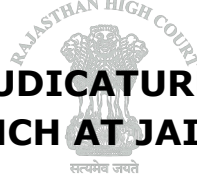


**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S. B. Civil Writ Petition No. 15782/2025
CNR: RJHC020894432025 | URN: CW / 35899U / 2025

1. Buddalal S/o Prabhudayal
2. Matadeen S/o Prabhudayal
3. Hanuman S/o Prabhudayal
4. Girraj S/o Basantaram
5. Rohitash S/o Basantaram
6. Motilal S/o Basantaram
7. Mahesh S/o Basantaram
8. Suresh S/o Basantaram
9. Rajesh S/o Basantaram
10. Roshan S/o Basantaram
11. Jagdish S/o Santosh Kumar
12. Kaluram S/o Santosh Kumar
13. Banwarilal S/o Panchuram
14. Laxminarayan S/o Panchuram
15. Hanuman Prasad S/o Buddalal
16. Jagdish S/o Buddalal
17. Gaurishankar S/o Buddalal
18. Kalicharan S/o Buddalal
19. Ramkishore S/o Buddalal

All Are Resident Of Village Dhuarmala, Tehsil Thanagazi,
District Alwar (Rajasthan)

All The Petitioners Through Power of Attorney Holder Shri
Babulal Prajapat S/o Banwari Lal Prajapat, Aged About 25
Years, R/o Dhuhar Chougan, Tehsil Thanagazi, District
Alwar (Rajasthan)

-----Petitioners

Versus

1. Union of India, through its Secretary, Ministry of Road
Transport and Highways, Government of India, New Delhi.
2. The Additional Chief Secretary, Department of Forest,
Government Secretariat, Jaipur (Rajasthan)
3. The District Collector, Alwar (Rajasthan)

4. The Project Director-Cum-Executive Engineer, Public Works Department-National Highway, Division-I, Jaipur (Rajasthan)
5. The Competent Authority-Cum-Land Acquisition Officer and Sub-Divisional Officer, Thanagazi, District Alwar (Rajasthan)
6. The Deputy Conservator of Forest, Tiger Project Sariska, Alwar-Jaipur Road, Sariska-301022 (Rajasthan)
7. The Tehsildar, Tehsil Thanagazi, District Alwar (Rajasthan)

----Respondents

For Petitioners	:	Akshay Sharma Advocate.
For Respondents	:	Mr. Sandeep Pathak Advocate with Mr. Arnav Singh Advocate. Mr. Dheeraj Tripathi Additional Government Counsel. Mr. Aditya Singh Deputy Government Counsel. Mr. Vidhyadhar Gathala Additional Government Counsel and Ms. Vijay Laxmi Advocate.

HON'BLE MR. JUSTICE ANAND SHARMA

Judgment

REPORTABLE

11/08/2026

1. The instant writ petition has been preferred by the petitioners, who are residents of Village Dharmala, Tehsil Thanagazi, District Alwar, questioning the legality of order dated 06.10.2025 passed by the Competent Authority-cum-Sub-Divisional Officer, Thanagazi (hereinafter to be referred as 'the competent authority'), whereby their objections under Section 3C of the National Highways Act, 1956 (hereinafter referred to as 'the Act of 1956') came to be rejected. The petitioners have also questioned the consequential action of the respondent authorities

proposing to establish a Rest Area at Km.36/00 on NH-248A (Shahpura-Alwar section) over the land situated in Village Dhuarmala and also prayed for quashing of the impugned order and the acquisition proceedings to the extent they concern the proposed Rest Area and a direction to the respondents to relocate the Rest Area to an alternative site.

2. The case set up by the petitioners is that they are holding agricultural land in Village Dhuarmala under different khasra numbers and certain portions of their holdings have been brought within the acquisition process pursuant to Notification dated 29.10.2024 issued under Section 3A of the Act of 1956 for the purpose of building, widening, maintenance, management and operation of NH-248A in the stretch from Km.24.200 to Km.58.950 in District Alwar. According to the petitioners, a declaration under Section 3D of the Act of 1956 was thereafter issued in respect of the land required for widening of the highway, but the notification specifically acquiring the land for establishment of the proposed Rest Area had not been separately issued.

3. The petitioners submitted objections before the competent authority, inter alia, pointing out that the proposed site at Km.36/00 falls within the protected forest/Critical Tiger Habitat of Sariska Tiger Reserve. Their objections were thereafter forwarded by the competent authority to the concerned authorities for examination. Significantly, the inter-departmental correspondence placed on record demonstrates that the issue was not treated by the authorities as a mere objection concerning the petitioners' private rights. Rather, the competent authorities

themselves examined the environmental and legal status of the proposed site and considered the possibility of shifting the Rest Area to an alternative location.

4. In this regard, the competent authority sought a detailed inspection and report. Vide letter dated 31.01.2025, the Revenue/Land Acquisition Officer specifically informed the concerned authorities that the proposed land for the Rest Area falls within one kilometre of the Critical Tiger Habitat of Sariska Tiger Reserve and referred to the Government of Rajasthan's order dated 31.03.2015 restricting new commercial and industrial activities and land conversion within the prescribed zone. The same communication recommended that, in view of the objections raised by the petitioners, it would be feasible to shift the proposed Rest Area to another site.

5. Thereafter, vide communication dated 13.02.2025, the concerned Executive Engineer requested that a fresh proposal for alternative land be submitted. The subsequent correspondence dated 19.02.2025 and 06.03.2025 also proceeded on the basis that the land initially proposed for the Rest Area should be excluded and an alternative site should be identified. Thus, the record, according to the petitioners, clearly demonstrates that the authorities themselves initially accepted the substance of the objection and proceeded to explore an alternative site.

6. The petitioners further pleaded that despite the aforesaid material, the National Highways Authorities subsequently sought to revive the proposal at the very site objected to. Reliance was placed upon the communication dated 14.05.2025 of the Regional Officer, Ministry of Road Transport and

Highways, according to which the proposed Rest Area was stated to be a public utility facility comprising restrooms, parking, drinking-water, emergency, kiosk, petrol pump and other facilities. On that basis, the authorities proceeded on the assumption that the proposal would not violate the order dated 31.03.2015.

7. The petitioners contend that this approach ignored the subsequent communication of the Forest Department dated 17.09.2025, whereby it reiterated that, in terms of the Government order dated 31.03.2015, new commercial, industrial and land-conversion activities within one kilometre of the Critical Tiger Habitat/protected area boundary of Sariska Tiger Reserve stood restricted. The record further discloses that the District Collector thereafter directed the authorities to revisit the possibility of shifting the Rest Area. A committee inspected alternative sites on 23.09.2025 and unanimously recommended Khasra No.1933 situated in Village Bandrole as being more suitable for development of the Rest Area.

8. Despite the aforesaid recommendation, the concerned National Highways Authority addressed communication dated 01.10.2025 to the Regional Officer, MoRTH, requesting consent to proceed with the Rest Area at the original site, notwithstanding its location within the one-kilometre zone of the Critical Tiger Habitat. Thereafter, vide communication dated 03.10.2025, the authorities directed further action for development of the Rest Area at the original site. Ultimately, on 06.10.2025, the competent authority rejected the objections of the petitioners.

9. The petitioners have specifically relied upon the Notifications dated 28.12.2007 and 06.07.2012 issued by the

Forest Department, Government of Rajasthan, whereby the concerned area of Village Dhuarmala was notified as protected forest and included within the protected landscape/Critical Tiger Habitat of Sariska Tiger Reserve. They have also relied upon the Government order dated 31.03.2015 restricting new commercial and industrial activities and land-conversion activities within one kilometre of the protected area boundary. Their contention is that the authorities could not, by merely describing the proposed Rest Area as a "public utility facility", disregard binding environmental and forest restrictions.

10. It is further pleaded that the petitioners' objections were not directed merely against the acquisition of their land as such. Their principal objection was against the use of the land for establishing the Rest Area at a site where such activity was legally impermissible and where, according to the authorities' own reports, an alternative site was available and had been found more suitable. The petitioners, therefore, contend that their objection squarely fell within the limited statutory right conferred by Section 3C of the Act of 1956.

11. In reply, the National Highways Authorities have primarily contended that the writ petition raises disputed questions of fact and is, therefore, not amenable to adjudication under Article 226 of the Constitution of India. It has been asserted that the Competent Authority-cum-Sub-Divisional Officer, Thanagazi, passed order dated 06.10.2025 after publication of the notification under Section 3A of the Act of 1956 and after considering the objections submitted under Section 3C of the Act of 1956. According to the respondents, Notifications dated

28.12.2007 and 06.07.2012 issued by the Forest Department do not prohibit acquisition of land under the Act of 1956.

12. The respondents have relied upon the distinction between acquisition and subsequent use of the land and have contended that the Forest Department's order dated 31.03.2015 prohibits land conversion, allotment and commercial or industrial activities but does not prohibit acquisition of land under the Act of 1956. It is, therefore, submitted that the proposed acquisition cannot be invalidated merely because the land falls within the Critical Tiger Habitat.

13. The respondents further contend that the proposed Rest Area is a public utility facility forming part of highway infrastructure and is not a commercial establishment in the manner alleged by the petitioners. It has been stated that the Rest Area is intended to provide essential facilities such as restrooms, parking, drinking water and emergency facilities to highway users and that the Ministry of Road Transport and Highways had clarified that the proposed facility would not violate the order dated 31.03.2015.

14. As regards the various communications suggesting relocation, the respondents submit that the same were merely inter-departmental and administrative in nature and did not create any vested right in favour of the petitioners. Similarly, the report of the committee dated 23.09.2025 recommending an alternative site was stated to be advisory and not binding upon the competent authority. The respondents contend that the competent authority was entitled to independently decide the objections under Section 3C of the Act of 1956.

15. It is also submitted that the question of obtaining forest clearance or any other environmental permission is governed by a separate statutory mechanism, and such question could not be adjudicated by the competent authority while deciding objections under Section 3C of the Act of 1956. According to the respondents, impugned order is a reasoned order passed after hearing the petitioners and, therefore, does not warrant interference in writ jurisdiction.

16. The respondents have further relied upon the fact that the acquisition is for a public purpose and that compensation would be payable to the affected landholders in accordance with law. It has been argued that the petitioners cannot insist upon a particular site merely because an alternative site was suggested during the administrative process. On these premises, dismissal of the writ petition has been sought.

17. Learned counsel for the petitioners has submitted that the present case is not one where the petitioners seek to prevent acquisition merely on the ground of personal inconvenience or inadequacy of compensation. The objection is specifically to the use of their land for establishment of a Rest Area at a location which falls within the restricted zone of the Critical Tiger Habitat of Sariska Tiger Reserve. It is argued that Section 3C of the Act of 1956 itself confers upon an interested person a statutory right to object to the use of the land for purposes other than those contemplated by Section 3A of the Act of 1956.

18. Learned counsel has drawn attention to the admitted official correspondence, particularly the communication dated 31.01.2025, whereby the Revenue/Land Acquisition Officer himself

recorded that the proposed site falls within the one-kilometre zone of the Critical Tiger Habitat and recommended shifting of the Rest Area. It is submitted that the same authority could not subsequently reject the objection without satisfactorily explaining why the legal impediment earlier noticed by it had ceased to exist.

19. It is further submitted that the Forest Department, the authority responsible for protection of the concerned protected area, again communicated on 17.09.2025 that the restrictions under the order dated 31.03.2015 continued to operate. Yet, on the very same day, the National Highways Authorities directed disposal of the objections and proceeded towards acquisition. According to learned counsel, this demonstrates a complete failure to apply the statutory and environmental restrictions to the facts of the case.

20. Learned counsel has also relied upon the Division Bench judgment of this Court at its Principal Seat, Jodhpur, in **Rituraj Singh Rathore vs. State of Rajasthan & Others, (D.B. Civil Writ Petition No. 10096/2021 decided on 16.03.2022)** wherein the Division Bench of this Court considered the very same Government order dated 31.03.2015 and recognised the prohibition against new construction activities within one kilometre of protected forest boundaries, subject to the limited exceptions noticed therein.

21. Learned counsel has lastly submitted that the proposed site is not even the only possible site. The committee constituted at the instance of the District Collector inspected alternative sites and unanimously found Khasra No.1933 in Village Bandrole more suitable. Therefore, the respondents are not confronted with a

choice between public utility and no public utility; rather, the public utility can be achieved by selecting a site which does not come into conflict with the applicable environmental restrictions. The insistence upon acquiring private agricultural land at the prohibited site is consequently arbitrary and contrary to the doctrine of proportionality.

22. *Per contra*, learned counsel appearing for the respondents has submitted that the scope of Section 3C of the Act of 1956 is limited and the competent authority is required only to consider whether the land is required for the purpose contemplated by Section 3A of the Act of 1956. It is urged that the petitioners cannot use the proceedings under Section 3C of the Act of 1956 as a means to challenge the acquisition on environmental grounds or to dictate the choice of alignment or site to the National Highways Authorities.

23. Learned counsel further submitted that order dated 31.03.2015 does not prohibit acquisition of land under the Act of 1956 and that there is a distinction between acquisition and construction. Even assuming that forest or environmental clearance may subsequently be necessary, the same cannot render the acquisition proceedings void at their inception. It has also been argued that the proposed Rest Area is a public utility facility forming part of highway infrastructure and cannot be equated with a private commercial project.

24. Learned counsel, thus, submitted that the competent authority considered all relevant objections and passed the impugned order within the jurisdiction conferred by Section 3C of the Act of 1956. It is urged that this Court should not substitute

its opinion for that of the specialised highway authorities in matters relating to planning and selection of sites and that the writ petition deserves dismissal.

25. Having considered the rival submissions, perused the pleadings and the material placed on record and examined the statutory scheme of the Act of 1956, this Court finds it relevant to examine the precise nature of the right available to the petitioners under Section 3C of the Act of 1956. Section 3A of the Act of 1956 empowers the Central Government, where it is satisfied that land is required for a public purpose for building, maintenance, management or operation of a National Highway or part thereof, to declare its intention to acquire such land. Section 3C of the Act of 1956, however, specifically provides an opportunity to an interested person to object to the use of the land for the purpose or purposes mentioned in Section 3A of the Act of 1956. The objection is required to be considered after hearing the objector and the competent authority is required to pass an order allowing or disallowing the objection.

26. The Hon'ble Supreme Court in **Competent Authority vs. Barangore Jute Factory & Others, (2005) 13 SCC 477**, while considering the scheme of Sections 3A and 3C of the Act of 1956, has held that the right of objection under Section 3C of the Act of 1956 constitutes a substantive statutory right concerning the use of the land. The Apex Court further emphasised that *".....Section 3-C(1) of the National Highways Act gives a very limited right to object. The objection can be only to the use of land under acquisition for the purposes other than those under sub-section 3-A(1)."* The Hon'ble Supreme Court further observed

that ".....*Under this Act there is no right to object to acquisition of the land except on the question of its user.*"

27. Thus, while this Court would ordinarily be slow to interfere with the technical decision of a highway authority regarding alignment or land requirement, such restraint cannot extend to a situation where the proposed use of the land is demonstrably inconsistent with an applicable statutory or governmental restriction relating to the protection of a protected forest or wildlife habitat. The power under Section 3A of the Act of 1956 is undoubtedly wide, but it is not an unregulated or unfettered power. The acquisition must be for a lawful public purpose and the consequential use must be capable of being undertaken in accordance with the law governing the land and the proposed activity.

28. It would also be relevant to refer that in the case of **Hindustan Petroleum Corpn. Ltd. vs. Darius Shapur Chenai & Others, (2005) 7 SCC 627**, the Hon'ble Supreme Court has held that land acquisition laws are expropriatory in nature and hence, are required to be construed strictly. The Apex court further held that the objections submitted by landowners cannot be dealt with mechanically or as a mere formality. The competent authority is required to examine the same carefully and provide an effective hearing to the land owner. The competent authority is under a legal obligation to deal with substance of the objections and record proper reasons in the report submitted to the Government. The Government is required to independently consider such report and Government's satisfaction cannot be merely formal or mechanical.

29. In the present case, Land Acquisition Authority itself, by communication dated 31.01.2025, recorded that the proposed Rest Area falls within one kilometre of the Critical Tiger Habitat of Sariska Tiger Reserve and specifically referred to the Government order dated 31.03.2015. More importantly, the said authority recommended that, in view of the objections, it would be feasible to shift the proposed Rest Area to another location. Thereafter, by communications dated 13.02.2025 and 06.03.2025, the administrative process itself proceeded towards identification of an alternative site.

30. The aforesaid material assumes considerable significance because the respondents cannot simultaneously rely upon the official record when it supports the acquisition and disown the same record when it records the existence of an environmental or legal impediment. Administrative decision-making must exhibit consistency, transparency and application of mind. If the competent authorities, after examining the relevant material, initially concluded that an alternative site should be explored because the proposed site falls within a restricted zone, a subsequent decision to revive the original site necessarily required cogent reasons explaining the change of position.

31. Subsequent letter dated 17.09.2025 of the Forest Department assumes even greater significance. The Forest Department did not state that the restriction under the order dated 31.03.2015 had ceased to operate. On the contrary, it reiterated the restriction applicable to the one-kilometre zone of the Critical Tiger Habitat/protected area boundary. The said communication was issued by the department concerned with the

protection and management of the forest and wildlife area. In these circumstances, the National Highways authorities could not simply brush aside the said communication by obtaining an administrative clarification that the proposed Rest Area was a public utility facility.

32. Bare perusal of letter dated issued by the Executive Engineer, NHAI would reveal that the respondents intend to construct Fuel Station and Kiosks also in the alleged public utility areas, which are apparently commercial purposes. The expression “public utility” cannot by itself operate as a legal solvent capable of dissolving all statutory restrictions. The character of an activity has to be determined by its actual nature, its location and the regulatory framework applicable thereto. Even a project serving a public purpose must comply with the law relating to forests, wildlife, environment and land use. Public purpose is a condition for exercising the power of compulsory acquisition; it is not an exemption from compliance with other applicable laws.

33. The judgment of the Division Bench of this Court at Principal Seat, Jodhpur in **Rituraj Singh Rathore (supra)** deals with the Government order dated 31.03.2015 restricting new commercial and other construction activities within one kilometre of protected forest boundaries. The Division Bench directed constitution of a Monitoring Committee headed by the District Collector and comprising the concerned forest officer and representatives of civil society; directed that new commercial and other construction activities within the one-kilometre zone be prohibited. The Court further directed that construction activities beyond the one-kilometre periphery, except repairs and

maintenance, be undertaken only after prior approval of the Monitoring Committee and the local body concerned.

34. The ratio and approach adopted in **Rituraj Singh Rathore (supra)** is equally applicable in the present case and demonstrates that the Government's own environmental restrictions have to be respected by all instrumentalities of the State and that development activities in the vicinity of protected forests cannot be undertaken in disregard of the regulatory framework.

35. Another aspect which cannot be overlooked is that the impugned order dated 06.10.2025 does not satisfactorily deal with the material circumstances which had emerged during the proceedings. The petitioners had specifically pointed out the location of the proposed site within the restricted zone. The Revenue authorities had acknowledged the same. The Forest Department had reiterated the restriction. The District Collector had directed reconsideration of alternative sites. A committee had inspected alternative locations and recommended Khasra No.1933 in Village Bandrole as more suitable. Yet, the final order does not demonstrate a meaningful examination of these circumstances.

36. The function of the competent authority under Section 3C of the Act of 1956 is not discharged merely by reproducing the objections and recording a conclusion that they are rejected. The statutory requirement of consideration necessarily implies application of mind to the substance of the objections and communication of reasons showing why the objections do not merit acceptance. Section 3C of the Act of 1956 permits an objection concerning the use of the land. Where such an objection

is supported by official documents emanating from other Government departments and by reports of committees constituted by the administration itself, the competent authority is required to deal with such material in a rational and intelligible manner.

37. The argument that environmental or forest clearance can be obtained at a later stage also does not justify the impugned order. Before proceeding to acquire private agricultural land for a specified project, the authorities were required to ascertain whether the project was legally feasible at the proposed site. The record instead shows that the respondents were aware of the restriction, sought an NOC from the Forest Department, received a communication reiterating the restriction, and yet proceeded with the original site without obtaining the required clearance.

38. There is yet another circumstance which weighs with this Court. The respondents have not demonstrated any compelling reason why the Rest Area must necessarily be established at Km.36/00 in Village Dhuarmala. On the contrary, the record indicates that alternative sites were examined and that the committee found Khasra No.1933 in Village Bandrole more suitable. Whether that land can ultimately be utilised is a matter for the competent authorities to decide in accordance with law. But once a legally less vulnerable alternative is available, the respondents cannot ignore it without recording cogent reasons and insist upon compulsory acquisition of private agricultural land situated within a protected/restricted zone.

39. This court is conscious of the limitation of judicial review under Article 226 of the Constitution of India. In writ jurisdiction courts do not ordinarily sit in appeal over decisions concerning highway planning, alignment or infrastructural requirements. Judicial review is concerned with legality, procedural fairness and rationality rather than administrative wisdom. However, where the decision-making authority ignores a binding or admittedly applicable restriction, fails to consider relevant material and rejects an available alternative without adequate reasons, judicial intervention is not only permissible but necessary to preserve the rule of law.

40. For the aforesaid reasons, this Court is of the considered opinion that the impugned order dated 06.10.2025 cannot be sustained. The order suffers from non-application of mind to material circumstances, failure to adequately consider the Forest Department's restrictions, failure to meaningfully consider the recommendation for relocation and an erroneous approach that the proposed public utility character of the Rest Area, by itself, neutralises the restrictions applicable to the site.

41. Consequently, the writ petition deserves to succeed and the same is hereby allowed. Order dated 06.10.2025 passed by the Competent Authority-cum-Sub-Divisional Officer, Thanagazi, rejecting the petitioners' objections under Section 3C of the Act of 1956, is hereby quashed and set aside. The acquisition proceedings initiated pursuant to Notification dated 29.10.2024 are also quashed to the limited extent that the respondents seek to utilise the petitioners' land at Km.36/00 in Village Dharmala

for establishment/development of the proposed Rest Area ignoring the notified critical tiger habitat.

42. It is, however, clarified that this judgment shall not preclude the competent authorities from proceeding with acquisition of land strictly in accordance with the Act of 1956 for a lawful purpose, including highway construction, widening, maintenance or operation, nor shall it prevent the authorities from identifying and acquiring an alternative site for the Rest Area in accordance with law. Any such exercise shall necessarily be preceded by verification of all applicable forest, wildlife, environmental, land-use and other statutory restrictions and obtaining the requisite approvals/clearances before the acquisition/use is finalised.

43. Pending applications, if any, shall also stand disposed of.

(ANAND SHARMA),J