

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP Nos.149 of 2025 & 14338 of 2024

Reserved on: 19.05.2025

Decided on: 22nd May, 2025

CWP No.149 of 2025

Keshav Ram and othersPetitioners

versus

State of H.P and others ...Respondents

CWP No.14338 of 2024

Karam Chand and othersPetitioners

versus

State of H.P and others ...Respondents

Coram

The Hon’ble Mr. Justice Tarlok Singh Chauhan, Judge.

The Hon’ble Mr. Justice Sushil Kukreja, Judge.

Whether approved for reporting?¹ Yes.

For the petitioners: **Mr. C.N. Singh and Dr. Nidhi Singh, Advocates for the petitioners in both the petitions.**

For the respondents: **Mr. Anup Rattan, A.G with Mr.Ramakant Sharma, Addl. A.G., Navlesh Verma., Ms.Sharmila Patial, Addl. A.G., Mr.Sushant Keprate, Addl. A.G and Mr. Raj Negi, Dy.A.G for the respondent-State.**

Mr.Neeraj Sharma, Senior Advocate with Mr.Hemant Thakur, Advocate for

¹ *Whether the reporters of Local Papers may be allowed to see the judgment? Yes.*

**respondents No.4 and 5 in CWP
No.149 of 2025.**

**Mr. Virbahadur Verma,
Advocate for respondents No.4
and 4 in CWP No.14338 of
2024.**

Tarlok Singh Chauhan, Judge

Both these petitions under Article 226 of the Constitution of India lay challenge to the Notification dated 01.04.2015 (Annexure P-1) being *ultra vires* to the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'Act') with a further direction to notify the multiplier factor as two in terms of the provisions of the Act with respect to the rural areas of Himachal Pradesh.

2. **The factual scenario giving rise to these petitions**, in brief, is that on 19.01.2021, the land of the petitioners was utilized for the construction of road and the same was acquired by the respondent department vide its Notification dated 11.10.2018 issued under the provisions of the Act.

3. On 07.01.2022, the department issued Notification under Section 19 of the Act for acquisition of land as well as payment of compensation to the petitioners and other interested persons. Thereafter, the Collector passed the award on 20.06.2024. According to the petitioners, it is then they learnt

that the multiplier of **one** had been given to the petitioners and other similar situated persons. This made the petitioners to inquire as to why the multiplier of **one** had been applied and it is thereafter they came to know that the State Government had issued impugned Notification dated 01.04.2015, notifying the multiplier as **one** with respect to the rural areas of Himachal Pradesh, hence these petitions.

4. The State has failed to file reply despite repeated opportunities and, therefore, in terms of order dated 15.05.2025, the right to file same is deemed to be closed.

5. As regards respondents No.4 and 5 i.e. the Land Acquisition Collector, Sunni Dam Hydro Electric Project and the Satluj Jal Vidyut Nigam Limited, they have filed joint reply, wherein, it has been stated that the acquisition was carried out by the Land Acquisition Collector (LAC), Sunni, who was duly appointed by the State Government. The proceedings were conducted in a transparent, just and lawful manner under the provisions of the Act. The land owners including the petitioners were awarded the most suitable and fair compensation for their land along-with other benefits under the Act. The valuation of land was undertaken using a multiplier factor of **1**, in consonance with the Notification dated 01.04.2015 issued by the State Government.

6. Since respondents No.4 and 5 have only adopted and chosen to follow the Notification, this Court is now required to decide the validity of such Notification. While doing so, it would be necessary to refer to impugned Notification dated 01.04.2015, which reads as under:-

NOTIFICATION

In exercise of the powers conferred by sub-section (2) of section 30 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 read with the FIRST SCHEDULE appended to the said Act, the Governor, Himachal Pradesh, for the purpose by which the market value of the land is to be multiplied in the case of rural areas, is pleased to notify the factor as 1.00 (One) under serial No. 2 of the said SCHEDULE.

By Order

(Tarun Shridhar)
Addl. Chief Secy. (Revenue) to the
Government of Himachal Pradesh.

Endst. No. Rev.B.A(3)-3/2014-1, Dated Shimla-171002, the 01-04-2015

Copy forwarded for information and necessary action to:-

- 1. All the Administrative Secretaries to the Government of Himachal Pradesh, Shimla-2.*
- 2. All the Heads of Department in Himachal Pradesh.*
- 3. All the Divisional Commissioners, Himachal Pradesh.*
- 4. All the Deputy Commissioners, in Himachal Pradesh.*
- 5. The Settlement Officers, Shimla and Kangra.*
- 6. The D.L.R-cum-Under Secretary (Law) to the Government of Himachal Pradesh, Shimla-2.*
- 7. COC to the Financial Commissioner (Appeals) Himachal Pradesh, Shimla-2.*
- 8. The Controller, Printing and Stationery, Himachal Pradesh, Shimla-5 for favour of publication in extra ordinary Rajpatra with the request to supply five copies of the publication.*
- 9. Guard file.*

M (Rakesh Mehta)
Deputy Secretary (Revenue) to the
Government of Himachal Pradesh.

7. It would be also be necessary to refer to necessary provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, which read as under:-

“26. *Determination of market value of land by Collector.*—(1) The Collector shall adopt the following criteria in assessing and determining the market value of the land, namely:—

- (a) the market value, if any, specified in the Indian Stamp Act, 1899 (2 of 1899) for the registration of sale deeds or agreements to sell, as the case may be, in the area, where the land is situated; or
- (b) the average sale price for similar type of land situated in the nearest village or nearest vicinity area; or
- (c) consented amount of compensation as agreed upon under sub-section (2) of section 2 in case of acquisition of lands for private companies or for public private partnership projects, whichever is higher:

Provided that the date for determination of market value shall be the date on which the notification has been issued under section 11.

Explanation 1.—The average sale price referred to in clause (b) shall be determined taking into account the sale deeds or the agreements to sell registered for similar type of area in the near village or near vicinity area during immediately preceding three years of the year in which such acquisition of land is proposed to be made.

Explanation 2.—For determining the average sale price referred to in Explanation 1, one-half of the total number of sale deeds or the agreements to sell in which the highest sale price has been mentioned shall be taken into account.

Explanation 3.—While determining the market value under this section and the average sale price referred to in Explanation 1 or Explanation 2, any price paid as compensation for land acquired under the provisions of this Act on an earlier occasion in the district shall not be taken into consideration.

Explanation 4.—While determining the market value under this section and the average sale price referred to in Explanation 1 or Explanation 2, any price paid, which in the opinion of the Collector is not indicative of actual prevailing market value may be discounted for the purposes of calculating market value.

(2) The market value calculated as per sub-section (1) shall be multiplied by a factor to be specified in the First Schedule.

(3) Where the market value under sub-section (1) or sub-section (2) cannot be determined for the reason that—

(a) the land is situated in such area where the transactions in land are restricted by or under any other law for the time being in force in that area; or

(b) the registered sale deeds or agreements to sell as mentioned in clause (a) of sub-section (1) for similar land are not available for the immediately preceding three years; or

(c) the market value has not been specified under the Indian Stamp Act, 1899 (2 of 1899) by the appropriate authority,

the State Government concerned shall specify the floor price or minimum price per unit area of the said land based on the price calculated in the manner specified in sub-section (1) in respect of similar types of land situated in the immediate adjoining areas:

Provided that in a case where the Requiring Body offers its shares to the owners of the lands (whose lands have been acquired) as a part compensation, for acquisition of land, such shares in no case shall exceed twenty-five per cent, of the value so calculated under sub-section (1) or sub-section (2) or sub-section (3) as the case may be:

Provided further that the Requiring Body shall in no case compel any owner of the land (whose land has been acquired) to take its shares, the value of which is deductible in the value of the land calculated under sub-section (1):

Provided also that the Collector shall, before initiation of any land acquisition proceedings in any area, take all necessary steps to revise and update the market value of the land on the basis of the prevalent market rate in that area:

Provided also that the appropriate Government shall ensure that the market value determined for acquisition of any land or property of an educational institution established and administered by a religious or linguistic minority shall be such as would not restrict or abrogate the right to establish and administer educational institutions of their choice.

28. Parameters to be considered by Collector in determination of award.—In determining the amount of compensation to be awarded for land acquired under this Act, the Collector shall take into consideration—

firstly, the market value as determined under section 26 and the award amount in accordance with the First and Second Schedules;

secondly, the damage sustained by the person interested, by reason of the taking of any standing crops and trees which may be on the land at the time of the Collector's taking possession thereof;

thirdly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of severing such land from his other land;

fourthly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, movable or immovable, in any other manner, or his earnings;

fifthly, in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change;

sixthly, the damage (if any) bona fide resulting from diminution of the profits of the land between the time of the publication of the declaration under section 19 and the time of the Collector's taking possession of the land; and

seventhly, any other ground which may be in the interest of equity, justice and beneficial to the affected families.

106. Power to amend Schedule.—(1) The Central Government may, by notification, amend or alter any of the Schedules to this Act, without in any way reducing the compensation or diluting the provisions of this Act relating to compensation or rehabilitation and resettlement.

(2) A copy of every notification proposed to be issued under sub-section (1), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses of Parliament.

107. Power of State Legislatures to enact any law more beneficial to affected families.— Nothing in this Act shall prevent any State from enacting any law to enhance or add to the entitlements enumerated under this Act which confers higher compensation than payable under this Act or make provisions for rehabilitation and resettlement which is more beneficial than provided under this Act.

108. Option to affected families to avail better compensation and rehabilitation and resettlement.—(1) Where a State law or a policy framed by the Government of a State provides for a higher compensation than calculated under this Act for the acquisition of land, the affected persons or his family or member of his family may at their option opt to avail such higher compensation and rehabilitation and resettlement under such State law or such policy of the State.

(2) Where a State law or a policy framed by the Government of a State offers more beneficial rehabilitation and resettlement provisions under that Act or policy than under this Act, the affected persons or his family or member of his family may at his option opt to avail such rehabilitation and resettlement provisions under such State law or such policy of the State instead of under this Act.

109. **Power of appropriate Government to make rules.**—(1) Subject to the other provisions of this Act, the appropriate Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing, such rules may provide for all or any of the following matters, namely:—

(a) the process of obtaining the prior consent under the first proviso to sub-section (2) of section 2;

(b) the limits of land in rural areas or urban areas under clause (a) of sub-section (3) of section 2;

(c) the manner and the time limit for carrying out social impact assessment study under sub-section (1) of section 4;

(d) the manner of preparing and publishing social impact assessment study reports under sub-section (1) of section 6;

(e) the manner and time for conducting survey and undertaking census under sub-section (2) of section 16;

(f) the manner of preparing draft Rehabilitation and Resettlement Scheme under sub-section (5) of section 16;

(g) the manner of conducting public hearing under sub-section (5) of section 16;

(h) the manner of depositing amount by the Requiring Body under second proviso to sub-section (2) of section 19;

(i) the manner in which and the period within which any excess amount paid may be recovered under sub-section (3) of section 33;

(j) the form in which the Development Plan shall be prepared under sub-section (4) of section 41;

(k) the powers, duties and responsibilities of Administrator under sub-section (2) of section 43;

(l) the procedure of Rehabilitation and Resettlement Committee under sub-section (3) of section 45;

(m) the procedure to be followed by the Rehabilitation and Resettlement Committee and allowances to be paid to the experts under sub-section (3) of section 48;

- (n) the procedures to be followed by the State Monitoring Committee and the allowances payable to the experts under sub-section (3) of section 50;
- (o) the salaries and allowances and other conditions of service of the Registrar and other officers and employees of an Authority under sub-section (3) of section 55;
- (p) the salary and allowances payable to and the other terms and conditions of service (including pension, gratuity and other retirement benefits) of, the Presiding Officer of an Authority under section 56;
- (q) any other matter under clause (g) of sub-section (1) of section 60;
- (r) the manner of recovery of the rehabilitation and resettlement benefits, availed of by making false claim or through fraudulent means, under sub-section (2) of section 84;
- (s) the manner of returning the unutilised land by reversion under section 101;
- (t) manner of publication wherever the provisions of this Act provide for;
- (u) any other matter which is required to be or may be specified under this Act.

111. **Rules made by State Government to be laid before State Legislature.**—Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

THE FIRST SCHEDULE
[See Section 30(2)]
COMPENSATION FOR LAND OWNERS

The following components shall constitute the minimum compensation package to be given to those whose land is acquired and to tenants referred to in clause (c) of section 3 in a proportion to be decided by the appropriate Government.

Serial No.	Component of compensation package in respect of land acquired under the Act	Manner of determination of value	Date of determination of value
(1)	(2)	(3)	(4)
1.	Market value of land	To be determined as provided under section 26	
2.	Factor by which the market value is to be multiplied in the case of rural areas.	1.00 (One) to 2.00 (Two) based on the distance of project from urban area, as may be notified by the appropriate Government.	
3.	Factor by which the market value	1(One)	

	is to be multiplied in the case of urban areas		
4.	Value of assets attached to land or building.	To be determined as provided under section 29.	
5.	Solatum	Equivalent to one hundred per cent of the market value of land mentioned against serial number 1 multiplied by the factor specified against serial number 2 for rural areas or serial number 3 for urban areas plus value of assets attached to land or building against serial number 4 under column (2).	
6.	Final award in rural areas	Market value of land mentioned against serial number 1 multiplied by the factor specified against serial number 2 plus value of assets attached to land or building mentioned against serial number 4 under column (2) plus solatium mentioned against serial number 5 under column (2).	
7.	Final award in urban areas	Market value of land mentioned against serial number 1 multiplied by the factor specified against serial number 2 plus value of assets attached to land or building mentioned against serial number 4 under column (2) plus solatium mentioned against serial number 5 under column (2).	
8.	Other component, if any, to be included.		

Note: The date on which values mentioned under column (2) are determined should be indicated under column (4) against each serial number.

8. The Article 162 of the Constitution of India reads as under:-

“162. Extent of executive power of State

Subject to the provisions of this Constitution, the executive power of a State shall extend to the matters with respect to which the Legislature of the State has power to make laws:

Provided that in any matter with respect to which the Legislature of a State and Parliament have power to make laws, the executive power of the State shall be subject to, and limited by, the executive power expressly conferred by the Constitution or by any law made by Parliament upon the Union or authorities thereof.”

9. We have examined the impugned Notification dated 01.04.2015 in the background of Sections 23 and 26 of the Act.

It is not in dispute that the Act is a central legislation and in case the statement of object and reasons of the new Act, we find that the new Act provides legal solution for farmers and their families whose livelihood is dependent on the land being acquired under this law. It also considers the aspect of development and the acquisition of land for industrialization, infrastructure and urbanization process along-with providing machinery to implement the same in a timely and transparent manner.

10. The Act is brought into force with sufficient provisions for rehabilitation and resettlement of the affected persons and their families. The rights of people denuded of their land and displaced due to acquisition, leading to depriving them from their lands, livelihood, shelter and traditional job/work/skills including traditional resource base have been taken into consideration while protecting their rights. An attempt has been made to retain their socio-cultural

environment. Thus, the rights and interest of weaker sections of the society particularly landless farmers, marginal farmers and their families, members of SC/ST under the Scheduled Tribes and other Traditional Forests Dwellers (Recognition of Forest Rights) Act, 2006 have been specifically protected.

11. On a careful perusal of impugned Notification dated 01.04.2015, we do not find any source for issuance of such notice particularly Section 30 of the Act under which it has been issued, as Section 30 only talks about the award or solatium and reads as under:-

“30. **Award of solatium.**—(1) The Collector having determined the total compensation to be paid, shall, to arrive at the final award, impose a “Solatium” amount equivalent to one hundred per cent. of the compensation amount.

Explanation.—For the removal of doubts it is hereby declared that solatium amount shall be in addition to the compensation payable to any person whose land has been acquired.

(2) The Collector shall issue individual awards detailing the particulars of compensation payable and the details of payment of the compensation as specified in the First Schedule.

(3) In addition to the market value of the land provided under section 26, the Collector shall, in every case, award an amount calculated at the rate of twelve per cent. per annum on such market value for the period commencing on and from the date of the publication of the notification of the Social Impact Assessment study under sub-section (2) of section 4, in respect of such land, till the date of the award of the Collector or the date of taking possession of the land, whichever is earlier.”

12. The impugned Notification is in grave violation to the provisions of Section 107 of the Act which clearly states that the State Legislature has power to enact any law; provided that the same is more beneficial to affected families. The Notification, therefore, issued under the executive powers cannot override

the Act. The executive can issue instructions only in respect of those aspects which are not covered by the legislation i.e. Act. It is more than settled that the executive instructions cannot override the Act. The powers derived by the authorities under the Act cannot be circumscribed by executive instructions. The instructions cannot supplant the law. The executive must abide by the provisions of the Act and cannot ignore or act contrary to the Act in exercise of its powers under Article 162 of the Constitution of India.

13. That apart, Section 106 of the Act makes it clear that the Central Government cannot amend or alter any of the Schedules to the said Act including the First Schedule so as to reduce the compensation payable or for diluting the provisions of the Act relating to compensation or rehabilitation and resettlement.

14. Section 107 of the Act, as observed above, empowers the State Government, to enact any law to enhance or add to the entitlement enumerated under the Act, which confers higher compensation than the one payable under the Act of 2013. Thus, the State Legislature can enact any law conferring higher compensation than the one provided under the Act.

15. Section 108 of the Act provides an option to affected families to avail better compensation and rehabilitation and

resettlement, if State law or policy so provides. In such circumstances, it is not difficult to conclude that the thrust of the legislature seems to be that the compensation cannot be lower than the one prescribed under the Act of 2013.

16. Apart from the above, the action of the State in issuing the Notification by restricting the multiplier factor to **one** is obviously trying to treat the land owners as one, which cannot be countenanced as this will deny the poor land owners of the remote villages, fair compensation and rehabilitation, which is the primary object behind the Act.

17. Furthermore, the First Schedule which is titled as ‘Compensation for land owners’ contains component of compensation package and the package placed at Serial No.2 in that schedule prescribes the guiding principles which need to be used for determination of multiplier factor in rural areas. This guiding principle, as seen from compensation package at Serial No.2 for the land located in rural areas is distance of the project from the urban area. This makes it explicitly clear that in rural areas which are farthest from urban area, the multiplier factor is required to be **two** and when rural area covered under the project is closer to the urban area, such multiplier factor scales down to less than **two** and even up to **one**, when the land

sought to be acquired for the project is closest to the urban area.

18. In view of the discussion made and reasons stated hereinabove, we find merit in these petitions and the same are allowed. Accordingly, Notification dated 01.04.2015 (Annexure P-1) is quashed and set aside. The respondents are directed to notify the multiplier of **two** in terms of provisions of the Act with respect to the area in question. Consequently, respondent No.4 is directed to pass a supplementary award in favour of the petitioners by applying multiplier as **two** and further directed to pay compensation to the petitioners along-with statutory benefits by 30th September, 2025.

19. Both the writ petitions are disposed of in the aforesaid terms, so also the pending applications, if any.

(**Tarlok Singh Chauhan**)
Judge

May 22, 2025
(naveen)

(**Sushil Kukreja**)
Judge