

GAHC010078642024



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

Case No. : WP(C)/2241/2024

MD. RAJUMONI HUSSAIN AND 2 ORS.
SON OF LATE SORIFUL ISLAM, RESIDENT OF DERGAON TOWN, PO-
DERGAON, DISTRICT- GOLAGHAT, ASSAM, PIN- 785614

2: SYED KHAIRUL ISLAM
SON OF LATE SYED ABIDUL ISLAM
RESIDENT OF DERGAON TOWN
PO- DERGAON
DISTRICT- GOLAGHAT
ASSAM
PIN- 785614

3: MD. ADIBUR RAHMAN
SON OF LATE FAIZUR RAHMAN
RESIDENT OF DERGAON TOWN
PO- DERGAON
DISTRICT- GOLAGHAT
ASSAM
PIN- 78561

VERSUS

UNION OF INDIA AND 6 ORS.
REPRESENTED THROUGH THE SECRETARY, MINISTRY OF ROAD
TRANSPORT AND HIGHWAYS, GOVERNMENT OF INDIA, NEW DELHI

2: PRINCIPAL SECRETARY TO GOVT. OF ASSAM
REVENUE DEPARTMENT
DISPUR
GUWAHATI-06

3: SECRETARY TO THE GENERAL ADMINISTRATIVE DEPARTMENT
GOVT. OF ASSAM

4: THE COLLECTOR CUM DISTRICT COMMISSIONER
DISTRICT- GOLAGHAT

ASSAM

5:THE ADDITIONAL DISTRICT COMMISSIONER CUM COMPETENT
AUTHORITY (LA)
DISTRICT- GOLAGHAT
ASSAM

6:THE EXECUTIVE ENGINEER
PWD (B) DIVISION
JORHAT
PIN- 785001

7:NATIONAL HIGHWAY INFRASTRUCTURE DEVELOPMENT CORP.
LIMITED
3RD FLOOR
PTI BUILDING
4-PARLIAMENT STREET
NEW DELHI
REPRESENTED BY THE GENERAL MANAGER (PROJECT)
NATIONAL HIGHWAY INFRASTRUCTURE DEVELOPMENT CORP. LIMITED
OPPOSITE BRAHMAPUTRA ACADEMY
JUNIOR COLLEGE
PIN- 785001
DIST.- JORHA

Advocate for the Petitioner : MR. S K BARKATAKI

Advocate for the Respondent : SC, NHIDC

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 29.04.2024

Heard Mr. D.K. Nath, learned counsel for the petitioners. Also heard Mr. R.K. Talukdar, learned CGC for respondent nos.1 and 7; Mr. A. Bhattacharyya, learned standing counsel for the respondent no.2; Mr. B. Gogoi, learned standing counsel for the respondent nos.3 and 6; and Ms. M. Barman, learned Govt. Advocate for respondent nos.4 and 5.

2. By filing this writ petition under Article 226 of the Constitution of India, the petitioners have prayed for a direction upon the respondent no.1 to

direct the Special Secretary to the Govt. of Assam-cum-Arbitrator to dispose of the Arbitration Case No. 25/2022 filed by the petitioners.

3. It is projected that the land of the petitioners have been acquired on which his house was constructed and that the *zirat* in respect of the construction was not assessed for which arbitration was sought for in accordance with Section 3(G)(5) of the National Highways Act, 1956.

4. The learned counsel for the respondent no.2 has produced a copy of communication no. LA&A.eCF/ 410365/7, dated 15.12.2023, by which the Govt. of Assam has nominated Shri Ashok Kumar Barman, IAS (Retd.), Special Secretary to the Govt. of Assam, Revenue and Disaster Management Department for appointment as the Arbitrator for the State of Assam for settling the disputes in connection with the acquisition cases acquired under the National Highways Act, 1956.

5. The learned standing counsel for the respondent nos.1 and 7 has produced a copy of the Gazette of India, Extraordinary published on 21.02.2024 to project that vide notification bearing no. S.O. 805(E), dated 21.02.2024, the Special Secretary to the Govt. of Assam has been appointed as Arbitrator for the purpose of performing the duties of Arbitrator under the National Highways Act.

6. It is observed from the said notification that the department held by the Special Secretary to the Govt. of Assam is not incorporated. However, the learned standing counsel for the respondent nos.1 and 7 submits that the Arbitrator would be the Special Secretary to the Govt. of Assam, Revenue & Disaster Management Department. In the opinion of the Court, as the concerned officer, namely, Shri Ashok Kumar Barman, IAS (Retd.) has been nominated by name and therefore, till the currency of the Gazette of India notification 21.02.2024, he is empowered to act in accordance with Section 3(G)

of the said Act.

7. Another grievance of the petitioners is that the Joint Survey Report has not been furnished to him, which is mentioned in order dated 02.02.2023 in Arbitration Case No. 25/2022.

8. In view of the letter dated 15.12.2023 and notification dated 21.02.2024 as referred above, this writ petition stands closed with a direction to the petitioners to appear before the nominated authority by producing a certified copy of this order and it is hoped that the notified Arbitrator shall make an attempt to dispose of the Arbitration Case No. 25/2022 within a time bound period as prescribed under Section 29(A) of the Arbitration and Conciliation Act, 1996, which shall commence from the date when the petitioners or their representatives appear before the said authority.

9. It is also provided that in the event the petitioners apply for copies of documents forming part of the proceedings, the same shall be furnished to him on payment of requisite cost.

10. The photocopies of the letter dated 15.12.2023 and notification 21.02.2024 is retained as a part of record.

11. Accordingly, this writ petition stands disposed of at the motion stage without issuance of notice on the respondents.

JUDGE

Comparing Assistant