

REVISED FINDINGS

No of Original Complaint : WMS-ONL/0001635/18, ONL/1678/18 & ONL/1801/18
 Date of Registration : 07.03.2018, 09.03.2018 & 14.03.2018
 Name & Address of the Complainant : Mr. Didar Ali,
 Mr. Meherban Karim and Brothers,
 Mr. Aziz Ahmad,
 Tehsil Gojal Distirct: Hunza, Gilgit-Baltistan Pakistan
 Name of the Agency : National Highway Authority
 Name and Designation of the Investigating Officer : Mr. Muhammad Tanvir Mir, Advisor, H.O. Islamabad
 In attendance : Mr. Ramzan Ali, A.D (Legal), NHA, Islamabad.
 Subject of the Original Complaint : DELAY IN PAYMENT OF COMPENSATION
 Date of Findings in Original Complaint : 28.06.2018
 Date of Registration of Review Petition by the Agency /Complainant : 20.07.2018
 Number & Date of Hearing : Two: 08.08.2018 & 05.09.2018
 Name & Designation of the Investigating Officer, if different from(vi) : Syed Tahir Shahbaz, Wafaqi Mohtasib (Ombudsman).
 Syed Qamar Mustafa Shah, Associate Advisor.

GIST OF ORIGINAL FINDINGS/RECOMMENDATIONS

The complainants, land affectees of Karakorum Highway Extension Project, Village Gulmit, Tehsil Gojal, District Hunza stated that due to land sliding of 04.01.2010, a lake emerged which submerged their land, houses, markets and other sources of livelihood. They further stated that their earning land and that of other residents of Gojal Valley was used for linking the KKH from Attaabad Lake to upper part of Hunza but since 11 years local administration, KKH or any other department has not paid any rent or compensation for the land acquired and used in extension of KKH. The Agency stated that all the land was acquired in 2007 under Land Acquisition Act, 1894 which empowers the Area Collector to make assessment and valuation of the acquired lands. The acquired land belonged to KKH, as a part of project announced in the year 2012 and completed in October 2016. The Agency submitted that now the demand draft of both the projects from the Collector, Hunza has been received, which was forwarded to Headquarters, NHA on 10th December 2017.

2. Mal-administration and lapse on the part of Agency was proved as the lands of complainants and other residents of Gojal Valley were acquired by the Agency in the year 2007 and despite completion of the project extension of KKH in the year 2012, notification of compensation was yet to be issued. It was recommended to the Agency to announce compensation award immediately, pay compensation to all the affectees within a period of 02 months and submit compliance report within 02 months.

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07 SEP 2018

REASONS FOR RECONSIDERATION

3. The Agency in its Review Petition stated that:-

- a. The complainants were required to seek redressal first from the LAC but they did not do so.
- b. National Highway Authority (NHA) being the acquiring agency, was bound to deposit the sufficient amount of fund into the account of Land Acquisition Collector (LAC) for compensation.

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- c. Powers of LAC rest with the Deputy Commissioner, Hunza, who announces the award and makes the requisition of fund for compensation to the land owners.
- d. The Deputy Commissioner, Hunza is bound to compensate all the land owners as per the Award announced by him. In case the land owners are not satisfied with the amount of compensation, they are at liberty to exhaust the legal remedy through a competent court of law.
- e. The NHA has already released the funds to the LAC as requisitioned by him in lieu of land compensation to the affectees.
- f. NHA cannot be vexed for the maladministration by another department i.e. the office of Deputy Commissioner, Hunza for failing to issue the notification in pursuance of Land Acquisition Act 1894.
- g. The Findings dated 28.06.2018 may be set aside as the responsibility rests with the D.C, Hunza and falls beyond the purview of the mandate of the NHA.

POINT AT ISSUE

4. Whether the Review Petition filed by the complainants is tenable?

HEARING PROCEEDINGS

5. Both parties attended. The representative of the Agency informed that the total demand of compensation of Atta Abad Barrier Lake Project was Rs.17,93,82,863/- out of which an amount of Rs.74,136,000/- has been released and transferred to the Account of District Collector, Hunza by Director, Maintenance, NHA, Gilgit vide Office Letter No.Dir(M)/NHA/GB/KKH/18/756, dated 07.06.2018 with the request that the said amount be disbursed among the affectees of the relevant Mouzas of the Project. However, the case of release of remaining amount was under process. To substantiate its statement, the Agency also submitted a copy of Cheque, dated 06.06.2018 amounting to Rs.74,136,000/- in favour of the Deputy Commissioner/Collector, Hunza. The complainants, however, informed that they have not received any compensation from the DC, Hunza. A reference was, therefore, made to the DC, Hunza, who submitted a detailed report vide letter No.DK(H)/2806/15, dated 27.08.2018 in the context of the outstanding dues against the NHA for making compensation to the affectees of various projects of KKH Extension. He confirmed receipt of Rs.74,136,000/- from the NHA against the long outstanding dues of realignment of KKH from Ainabad to Hussaini, Tehsil Gojal, Hunza out of the total liability of Rs.42,84,98,117/-, against various projects. The DC, Hunza also informed that he issued a Section 4 under Land Acquisition Act, 1894 soon after the receipt of the above partial remittance; and that the award for the said portion (Realignment) would be issued / announced in due course of time as per relevant provision of Land Acquisition Act, 1894.

REVISED FINDINGS

6. Maladministration on the part of the Agency is evident from the fact that there has been an inordinate delay on its part in remitting the amount of compensation to the Deputy Commissioner, Hunza, for onward disbursement among the complainants in the instant case. The Agency needs to ensure that the total amount due to be paid to the complainants on account of compensation is remitted to the Deputy Commissioner, Hunza, for onward disbursement by him.

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FINAL RECOMMENDATIONS FOR IMPLEMENTATION

7. In view of the position enunciated in paras 4 & 5 above, the Review Petition of the Agency is disposed of and the earlier Findings are modified to the following extent:-

- a. The Agency is recommended to remit the remaining amount to the Deputy Commissioner, Hunza, due to be paid by him as compensation to the complainants in accordance with the Land Acquisition Act, 1894.
- b. The Agency should report compliance within 30 days.
- c. The Deputy Commissioner, Hunza, may ensure that the amount received by him from the NHA towards the compensation to be paid to the complainants is disbursed among them in accordance with the law without any delay.

8. In case the complainant/Agency continues to be aggrieved by these final recommendations, he/it may, if he/it so desires, prefer a representation to the President under Article 32 of P.O. No. 1 of 1983, within thirty days of the receipt of a copy of the final recommendations.

Sd/-

(SYED TAHIR SHAHBAZ)

WAFAQI MOHTASIB (OMBUDSMAN)

APPROVED ON

07 SEP 2018

Wafaqi Mohtasib (Ombudsman)