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2025:PHHC:045220-DB



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-5735-2025

Reserved on: 04.03.2025

Pronounced on: 03.04.2025

RAJBIR SINGH

.....Petitioner

Versus

UNION OF INDIA AND ORS.

....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE VIKAS SURI**

Argued by: Mr. Mohit Rathee, Advocate
for the petitioner.

Mr. Ankur Mittal, Addl. A.G., Haryana with
Ms. Svaneel Jaswal, Addl. A.G. Haryana,
Mr. P.P. Chahar, Sr. DAG, Haryana.
Mr. Gaurav Bansal, DAG, Haryana and
Mr. Karan Jindal, Assistant A.G. Haryana.

SURESHWAR THAKUR, J.

1. Through the instant writ petition, the petitioner asks for relief to quash the acquisition proceedings of the subject lands, situated in the revenue estate of village Para, Tehsil and District Rohtak, for the development of Sector 6, Rohtak, as the same is in violation of the National Capital Region Planning Board Act, 1985 (hereinafter referred to as 'the Act of 1985') as well as violates the Apex Court ruling in case titled as '*Deveinder Kumar Tyagi V. State of U.P.*' (2011) 9 SCC 164.

2. The factual background of the case are that the HSVP acquired the land of Sector 6, Rohtak, including the petitioner's land,



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vide notification issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act of 1894'), and, the consequent thereto award became passed on 29.12.2004 under Section 11 of the Act of 1894.

3. That the National Capital Region was created in 1985 under the Act of 1985 to plan the development of the region. National Capital Region (NCR) is a unique example of inter-state regional planning and development for a region with NCT-Delhi as its core. The NCR covers the whole of NCT-Delhi and certain districts of Haryana, Uttar Pradesh and Rajasthan, covering an area of about 55,083 sq. kms.

4. There are a total of 14 districts of Haryana in the National Capital Region, vis-a-vis Faridabad, Gurugram, Nuh, Rohtak, Sonapat, Rewari, Jhajjar, Gurugram, Panipat, Palwal, Bhiwani, Charkhi Dadri, Mahendragarh, Jind, and Karnal.

5. Rohtak, being part of the National Capital Region (NCR), falls under the jurisdiction of the National Capital Region Planning Board (NCRPB). As per Section 19 of the Act of 1985, before publishing any sub-regional plan, each participating State or as the case may be, the Union Territory, shall refer such plan to the Board to ensure that such plan is in conformity with the Regional Plan. Therefore, no development project or scheme can be implemented within the NCR without the prior approval of a sub-regional plan or master plan from the Board.

6. The petitioner, filed an RTI application on 14.01.2024, wherein the following information was sought from the National Capital



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Region Planning Board:

“Whether the board has approved any sub regional plan or Master Plan for District Rohtak, Haryana since its inclusion in NCR.”

7. Vide RTI reply dated 19/02/2024 (Annexure P-2), the National Capital Region Planning Board, expressly stated that since the very inception, the National Capital Region Planning Board has not approved any sub regional plan or master Plan for District Rohtak. Meaning thereby that since the requisite plan has not been approved therebys prima facie the instantly launched acquisition proceedings, do suffer from some vitiation.

8. The Haryana State Vikas Pradhikaran issued the Development Plan for District Rohtak, in the year 2001, whereupon, the mandatory provisions as embodied in the Act of 1985, thus came into force, thereupon the respondent became obligated to get the approval from the Board constituted under the Act of 1985.

9. As envisaged under the Act of 1985, after issuing the Rohtak Development Plan, it is mandatory for the HSVP, to take approval for the same from the NCRPB, but instead of taking the approval from the NCRPB, the HSVP yet started the implementation of its Development Plan and as such also started the acquisition of land for the development of Residential Colony at Sector 6, Rohtak, Haryana.

10. The learned counsel for the petitioner submits, that the instant writ petition is covered by the ratio propounded in *Devender Kumar Tyagi's case (supra)*, relevant paragraph whereof becomes extracted hereinafter.

“20) Admittedly, the respondents had not obtained the approval of the NCRPB for construction of the Leather City Project as



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Sub- regional plan in terms of Section 19 (2) of the NCRPB Act. The purpose or aim of the NCRPB Act is to provide for co-ordinated, harmonized and common plan development of the National Capital Region at the central level in order to avoid haphazard development of infrastructure and land uses in the said region, which includes the district of Ghaziabad in the Uttar Pradesh. Under this Act, the NCRPB has been constituted with the Union Minister for Urban Development as the Chairperson and the Chief Ministers of Haryana, Rajasthan and Uttar Pradesh and Lt. Governor of Delhi as its members in order to undertake the task of development of the National Capital Region. The object of the NCRPB is to prepare, modify, revise and review a regional and functional plan for the development of said region and, further, to co-ordinate and monitor its implementation. [Section 19\(1\)](#) mandates the State government or Union Territory to submit their sub-regional plan to the NCRPB for examination in order to ensure that it is in conformity with the regional plan. Once the NCRPB affirms the conformity of the said plan with regional plan, only then the State government can finalize it. Thereafter, the State Government is entitled to implement the Sub-regional plan by virtue of Section 20 of the NCRPB Act. In [M.C. Mehta v. Union of India](#), (2004) 6 SCC 588, this Court has discussed the purpose and overriding effect of the NCRPB Act thus:

"27. [The National Capital Region Planning Board Act, 1985](#) (for short "the NCR Act") was enacted to provide for the constitution of a Planning Board for the preparation of a plan for the development of the National Capital Region and for coordinating and monitoring the implementation of such plan and for evolving harmonised policies for the control of land uses and development of infrastructure in the National Capital Region so as to avoid any haphazard development of that region and for matters connected therewith or incidental thereto. The areas within the National Capital Region are specified in the Schedule to the NCR Act. The National Capital Region comprises the area of entire Delhi, certain districts of Haryana, Uttar Pradesh and Rajasthan as provided in the Schedule. "Regional plan" as provided in [Section 2\(j\)](#) means the plan prepared under the NCR Act for development of the National Capital Region and for the control of land uses and the development of infrastructure in the National Capital Region. What the regional plan shall contain is provided in [Section 10](#). [Section 10\(2\)](#) provides that the regional plan shall



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indicate the manner in which the land in the National Capital Region shall be used, whether by carrying out development thereon or by conservation or otherwise, and such other matters as are likely to have any important influence on the development of the National Capital Region..."

11. Section 19 of the Act of 1985, also becomes extracted hereinafter.

“Section 19 - Submission of Sub-Regional Plans to the Board. (1) *Before publishing any Sub-Regional Plan, each participating State or, as the case may be, the Union territory, shall, refer such Plan to the Board to enable the Board to ensure that such Plan is in conformity with the Regional Plan.*

(2) *The Board shall, after examining a Sub-Regional Plan, communicate, within sixty days from the date of receipt of such Plan, its observations with regard to the Sub-Regional Plan to the participating State or the Union territory by which such Plan was referred to it.*

(3) *The participating State, or, as the case may be, the Union territory, shall, after due consideration of the observations made by the Board, finalise the Sub-Regional Plan after ensuring that it is in conformity with the Regional Plan.”*

12. For clarity, the preamble of both the Acts becomes extracted hereinafter.

Preamble of the Act of 1985

“An Act to provide for the constitution of a Planning Board for the preparation of a plan for the development of the National Capital Region and for co-ordinating and monitoring the implementation of such plan and for evolving harmonized policies for the control of land-uses and development of infrastructure in the National Capital Region so as to avoid any haphazard development of that region and for matters connected therewith or incidental thereto.

WHEREAS it is expedient in the public interest to provide for the constitution of a Planning Board for the preparation of a plan for the development of the National Capital Region and for co-ordinating and monitoring the implementation of such plan and for evolving harmonized policies for the control of land-uses and



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development of infrastructure in the National Capital Region so as to avoid any haphazard development thereof;

Preamble of the Act of 1894

“An Act to amend the law for the Acquisition of Land for public purposes and for the companies.

Whereas it is expedient to amend the law for the Acquisition of Land needed for public purposes and for companies and for determining the amount of compensation to be made on account of such acquisitions.”

13. Though the judgment (supra) while making an interpretation of the (supra) provisions firmly declares, that for wants of requisite approval becoming granted by the Board, thereby the planning as envisaged in respect of the (supra) districts of Haryana, (which comes under the NCR) or the U.T. concerned, thus begets vitiation. Reiteratedly, since thereby the (supra) become integrated within the National Capital Region, thereby the envisaged therein planning, rather for want of the requisite approval(s), but naturally suffers annulment.

14. The ratio decidendi as encapsulated in the judgment supra, however is not applicable to the facts at hand. The reason for stating so becomes embodied in the factum, that the field occupied by the Act of 1985, rather is completely different from the field occupied by the Act of 1894, inasmuch as, the Act of 1985, is rather for planned development, whereas, the field occupied by the Act of 1894, is for making acquisition(s) through the employment of the power of eminent domain, whereby compensation becomes assessed thereunders whereafter the acquired land becomes employed for the public purpose concerned. As such, when different fields are occupied by the Acts



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(supra), besides when in neither of the (supra) Acts, there exists any provision(s) whereby either the Act of 1985 or the Act of 1894, thus becomes assigned predominance. As such, when both (supra) statutes effectively thus occupy different fields, and are not given preponderance over each other. Resultantly, the Act of 1894 cannot succumb to the pressure of the Act of 1985.

14. In aftermath, the instant petition is dismissed. Moreover, the acquisition and development of land in Sector 6, Rohtak is hereby affirmed.

(SURESHWAR THAKUR)
JUDGE

(VIKAS SURI)
JUDGE

03.04.2025

Ithlesh

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No