants of national and universal importance, grid stations would be required. Hence, the purpose of the allotment in question is very pious and has great sanctity because it facilitates installation of the grid station which is essential for onward transmission of green energy which is the need of the hour. Use of fossil fuels and other similar sources for generating energy are creating havoc upon the earth's atmosphere because greenhouse gases are emitted as a result which contribute to global warming. The disastrous consequences of this evil phenomenon are impacting the entire population of this world. Hence, each miniscule attempt to bring about reduction in emission of green house gases has to be encouraged at every cost. The efforts of harnessing solar power to generate electricity



is one such laudable effort which has to be appreciated and nurtured.

As per the document (Annexure-R/3) dated 02.05.2019 placed on record, the Gram Panchayat Kan Singh Ki Sid recorded its 'no objection' for allotment of the land in question for setting up of the grid sub station. In the reply filed on behalf of the Gram Panchayat, there is not even a whisper that the signatures on this document were not appended by the Sarpanch and the Gram Sevak concerned. Otherwise also, there was no reason as to why, the revenue authorities would go to the extent of forging the signatures of the Sarpanch and the Gram Sewak so as to procure the NOC/consent letter as there is no mandatory requirement of taking such consent as has been held by the Division Bench of this Court in the case of **Gulab Chand & Ors. (supra)**.

12. The Supreme Court Judgment in the case of **Jharkhand & Ors. vs. Pakur Jagran Manch & Ors. (supra)** relied upon by learned counsel Shri Charan, is clearly distinguishable from the facts of the case at hand because in the said judgment, different set of rules and regulations were under consideration. There is no dispute that Rule 7 of the Rules of 1955 empowers the District Collector to declassify the pasture land and allot it for the purposes mentioned in the rule. As the area of land allotted is more than 4 Hectares, the approval for allotment was sought from the State Government.

13. A perusal of the impugned order of allotment (Annexure-4) dated 28.08.2019 which is assailed in this writ petition, would reveal that initially when the proposal to establish the grid sub station was received, the SDO, Bap made an enquiry and



forwarded the recommendation with the NOC letter dated 02.05.2019 to the District Collector, Jodhpur. The Tehsildar, Bap also forwarded a recommendation to the District Collector as per which, it was proposed to declassify 451 Bighas of land from Khasra No.491 (*Gair Mumkin Magra*) for compensating the reduction in the *Gochar* area on account of proposed allotment to the PGCIL. Acting on these recommendations, the District Collector forwarded the matter to the State Government for approval vide letter dated 21.05.2019. The State Government thereafter, issued an order dated 12.07.2019 approving the proposal of the District Collector and directed declassification of 451 Bighas (73 Hectares) land from the pasture area of Khasra No.240 and at the same time, land of equal dimension from Khasra No.491 was allotted for compensating the *Gochar* land. As mentioned supra, the total available pasture area after the allotment in question, is 15 times of the requirement as per Rule 6 of the Rules of 1955. Apparently thus, the mandate of the Rules has been duly satisfied. Resultantly, the allotment order in question cannot be held invalid on account of non-compliance of any provision of the Rules of 1955 so as to call for interference of this Court in this public interest litigation writ petition.

14. As a consequence, we find no merit in this writ petition (PIL) which is dismissed as such.

15. No order as to costs.

(KULDEEP MATHUR),J

(SANDEEP MEHTA),J

55-Tikam Daiya/-