# IN THE HIGH COURT OF JHARKHAND AT RANCHI

# (Civil Writ Jurisdiction)

**W.P. (C) No.\_\_­­­­­­­­­­\_\_\_\_\_\_of 2020**

**In the matter of:-**

An application under Article 226 of the Constitution of India.

 And

**In the matter of:-**

1. Sazia Parween, wife of Md. Shams Tabrez Ahmad Aged about 30 years, resident of Habibpur, P.O. and P.S. Sahebganj , District- Sahibganj, Jharkhand, 816109
2. Shama Begum, W/O Asim Chhagla Aged about 31 years, resident of Habibpur, P.S. and P.O. Sahebganj, District- Sahibganj, Jharkhand, 816109
3. Rizwana Khatoon, W/o Mushid Ansari Aged 52 years, resident of Panch More, Gullibhatta, P.O. and P.S. Sahebganj, , District- Sahibganj, Jharkhand, 816109
4. Md. Nazamuddin, Late Hussaini Miyan Aged about 67 years s/o resident of Habibpur, P.S. and P.O. Sahebganj, , District- Sahibganj, Jharkhand, 816109
5. Noori Khatoon, W/o Md. Shakir Hussain Aged about 42 years , resident of Bichla Tola, P.O. and P.S. Sahibganj, , District- Sahibganj, Jharkhand, 816109

**.….** **Petitioners**

Versus

1. State of Jharkhand through its Chief Secretary, 1st Floor, Project Bhawan, P.O. & P.S. Dhurwa, Ranchi-834004
2. Deputy Commissioner, Office of Deputy Commissioner Sahibganj, P.O. & P.S.- Sahibganj, Jharkhand 816109
3. Deputy Commissioner of Land Reforms, P.O. & P.S Sahibganj, Jharkhand 816109

 **..... Respondents**

TO,

HON’BLE MR. JUSTICE DR. RAVI RANJAN, THE CHIEF JUSTICE OF THE HIGH COURT OF JHARKHAND AND HIS OTHER COMPANION JUDGES OF THE SAID HON'BLE COURT.

The humble petition on behalf of the petitioner above named.

**MOST RESPECTFULLY SHOWETH:**

1. That in the instant petition, the petitioners pray for issuance of an appropriate writ(s)/ order(s)/ direction(s) for following relief(s):-
2. For an appropriate Writ order in nature of the Writ of Mandamus directing the Respondents to take appropriate action on the way the adani power plant have illegally started the construction ie. Digging the land on the premise of the petitioners for water pipelines.
3. For an appropriate Writ in nature of the Writ of Mandamus directing the Respondents henceforth initiate an effectual inquiry into the aforesaid as the Adani power plant have started the construction in plot no.82 without any appropriate notification.
4. For an appropriate Writ order in nature of the Writ of Mandamus directing the respondents to take the measurement of land again in the presence of the petitioners and stay any kind of the construction on the aforesaid land.
5. For an appropriate Writ order in nature of the Writ of Mandamus directing the respondents that the petitioners living in Rangamati in plot no 82, being given appropriate compensation in lieu on the illegal construction being done by the adani power plant.
6. For an appropriate Writ order in nature of the Writ of Mandamus directing the respondents to take appropriate action and to inquire for the construction in plot no 82 rather than in 83, if they want to acquire the land of plot no. 82 then it should have been done in accordance with the law and only by paying appropriate compensation.
7. Any other Writ(s) be issued, Order(s) be passed, Direction(s) be made as Your Lordships may deem fit and proper in the facts and circumstances of the case.
8. That the main questions of law which may arise for the kind consideration of this Hon’ble court are as follows:-
9. Whether the action is violative of Article 14, 21 and 300A.
10. Whether the Petitioner have lost their land due to the illegal digging by the Adani power plant in plot No. 82 and being deprived of their private property.
11. Whether the action by the respondent is bad and arbitrary and bad in the eyes of law and violation of principle of natural justice.
12. Whether the Petitioners are entitled for compensation as per the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and resettlement Act, 2013 and any other law for the damage.
13. Whether the construction on the land of the petitioners without their consent and without following the due process of law.
14. That the petitioners are citizen of India and are respectable persons of the society. All the Petitioner are legal owner of land of **Mouja Ranagamati Jamabandi No. 82** of Sahebganj District. Petitioners are dependent on their land for livelihood. Department of Land Acquistion, Sahibganj issued notification Serial No. 126/2018-19 dated 24/01/2019 under JHARKHAND WATER, GAS AND DRAINAGE PIPELINES (ACQUISITION OF RIGHT OF USER IN LAND) ORDINANCE’ 2018).
15. That the Petitioner has not moved any application/petition earlier for the same relief as prayed in this writ.
16. That the cause of action for filing this writ has arisen within the territorial jurisdiction of this Hon’ble court.
17. That the adani power plant which is being constructed in godda for which they need to construct pipelines from the Ganga river in the Sahibganj district, for which land has been acquired by them in Rangamati, police station number 30, total 1.307 acer of land, which comes under the settlement number 83. Department of Land Acquistion, Sahibganj issued notification Serial No. 126/2018-19 dated 24/01/2019 under JHARKHAND WATER, GAS AND DRAINAGE PIPELINES (ACQUISITION OF RIGHT OF USER IN LAND) ORDINANCE’ 2018) for acquiring plot No. 59,22,56,83, 24 and 18.

Xerox Copy of notification issued by Department of Land Acquistion, Sahibganj iSerial No. 126/2018-19 dated 24/01/2019 is attached herewith and marked as **Annexure-1**

1. That the authorities have started construction in plot No. 82 of the petitioners. Petitioners are the owner of the land and without any notice they have dig the land.

Photograph showing illegal construction/ digging is attached herewith and marked as **Annexure-2**

1. That the construction in settlement no. 82 instead of 83 is violation of the natural justice of the petitioners as the construction has been started without the consent of the petitioners.
2. That The construction on the land without following the due process of the law and providing compensation is illegal and show the intention of Adani power plant and the authorities to illegal construction on the land of the petitioners.
3. That under Rule 3 of Jharkhand Water, Gas and Drainage Pipelines (Acquisition of Right of User in Land) Rules, 2018 the Competent authority under the Act :- For the acquisition of right of user in private land to lay the Water, Gas or Drainage Pipelines under the Ordinance any officer, not below the rank of Deputy Collector, who has been notified as the competent authority for the specified area under "The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013" by State Government, shall be the competent authority for this purpose.
4. That as per Article 21 of the Constitution of India “Protection of Life and Personal property – No person shall be deprived of his life or personal liberty except according to procedure established by law.” In this case, the right to livelihood of petitioners is in danger. And aforesaid land is a multi crop irrigated land upon which the livelihood of people is dependent. The right to livelihood is violated, which is a part of Article 21 of the Indian Constitution.
5. That the construction on the aforesaid land have been started illegally and which is a violation of article 300A of the Indian Constitution, the right to enjoyment of personal property. Article 300A reads as “Persons not to be deprived of property save by authority of law.- No person shall be deprived of his property save by authority of law.”
6. That Their land have been taken away without their consent which is the violation of the due process of law for land acquisition i.e. LARR Act as well as JHARKHAND WATER, GAS AND DRAINAGE PIPELINES (ACQUISITION OF RIGHT OF USER IN LAND) ORDINANCE’ 2018).
7. That petitioners have sent representation to Deputy Collector4, Sahibganj, Land Reforms Sahibganj, SDO, Sahibganj and Circle Officer and Khas Mahal Officer, Sahibganj dated 4/12/2019.

Xerox copy of Representation are attached herewith and marked as **Annexure-3**

1. That the petitioners have not been given any benefit or protection under the LARR Act and their Constitutional rights have been violated.
2. This writ petition has been filed on following grounds:

**Grounds**

1. For that the action on behalf of the authorities is violative of Article 14, 21 and 300A.
2. For that the Petitioner has lost their land due to the negligence of the Adani power plant and appropriate authorities and being deprived of their private property.
3. For that action by the respondent is bad and arbitrary and bad in the eyes of law and violation of principle of natural justice.
4. For that the Petitioners are entitled for compensation as per the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and resettlement Act, 2013 and any other law for the damage.
5. For that the construction on the land of the petitioners without their consent and without following the due process of law.
6. For that the Petitioners are entitled for compensation as per the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and resettlement Act, 2013.
7. For that the construction on the land of the petitioners without their consent and without following the due process of law.

17. That the Petitioner has got no other efficacious, speedy and alternative remedy than to move before this Hon’ble Court by way of this writ application.

It is, therefore prayed that in the instant petition, the petitioner pray for issuance of an appropriate writ(s)/ order(s)/ direction(s) for following relief(s):-

1. For an appropriate Writ order in nature of the Writ of Mandamus directing the Respondents to take appropriate action on the way the adani power plant have illegally started the construction ie. Digging the land on the premise of the petitioners for water pipelines.
2. For an appropriate Writ in nature of the Writ of Mandamus directing the Respondents henceforth initiate an effectual inquiry into the aforesaid as the Adani power plant have started the construction in plot no.82 without any appropriate notification.
3. For an appropriate Writ order in nature of the Writ of Mandamus directing the respondents to take the measurement of land again in the presence of the petitioners and stay any kind of the construction on the aforesaid land.
4. For an appropriate Writ order in nature of the Writ of Mandamus directing the respondents that the petitioners living in Rangamati in plot no 82, being given appropriate compensation in lieu on the illegal construction being done by the adani power plant.
5. For an appropriate Writ order in nature of the Writ of Mandamus directing the respondents to take appropriate action and to inquire for the construction in plot no 82 rather than in 83, if they want to acquire the land of plot no. 82 then it should have been done in accordance with the law and only by paying appropriate compensation.
6. Any other Writ(s) be issued, Order(s) be passed, Direction(s) be made as Your Lordships may deem fit and proper in the facts and circumstances of the case.

And for this act of kindness petitioner is duty bound and shall ever pray.