

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO.4173 OF 2014**

**DISTRICT MAGISTRATE/DIRECTOR .. Appellant(s)  
REHABILITATION TEHRI HYDRO DEVELOPMENT  
CORPORATION**

**Versus**

**VIRENDRA DUTTA KHANDURI AND OTHERS .. Respondent(s)**

**O R D E R**

None appears for the respondents in spite of service of notice.

The properties of the respondents were acquired for the purpose of construction of Tehri Dam. The respondents were allotted plots by way of rehabilitation. As there were complaints about the unsuitability of plots, a notification was issued permitting the allottees to surrender the plots in lieu of cash to be paid to them. Learned counsel for the appellant submits that there is no dispute that the respondents have surrendered their plots.

The Rehabilitation Policy came into existence in the year 1998 and Clause II sub-clause (x) of the said policy reads as under :

II(x) House Construction Assistance for Urban Families :-

From 09.12.1998, to all entitled fully affected families in old Tehri Town, house construction assistance would be paid as grant to landowners (other than benap) at the following rates:

Rs.60,000/- to those allotted 60 sq.m. house plot;

Rs.1,20,000/- less compensation paid subject to a minimum of Rs.60,000/- to 100-200 sq.m. plot holders; and

Rs.1,80,000/- less compensation paid, subject to minimum of Rs.60,000/- to 250-300 sq.m. plot holders.

The amount will be paid in accordance with progress of construction and shifting, as under :

-Upto plinth	:	30%
-After laying of roof	:	50%
-On shifting (after handing over possession of their old houses/plots to THDC.)	:	20%

Those who have already constructed their houses and shifted and those not yet shifted even after construction, would also be paid house construction assistance in one installment when they shift to their new house after handing over possession of their old houses/plots to THDC.”

On the basis of the said Policy, the respondents made a representation seeking house construction assistance. As their request for payment of house construction assistance was not acceded to, they preferred a writ petition in the High Court. By the impugned judgment, the High Court allowed the writ petition in terms of the judgment in Writ Petition No.521 of 2006 in which similarly situated appellants were granted the relief of payment of house construction assistance in accordance with Clause II sub-clause (x) of the Rehabilitation Policy.

The judgment of the High Court dated 14<sup>th</sup> November, 2006 was subject matter of Special Leave Petition in which this Court passed the following order :

“Leave granted.

Heard Mr. Dinesh Kumar Garg, learned counsel for the appellant and Mr. S.B. Sanyal, learned senior counsel appearing for the respondents.

Mr. Garg appearing for the appellant has submitted that in all these cases while deciding the matters, the High Court failed to take note of the affidavits dated 24.10.1997 given by the present respondents that if they are granted the financial aid to the tune of Rs.1,25,000/- each they would not claim anything so far as the rehabilitation scheme providing for residential plot or any financial assistance for raising the construction and further submitted that it has not given any reason

whatsoever rather after taking note of the application made by the parties abruptly came to the conclusion that the writ petitioners before the High Court were entitled for financial aid to raise construction of the house inspite of the fact that they had surrendered the plots allotted to them. The High Court has not recorded any finding that the land allotted to them was not worth raising construction.

In view of the fact that the High Court has not given any reason while allowing the writ petitions filed by the respondents herein, we allow the appeals, set aside the impugned judgment and order in these appeals and remand the matter to the High Court to decide afresh after hearing the parties.”

On remand, the High Court by a judgment dated 14<sup>th</sup> May, 2015 dismissed the writ petition by holding that the petitioners were not entitled for the benefit as claimed by them. The High Court observed that the petitioners who received the cash assistance were not entitled to claim the house construction assistance, especially, when no construction was undertaken by them.

We are informed by Mr. D.K. Garg, learned counsel for the appellants that the above judgment dated 14<sup>th</sup> May, 2015 has become final as no special leave petition has been preferred against the said judgment.

We have examined the policy by which the house

construction assistance for urban families was introduced and we are of the considered view that the respondents who have taken cash assistance and who have not made any construction are not entitled for the benefit of house construction assistance.

In view of the aforesaid, the Appeal is allowed.

.....J.  
( L. NAGESWARA RAO )

.....J.  
( M.R. SHAH )

**New Delhi,  
Dated: April 03, 2019.**

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 4173/2014

DISTRICT MAGISTRATE/DIRECTOR REHABILITATION  
TEHRI HYDRO DEVELOPMENT CORPORATION

Appellant(s)

VERSUS

VIRENDRA DUTT KHANDURI & ORS.

Respondent(s)

)

Date : 03-04-2019 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE L. NAGESWARA RAO  
HON'BLE MR. JUSTICE M.R. SHAH

For Appellant(s) Mr. Dinesh Kumar Garg, AOR  
Mr. Abhishek Garg, Adv.  
Mr. Dhananjay Garg, Adv.  
Mr. Deepak Mishra, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following  
O R D E R

The appeal is allowed in terms of the Signed Order.

Pending application(s), if any, stand disposed of.

(GEETA AHUJA)  
COURT MASTER (SH)

(KAILASH CHANDER)  
ASSISTANT REGISTRAR

(The Signed Order is placed on the file)