GAHC010137082024

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

Case No. : WP(C)/5376/2024

BHANWARLAL AGARWALA
S/O LATE SURAJMAL AGARWALA,
RESIDENT OF DERGAON TOWN, PO DERGAON, DIST GOLAGHAT, ASSAM
785614

VERSUS

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

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

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

4:THE COLLECTOR CUM DISTRICT COMMISSIONER

DIST GOLAGHAT
ASSAM

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

6:THE EXECUTIVE ENGINEER

PWD(B) DIVISION
JORHAT
ASSAM 785001

7:THE NATIONAL HIGHWAY INFRASTRUCTURE DEVELOPMENT CORP. LTD.
3RD FLOOR PTI BUILDING
4-PARLIAMENT STREET
NEW DELHI
REP. BY THE GENERAL MANAGER (PROJECT) NATIONAL HIGHWAY INFRASTRUCTURE DEVELOPMENT CORP. LIMITED
OPP. BRAHMAPUTRA ACADEMY JUNIOR COLLEGE
JORHAT
78500

Advocate for the Petitioner : MR D K NATH, MR. S K BARKATAKI,MS B SHARMA,MS M DAS

Advocate for the Respondent : DY.S.G.I., MR. R K D CHOUDHURY,SC, NHIDC,SC, GAD,SC, REVENUE,SC, PWD,GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 11-11-2024

Heard Mr. D.K. Nath, learned counsel for the petitioners; Mr. R.K. Deb Choudhury, learned Deputy Solicitor General of India for the respondent no. 1; Ms. G. Hazarika, learned Standing Counsel, Revenue Department for the respondent no. 2; Ms. M. Barman, learned Junior Government Advocate, Assam for the respondent nos. 3, 4 & 5; Ms. S. Sharma, learned Standing Counsel, PWD for the respondent no. 6; and Mr. R.K. Talukdar, learned Standing Counsel, NHIDCL for the respondent no. 7.

2. As the grievance of the petitioners and the issue raised in all these writ petitions are similar and considering the relief sought for, these writ petitions

are taken up together for final consideration at the motion stage itself, as agreed to by the learned counsel for the parties.

3. A process of acquisition of land for building/construction of '4-laning of Dergaon Town Section of National Higway-37 from Km 426.800 to Km 437.400' ['the Highway Project', for short] is being undertaken by the Ministry of Road Transport and Highways [MoRTH], Government of India [GoI] under the provisions of the National Highways Act, 1956 ['the N.H. Act, 1956', for short]. In the Notification issued under Section 3A of the N.H. Act, 1956 published in daily newspapers, on 20.03.2020, the parcels of land belonging to the petitioners were found mentioned to be acquired for the building/construction of the Highway Project. The Notification under Section 3A was followed by a Notification under Section 3D of the N.H. Act, 1956 on 09.10.2020. Subsequently another Notification and a Corrigendum under Section 3D of the N.H. Act, 1956 were published on 24.10.2020 and 07.05.2021 respectively and in connection with those subsequent Notifications and Corrigendum, another Notification under Section 3D was published on 26.06.2021. Pursuant to the Notifications under Section 3D, the Competent Authority Land Acquisition [CALA] appointed under Section 3[a] of the N.H. Act, 1956 assessed the compensation amounts in respect of the parcels of land belonging to the petitioners and the buildings/structures standing thereon. Having regard to the compensation amounts so assessed by the CALA in respect of their parcels of land and the buildings/structures standing thereon, the petitioners stated to have submitted applications for enhancement/assessment/re-assessment of some building/ structures standing on the parcels of land which are sought to be acquired before the Arbitrator appointed by the MoRTH, GoI under Section 3G[5] of the N.H. Act, 1956.

4. It is the common grievance of the petitioners that though the earlier Arbitrator for the Highway Project was the Divisional Commissioner, Upper Assam Division, Assam, but, by a Notification dated 17.07.2023 of the Principal Secretary to the Government of Assam, General Administration Department, the offices of the Divisional Commissioners in the State came to be abolished with immediate effect. As a result of abolition of the offices of the Divisional Commissioners in the State including the office of the Divisional Commissioner, Upper Assam Division in relation to the Highway Project, the applications of the petitioners seeking remedy under Section 3G[5] of the N.H. Act, 1956 have remained pending. Though during the subsequent period, an official of the State Government was appointed as an Arbitrator under Section 3G[5] of the N.H. Act, 1956, but, the said official, Ashok Kr. Barman could not proceed with the applications under Section 3G[5] due to his retirement on superannuation.

5. The petitioners have stated that the applications of the petitioners in W.P.[C] no. 5373/2024, W.P.[C] no. 5376/2024, W.P.[C] no. 5377/2024 & W.P.[C] no. 5378/2024 have been numbered as Arbitration Case no. 25/2022 whereas the application of the petitioner in W.P.[C] no. 5374/2024, preferred under Section 3G[5], is yet to be numbered.

6. Mr. Deb Choudhury by placing a Notification bearing no. S.O.4606[E] dated 22.10.2024 of the MoRTH, GoI, has submitted that in the meantime, a new Arbitrator, that is, the Secretary to the Government of Assam in the revenue districts mentioned therein has already been appointed to exercise the powers conferred and perform the duties imposed on an Arbitrator by or under the National Highways Act, 1956 within the local limits of his respective jurisdiction as specified therein and the Arbitrator so appointed shall take into consideration

the provisions of sub-section [6] and sub-section [7] of Section 3G of the National Highways Act, 1956 while passing Awards by him.

7. For ready reference, the contents of the Notification no. S.O.4606[E] dated 22.10.2024 are reproduced herein :-

MINISTRY OF ROAD TRANSPORT AND HIGHWAYS

NOTIFICATION

New Delhi, the 22nd October, 2024

S.O.4606[E].-In pursuance of sub-section [5] of Section 3G of the National Highways Act, 1956 [48 of 1956], the Central Government hereby appoints the Officer mentioned in column [2] of the Table below, to be Arbitrator for the purpose of the said sub-section, who shall exercise the powers conferred and perform the duties imposed, on an Arbitrator by or under the said Act within the local limits of his respective jurisdiction as specified in column [3] and [4] of the said Table. Sub-section [6] & [7] of Section-3G of the Act shall be taken into consideration while passing awards by the Arbitrator.

Sl. No.	Designation of the Officer	Revenue District	State
[1]	[2]	[3]	[4]
1	Secretary to the Govt. of Assam	• BARPETA • BONGAIGAON • CACHAR • DARRANG • DHEMAJI • DHUBRI • DIBRUGARH • GOALPARA • GOLAGHAT • HAILAKANDI • JORHAT • KAMRUP • KARBI ANGLONG • KARIMGANJ	ASSAM

		• KOKRAJHAT • LAKHIMPUR • MORIGAON • NAGAON • NALBARI • DIMA HASAO • SIVASAGAR • SONITUR • TINSUKIA • CHIRANG • BAKSA • UDALGURI • KAMRUP METRO • South Salmara Mankachar • Biswanath • Majuli • HOJAI • CHARAIDEO	

8. The Notification no. S.O.4606[E] dated 22.10.2024 has also been in the Gazette of India, in its issue dated 22.10.2024.

9. With the appointment of a new Arbitrator under Section 3G[5] of thle N.H. Act, 1956 by the Notification dated 22.10.2024, the grievance of the petitioners that there is no Arbitrator to decide their applications does not exist anymore being effectively redressed. In such obtaining fact situation, this Court is of the considered view that instead of keeping these writ petitions pending, the writ petitions can be disposed of with a direction to the respondent authorities, more particularly, the respondent nos. 2, 3 & 4, who are in custody and possession of the records of the applications of the petitioners preferred under Section 3G[5]

of the NH Act, 1956, to transmit the same to the office the newly appointed Arbitrator as expeditiously as possible, not beyond an outer limit of one month, from the date of a copy of this order at their offices from the petitioners. It is accordingly ordered. It is further observed that on receipt of the records of the applications preferred by the petitioners, the Arbitrator so appointed, shall consider and dispose of the applications as expeditiously as possible. It is further observed that on receipt of the records of the applications, the newly appointed Arbitrator shall issue notice to the applicants fixing a date of hearing and thereafter, proceed with the applications.

10. A copy of the Notification no. S.O.4606[E] dated 22.10.2024 is kept with the case records.

11. The learned counsel for the parties shall submit a copy of this Order at the offices of the respondent nos. 2, 3 & 4 in order to facilitate their offices to transmit records of the applications of the petitioners in terms of the direction made above.

JUDGE

Comparing Assistant