

**BEFORE THE LAND ACQUISITION REHABILITATION AND
RESETTLEMENT AUTHORITY, KINNAUR AT RAMPUR
BUSHAHR, DISTRICT SHIMLA, H.P.**

CIS CNR No.	HPKI-01002301-2022.
CIS Case Type:	Land Reference Petition.
CIS Case No.	73 of 2022.
CIS Case Year:	01-11-2022.
Date of Decision	04-09-2025.

1. Roop Dassi, d/o late Sh. Rallu,
2. Chudamani, d/o late Sh. Rallu,
3. Heeramani, d/o late Sh. Rallu,
4. Pada Devi, d/o late Sh. Rallu, all residents of Village
Shanah, Phati Nither, Tehsil Nirmand, Distt. Kullu, H.P.
..Petitioners.

Versus....

1. Satluj Jal Vidyut Nigam Ltd. Through its Chairman-cum-
Managing Director, office at Shanah, Shimla-6.
2. The Additional Chief Secretary (MPP & Power) to Govt. of
HP, Secretariat, Shimla, H.P.
3. The Land Acquisition Collector, Luhri Hydro Electric Project
Bithal, Tehsil Kumarsain, Distt. Shimla, H.P.
..Respondents.

Petition under Section 64 of the Right to
Fair Compensation and Transparency in
Land Acquisition, Rehabilitation and
Resettlement Act, 2013.

For the Petitioners : Sh. D.S. Kaisth, Advocate.
For respondents No. 1&3: Sh. Avinash Verma, Advocate.
For respondent No. 2 : Sh. L.M. Sharma, Ld. D.A.

AWARD.

This award shall dispose of reference petition filed under the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter called as the Act), arising out of the award No. 2 of 2022, passed by the Land Acquisition Collector, SJVNL (LHEP at Bithal, Distt. Shimla, HP).

2. The brief facts leading to the present reference petition may be stated thus:-

i) The Director Energy of Hydel Project, H.P, has allotted the Luhri Hydel Project Stage-I (210 MW) to M/S SJVNL, which is joint venture of Govt of India and Govt of H.P, vide letter No.HPDOE/CE(Energy) Luhri HEP/Vol-II/2017-4679-80 dated 29-8-2017. The land acquisition process has accordingly been initiated.

ii) The Principal Secretary (Power) to the Govt of HP has issued preliminary notification under Section 11 of the Act, for acquisition of land measuring 27-81-54 hect (343-14-00 bighas), out of which 18-09-98 hect. is situated in phati Nithar and 09-71-56 hect. in phati Gadej, Distt. Kullu, H.P.

iii) The Additional District Magistrate, Kullu, under Section 3 of the Act, was appointed as Administrator for Rehabilitation and Resettlement of affected families. The Administrator prepared rehabilitation and resettlement scheme under Section 16 of the Act. On completion of public hearing, the aforesaid draft scheme for rehabilitation and resettlement with specific report on the claim and objection raised in the public hearing sent to Collector (DC Kullu). The Collector Kullu reviewed the draft R&R scheme under section 17 with the R&R committee constituted under Section 45

and submitted the draft R&R scheme with his suggestions to the Commissioner (R&R)-cum-Divisional Commissioner Mandi, for approval of the scheme.

3. The petitioners have opted for employment and omitted the option of one time financial package of ₹ 5,00,000/-, but no employment is provided till date. Hence, the present petition.

4. The respondents have contested and resisted the present petition by filing reply, in which they have taken up preliminary objections that the rehabilitation and resettlement scheme for project affected/interested land owners of the area was prepared by the Administrator R&R, after taking into consideration the claims, grievances, suggestions, objections etc. raised by the public of the affected areas during the course of public hearings while formulating the R&R scheme. The R&R scheme was finally approved by the R&R Commissioner-cum-Divisional Commissioner Mandi, after taking into consideration every aspect that is the grievances, suggestions, objections etc. of the people of the area. It is further pleaded that during the course of preparation of R&R policy, the choice for opting for either job or one time payment or annuity policies in lieu thereof was also sought from the displaced/affected families. The R&R approved scheme was duly published in two daily newspapers circulated in the affected areas/panchayats. The benefits of R&R policy is being extended strictly as per the approved scheme. As per the respondents, they have introduced the policy, vide which employment on fixed term basis is to be given, in which 25% C&D category have been exclusively reserved for the applicants, belonging to the project affected families. It is also pleaded that the petitioners were also awarded a sum of ₹ 50,000/- as one time disturbance allowance.

As per the respondents, the petitioner has opted for employment omitting the option of one time payment of ₹ 5,00,000/- in lieu of employment or annuity. The employment opportunity can only be provided by the respondent where the jobs are created through the project considering the educational qualifications, suitability of the candidate etc. and more importantly the availability of the vacancy requirement in the organization of respondents.

5. On merits, it is admitted that land of the petitioners was acquired by the respondents. As per the respondents, fair and suitable compensation has been awarded to the petitioners of the acquired land. It is pleaded that petitioners initially willfully opted for option of employment by omitting the option of one time payment of rupees five lacs in lieu of employment of annuity. It is averred that since the petitioners have opted for employment, they are not entitled for any amount in lieu of employment. It is therefore, prayed that petition of the petitioner may kindly be dismissed in the interest of justice.

6. On the pleadings of the parties, the following issues were framed on 9-1-2025 for trial:-

1. Whether Land Acquisition Collector while passing award No. 2 of 2022 dated 18-04-2022 has awarded insufficient compensation under the head of Rehabilitation and Resettlement policy, under Section 31 read with second schedule of the Act, as alleged ? OPP.
2. Whether the petition is not maintainable, as alleged? OPR.
3. Whether the petitioner has no cause of action to file the present petition, as alleged? OPR.
4. Relief.

7. The parties have led oral as well as documentary evidence in support of their respective cases.

8. For the reasons to be mentioned hereinafter while discussing the above issues framed for consideration, my findings on these issues are as follows:-

Issue no.1 Partly yes.

Issue no. 2 No.

Issue no. 3 No.

Relief. The reference petition is answered accordingly, as per operative portion of the award and respondent is directed to provide employment to the petitioners or their eligible family member, as per R&R policy.

REASONS FOR FINDINGS

ISSUE NO. 1.

9. The Ld. counsel for the petitioner submits that the petitioners have opted for employment for one of their family member, but till date no employment has been provided to the family member of petitioners.

10. Per contra, Id. counsel for the respondents submits that Rehabilitation & Resettlement scheme for affected families of phati Nithar and Gadej, was prepared in consultation with the affected persons, after hearing their objections. This policy was never challenged by the affected persons.

11. I have considered the above rival contentions of the parties and have carefully gone through the record of the case.

12. The petitioner No. 4 Pada Devi @ Padma Devi has entered into witness box as PW1 and filed her affidavit Ex.PW1/A, in which she has affirmed on oath the averments made in the

petition. She has also tendered copy of award no. 2 Ex.PW1/B, and statement showing compensation Ex.PW1/C. During cross-examination, she has denied that when the award was passed, their consent was obtained by the D.C. She has denied that when the award was passed, they were satisfied with the award. She has denied that they have been allotted land for the construction of house. She has denied that they have filed this false case in order to grab more money. She denied being deposing falsely.

13. The respondents No. 1&3 have examined Sh. Ashwani Kumar as RW1, who has tendered his affidavit Ex.RW1-A, in which he has affirmed on oath all the material averments as made in the reply. However, Id. counsel respondent No. 2, vide his separate statement has closed his evidence without tendering any document.

14. I have considered the above rival contentions of the parties and have carefully gone through the record of the case.

15. From the perusal of evidence adduced by the petitioners, that they had opted for employment of one of their family member and they have not received one time payment of ₹ 5,00,000/-. It is also admitted fact that no employment has been offered to them or their eligible family members, as per the provisions contained in Section 31 of the Act and as per R&R scheme.

16. So far as the claim of petitioners is concerned, admittedly, no employment is either offered to petitioners, or their family members in terms of R&R scheme, for affected families, which has been duly approved by the Commissioner R&R-cum-Divisional Commissioner, Mandi. Therefore, the respondent No. 1 is duty bound to provide employment either to petitioners, if they

are not eligible, then to one of the eligible member of their family. If the employment is not provided under Section 31 of the Act, then the affected land owners are entitled to other forms of relief, outlined in the Act, (its second schedule), and as per R&R scheme, which includes provision of housing land, subsistence grant and other benefits, while employment is a key component of R&R policy and it is not the sole form of relief. It has been provided in Column No. 5 of the R&R Scheme, which reads as under :-

“5. Subsistence grant for displaced families for a period one year- Each affected family which is displaced from the land acquired shall be given a monthly subsistence allowance equivalent to three thousand rupees per month for a period of one year from the date of award. In addition to this amount, the scheduled castes and the scheduled tribes displaced from scheduled areas shall receive an amount equivalent to fifty thousands rupees. In case of displacement from the scheduled areas, as far as possible, the affected families shall be relocated in a similar ecologically zone, so as to preserve the economic opportunities, language, culture and community life of the tribal communities.”

17. It is admitted fact that the respondent No. 1 in its reply, has nowhere pleaded that employment is not feasible or not available with its organization. Had this objection been raised by the respondent No. 1? before Land Acquisition Collector, he might have obligated to provide alternative R&R benefit to ensure adequate compensation for other displaced persons.

18. Our own Hon'ble High Court in case titled as **National Hydro Electric Corporation Ltd. Vs Karam Chand (dead) through LRs and others [2023 LAC 689 (HP)]**, while dealing with the fact of employment, observed as under :-

(10) “ Learned counsel for the appellant next contended that during the course of the time, it was felt that the appellant corporation shall not require more number of employees as the

project has already been commissioned in the year 2004 and the corporation has surplus manpower in workmen category as such in the meeting held on 18.11.2002, it was decided to extend financial package in lieu of employment to the affected families of the project. However, this contention of the learned counsel for the appellant cannot be accepted. The learned Single Judge has rightly held that though in the meeting held on 18.11.2002, the decision was taken to provide alternative financial package in lieu of employment to the effected families of the project, however, there is no document on record to suggest that the aforesaid decision was made public at any point of time and rather the documents available on record suggest that even after passing of this order, the appellant corporation had offered employment to various persons pursuant to the recommendation made by the Deputy Commissioner till October, 2006, meaning thereby that the decision taken in its meeting held on 18.11.2002, was never given effect to by the appellant corporation. From the perusal of the supplementary affidavit filed by the appellant, it is clear that the appellant corporation had been providing employment to the oustees on the recommendation of the Deputy Commissioner till the year 2006 by way of offering employment in terms of the Scheme. Although in para 4 of the supplementary affidavit, it has been stated by the corporation that none of the list approved and forwarded by the Deputy Commissioner recommended the name of respondent No.1 or any member of his family for employment and as such, there was no occasion for the petitioner to consider respondent No.1 or his family member for suitable employment. But now vide impugned order dated 26.11.2011, Deputy Commissioner has recommended the name of respondent No.1 for employment as such the appellant corporation is duty bound to provide employment to one of the family member of the respondent No.1 in view of the Scheme”.

(11). “Learned counsel for the appellant lastly contended that the learned Single Judge has failed to gauge the real intention of deceased respondent No.1, as he did not approach the appellant and the concerned authorities for nine years and waited until his son became eligible for employment, as he was only 16 years old in the year 2001 when the land was acquired. However, this contention of the learned counsel for the appellant deserves to be rejected as admittedly, the land of respondent No.1 was acquired in the year 2001 along with his house. Thereafter, deceased respondent No.1 had been

pursuing his cause to provide employment either to him or any member of his family as per Resettlement and Rehabilitation Scheme. To ascertain as to whether petitioner had become landless and houseless, the Deputy Commissioner, Chamba issued a letter dated 21.09.2002, addressed to Tehsildar, Chamba who submitted his report in which, it was clearly stated that the house and shop of respondent No.1 and his wife was acquired and they didn't have any house to live in. Thereafter, respondent No.1 had made numerous representations to the Deputy Commissioner, Chamba for settlement of his claim for providing employment to one member of his family, however, his name was never recommended for providing employment and thereafter he was constrained to file a writ petition bearing CWP No. 2714 of 2011, titled as Karam Chand vs. State of H.P. & Ors. before this Court with the prayer that his son Mr. Narinder Kumar, who is a qualified Software Engineer may be provided employment in the project as per his educational qualification and thereafter, the aforesaid writ petition was decided by this Court on 02.05.2011 directing the Deputy Commissioner, Chamba to look into the matter and take decision in accordance with law. On the aforesaid direction, Deputy Commissioner had passed impugned order dated 26.11.2011, wherein the case of respondent No.1 was recommended for employment to the appellant, therefore, the contention of learned counsel for the appellant that deceased respondent No.1 did not approach the appellant and the concerned authorities for nine years and waited until his son became eligible for employment is misconceived".

19. In the case in hand, R&R award No. 2 Ex.PW1/B was passed on 18-4-2022 by the Land Acquisition Collector. After that no employment was offered either to petitioners, or their eligible family members. Therefore, keeping in view the provisions contained in R&R scheme, especially Column No. 5, petitioners are entitled for subsistence grant for displaced persons. Had the employment offered by the respondent No. 1 ? immediately after passing of award No. 2 to petitioners or their family member, will get salary/wages, as the case may be.

20. Therefore, on the basis of Column No. 5 of R&R policy, petitioners are entitled for subsistence allowance equivalent to ₹ 3000/- per month, till the providing of job, either to the petitioners, or their eligible family member, from the date of passing of award, till the employment.

21. It is further made clear that either petitioners, or their eligible family member, will move appropriate application to the respondent No. 1, through Land Acquisition Collector, and respondent No. 1 will do the needful to provide employment either to the petitioners, or any of their eligible family member, failing which, the subsistence allowance will be paid by the respondent No. 1, with appropriate indexation to the consumer price index, till the employment is not provided to the petitioners, or their eligible family member, as the case may be from the date of passing award or taking of possession, which ever is earlier. Accordingly, issue No. 1 is partly decided in affirmative, in favour of petitioners.

Issues No. 2&3:

22. The respondents have not led any evidence in support of issues No. 2&3. Therefore, both these issues are decided against the respondents, for want of evidence.

RELIEF.

23. In view of my findings on issues above, petition filed by the petitioners, is answered accordingly. The respondent No. 1 is directed to provide employment either to the petitioners, or any of their eligible family members, failing which, the subsistence allowance at the rate of ₹ 3000/- per month, will be paid by the respondent No. 1, with appropriate indexation to the consumer price index from the date of passing the award or taking possession of the land, which ever is earlier, till the employment is

not provided to the petitioners or their eligible family members, as the case may be. (as per clause-5 of second schedule and clause No. 5 of R&R scheme), from the date of passing award, or taking possession of the land, whichever is earlier.

24. Memo of costs be prepared.

25. The file, after its due completion, be consigned to record room.

Announced and signed in the open Court today this 4th day of September, 2025.

sd/-

(Madan Kumar)
Land Acquisition Rehabilitation
and Resettlement Authority,
Kinnaur at Rampur Bushahr,
District Shimla, H.P.

Veena

	List of witnesses	FORM-A
Sr. No.	Name of witnesses.	Whether the witnesses of petitioner or of respondents.
PW-1	Smt. Pada Devi	Petitioners' witness.
RW-1	Sh. Ashwani Kumar	Respondent's witness.
	List of Exhibits	FORM-B
Exhibit No./Mark.	Date of the Exhibits.	Description of the exhibits.
Ext.PW-1/A	19-5-2025	Affidavit of Pada Devi
Ext.PW-1/B	-do-	Copy of award.
Ext.PW-1/C	-do-	Copy of statement
Ext.RW-1/A	11-6-2025	Affidavit of RW1 Ashwani

sd/-

(Madan Kumar)
Land Acquisition Rehabilitation
and Resettlement Authority,
Kinnaur at Rampur Bushahr,
District Shimla, H.P.