

GAHC010117532021



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/3955/2021

NURMOHAMMAD HUMAYUN
S/O LATE MOHIM UDDIN, VILL. AND P.O. SURADI, P.S. AND DIST.
NALBARI, ASSAM, PIN 781340

VERSUS

THE UNION OF INDIA AND 7 ORS.
REPRESENTED BY THE SECY. TO THE GOVT. OF INDIA, MINISTRY OF
SHIPPING, ROAD TRANSPORT AND HIGHWAYS, NEW DELHI 110001

2:THE NATIONAL HIGHWAY AUTHORITY OF INDIA

REPRESENTED BY ITS SECY. MINISTRY OF SHIPPING
ROAD TRANSPORT AND HIGHWAYS DEPTT.
G.5 AND 6 SECTOR 10
DWARKA
NEW DELHI 110075

3:THE DEPUTY SECY
OF THE NATIONAL HIGHWAY AUTHORITY OF INDIA

MINISTRY OF SHIPPING
ROAD TRANSPORT AND HIGHWAYS G 5 AND 6 SECTOR 10 DWARKA
NEW DELHI 110075

4:THE STATE OF ASSAM

REPRESENTED BY THE COMMISSIONER AND SECY. TO THE GOVT. OF
ASSAM LAND AND REVENUE DISASTER MANAGEMENT DEPTT.
DISPUR
GUWAHATI 781006

5:THE PROJECT DIRECTOR

NHAI
PIU GUWAHATI
HOUSE NO. 01
1ST FLOOR
DILIP HUZURI PATH
SORUMOTORIA
DISPUR
GUWAHATI 781006

6:THE DEPUTY COMMISSIONER

NALBARI
DIST. NALBARI
ASSAM
PIN 781335

7:THE ADDL. DEPUTY COMMISSIONER

NALBARI
DIST. NALBARI
ASSAM
PIN 781335

8:THE CIRCLE OFFICER

TIHU REVENUE CIRCLE
P.O. AND P.S. TIHU
DIST. NALBARI
ASSAM
PIN 78137

For the petitioner(s) : Mr. A. Mobarague, Advocate.

For the respondent(s) : Mr. C. Baruah, SC, NHAI.

BEFORE

HON'BLE MR. JUSTICE DEVASHIS BARUAH

O R D E R

28.08.2023

1. The instant writ petition has been filed by the petitioner being aggrieved by

the actions of the competent authority in passing an order in terms with Section 3G of the National Highways Act, 1956 (for short the "Act of 1956") by showing the land of the petitioner as agricultural land. A perusal of the writ petition reveals that pursuant to the Notification under Section 3A of the Act of 1956, wherein the land of the petitioner was shown as agricultural land, the petitioner had duly represented before the Office of the Deputy Commissioner, Nalbari intimating that the land in question is a commercial land and not an agricultural land. However, nothing was done and the order was duly passed under Section 3G of the Act of 1956 by taking the land of the petitioner which have been acquired as agricultural land. It is further seen from the affidavit filed by the NHA that in the meantime pursuant to the order passed under Section 3G of the Act of 1956, the petitioner had also been paid the compensation. It is however the case of the petitioner that the compensation so paid was not adequate, inasmuch as, the classification of the land was wrongly taken by the competent authority.

2. Taking into account the overall facts of the case it transpires that the dispute which has arisen comes within the fold of Section 3G(5) of the Act of 1956. The said provision i.e. Section 3G(5) of the Act of 1956 prescribes a particular course for ventilating the grievances by filing an application, so that the said application can be determined by the Arbitrator to be appointed by the Central Government.

3. Taking into account the above, this Court therefore disposes of the instant writ petition thereby granting the liberty to the petitioner to submit an application within 30 days from today before the Competent Authority, i.e. the

Additional District Commissioner, Nalbari ventilating the grievances as regards the inadequacy of the compensation so paid to the petitioner, on the ground that the compensation was computed by taking into account that the petitioner's land is a agricultural land which ought to have been a commercial land. The Competent Authority thereupon shall take appropriate steps so that the dispute so raised by the petitioner is referred to the Central Government for appointment of an Arbitrator. The said action shall be taken by the competent authority within 15 (fifteen) days from the date of submission of the application by the petitioner. The Union of India, Ministry of Road & Transport Highways shall thereupon within 30 (thirty) days appoint the Arbitrator so that the petitioner's grievance could be determined. Further to that NHAI is also directed to take appropriate steps in consultation with the Competent Authority, upon an application being filed by the petitioner, so that appropriate steps are being taken for appointment of an Arbitrator at the earliest.

4. Accordingly, the instant writ petition stands disposed off with the above observations and directions.

JUDGE

Comparing Assistant