



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

Case No. : WP(C)/4/2023

Smt. Lalmangaihi and 5 Ors.
D/o Zokhuma (L)
R/o Zemabawk, Aizawl, Mizoram.

2: Sh. F. Vanlalruata

3: Sh. Lalhriatpuia

4: Smt. Lalngaihawmi

5: Sh. Lalthanzuala (L) r/b his mother Smt. Lalpari

6: Smt. Lalpar

VERSUS

Union of India and 2 Ors.
r/b the Secretary, Ministry of Railways (Railway Board), Govt. of India, 256-A Rail
Bhavan, Raisina Road, New Delhi-110001 2:The Northeast Frontier Railway r/b
Deputy Chief Engineer (Construction)

3:The Deputy Commissioner cum Competent Authority
Aizawl Distric

Advocate for the Petitioner : Mr Zoramchhana
Advocate for the Respondent : Ms Zairemsangpuui, CGC for R1-R2

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA
ORDER

Date : 23-01-2023

Heard Mr. Zoramchhana, learned counsel for the petitioners. Also heard Ms. Zairemsangpuii, learned CGC for the respondent Nos. 1 and 2 and Ms. Mary L. Khiangte, learned Government Advocate appears for the respondent No. 3.

2. The petitioners' prayer is for a direction to be issued to the respondent Nos.1 & 2, to appoint an Arbitrator under Section 20-F(6) of The Railways Act, 1989, herein after referred to as the '1989 Act' and Rule 3 of the Land Acquisition(Special Railway Project) Rules, 2016, herein after referred to as the '2016 Rules'.

3. The petitioners' case is that the petitioners' lands were acquired by the respondent Nos. 1 & 2, for the purpose of execution, maintenance, management and operation of the Special Railway Project, namely Bairabi-Sairang New BG Railway Line Project (51.38 km) in Aizawl District, Mizoram, vide Award No. 3/2019 dated 04.06.2019, issued by the Deputy Commissioner, Aizawl District and Competent Authority.

4. The lands of the petitioners were acquired @ Rs. 216/- per sq.ft. Being aggrieved, the petitioners wanted enhancement of the compensation amount and in this respect, they had approached one Dr. Lalzirmawia Chhangte, IAS, who had been appointed as an Arbitrator for lands acquired under the Railways Act, 1989, in pursuance to the orders of this Court in WP(C) No. 35/2021 and WP(C) No. 73/2021. However, Dr. Lalzirmawia Chhangte, Arbitrator had rejected the prayer of the petitioners for enhancement of their compensation amount, on the ground that he had been appointed as an Arbitrator only in respect of those writ petitioners in WP(C) No. 35/2021 and WP(C) No. 73/2021.

5. The petitioners' counsel submits that as the petitioners are aggrieved with the compensation amount awarded to them, an Arbitrator should be appointed to enable the petitioners to raise their grievance, with regard to the compensation awarded to them vide Award No. 3/2019.

6. Ms. Zairemsangpuii, learned CGC appearing for the respondent Nos. 1 & 2 submits that the petitioners' prayer for appointment of an Arbitrator, can only be considered when an application/s is received from the petitioners, with regard to the same and if the application/s are in compliance with all the requirements of the 1989 Act and the 2016 Rules.

7. Ms. Mary L. Khiangte, learned Government Advocate submits that she has no comments

to make in this case.

8. I have heard the learned counsels for the parties.

9. Section 20-F(6) of the 1989 Act provides that where any land is acquired under the 1989 Act and if the amount of compensation determined by the Competent Authority is not acceptable to either of the parties, the amount shall, on an application by either of the parties, be determined by the Arbitrator to be appointed by the Central Government, in such manner as may be prescribed.

10. Rule 3 of the 2016 Rules provides that the Central Government shall, by notification, appoint an officer of the rank of a Gazette Officer of the State Government as Arbitrator for the purpose of Sub-section 6 of Section 20-F(6) of the 1989 Act.

11. In the present case, the petitioners, whose names find mention in Award No. 3/2019 made in pursuance to The Railways Act, 1989, are aggrieved with the compensation amount awarded to them. However, as they have not submitted any application/s to the Central Government, i.e., the respondent Nos. 1 & 2, for appointment of an Arbitrator in terms of Section 20-F(6) of the 1989 Act and Rule 3 of the 2016 Rules, the petitioners are given the liberty to file application/s for appointment of Arbitrator in terms of the provisions of the 1989 Act.

12. In the event, the respondent Nos. 1 & 2 receive application/s from the petitioners, for appointment of an Arbitrator under the provisions of the 1989 Act and if the application/s is in conformity with the requirement of the 1989 Act and the 2016 Rules, the respondents shall appoint an Arbitrator in terms of Section 20-F(6) of the 1989 Act and Rule 3 of the 2016 Rules, within a period of 2 (two) months from the date of receipt of the petitioners' application/s, which shall be accompanied by a certified copy of this order. The Arbitrator shall then decide the grievance of the petitioners.

The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant