

GAHC010100152024



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

Case No. : WP(C)/2673/2024

DR. TOWAJ UDDIN AHMED
S/O- AKIBUL HUSAIN,
VILL- PUTHIMARI,
P.O. AND P.S.- CHAPAR,
DIST.- DHUBRI, (ASSAM),
PIN- 783371.

VERSUS

THE STATE OF ASSAM AND 8 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM,
DISPUR, GHY-06.

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
REVENUE AND DISASTER MANAGEMENT DEPARTMENT
DISPUR
GHY-06.

3:THE DEPUTY COMMISSIONER
GOALPARA
ASSAM
PIN- 783101.

4:THE SETTLEMENT OFFICER
REVENUE AND DISASTER MANAGEMENT DEPARTMENT
GOALPARA
ASSAM
PIN- 783101.

5:THE ASST. SETTLEMENT OFFICER
MATIA REVENUE CIRCLE
MATIA

DIST.- GOALPARA
ASSAM

PIN- 783101.

6:THE CIRCLE OFFICER
MATIA REVENUE CIRCLE
MATIA
DIST.- GOALPARA
ASSAM
PIN- 783101.

7:THE UNION OF INDIA
REPRESENTED BY THE MINISTRY OF ROAD TRANSPORT AND HIGHWAYS

NEW DELHI-01.

8:THE GENERAL MANAGER (P) NHIDCL
PMU
BONGAIGAON
ASSAM
PIN- 783380.

9:THE COMMISSIONER AND SECRETARY/ PRINCIPAL SECRETARY OF
GENERAL ADMINISTRATION DEPARTMENT

GOVT. OF ASSAM

DISPUR
GUWAHATI-06

Advocate for the Petitioner : MR. M U MONDAL

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

22.05.2024

Heard Mr. ATM Hussain, learned counsel for the petitioner. Also heard Mr. R.K. Talukdar, learned counsel for the respondent No. 8 and Ms. B. Sarma, learned counsel for the respondent No. 7.

- 2.** By filing this writ petition under Article 226 of the Constitution of India, the petitioner has 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 appeal dated 05.12.2023 filed by the petitioner.
- 3.** It is projected that the land of the petitioner has 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 submits that vide 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 no. 8 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.8 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. 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 petitioner 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 appeal 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 petitioner or his representative appear before the said authority.

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

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

JUDGE

Comparing Assistant