

GAHC010204902024



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

Case No. : Cont.Cas(C)/540/2024

RATNA KANTA NATH AND 17 ORS
S/O LATE KUSHARAM NATH,
RESIDENT OF BORNOTA, PO NAHARBARI, PS JAMUGURI, DIST SONITPUR,
ASSAM 784182

2: DHARMA KANTA NATH
S/O LAKHIRAM NATH
RESIDNET OF CHAMDHARA
PO NAHARBARI
PS JAMUGURI
DIST SONITPUR
ASSAM 784182

3: UTPAL YADAV
S/O SRI JAGANNATH YADAV

RESIDNET OF CHAMDHARA
PO NAHARBARI
PS JAMUGURI
DIST SONITPUR
ASSAM 784182

4: BADAN NATH
S/O LATE BHOLOW NATH

RESIDNET OF CHAMDHARA
PO NAHARBARI
PS JAMUGURI
DIST SONITPUR
ASSAM 784182

5: MADAN NATH
S/O SRI KALIRAM NATH

RESIDNET OF CHAMDHARA
PO NAHARBARI
PS JAMUGURI
DIST SONITPUR
ASSAM 784182

6: MARUT NATH
S/O LATE BANESWAR NATH

RESIDNET OF CHAMDHARA
PO NAHARBARI
PS JAMUGURI
DIST SONITPUR
ASSAM 784182

7: RATNESWAR NATH
S/O LATE KHARGESWAR NATH

RESIDNET OF CHAMDHARA
PO NAHARBARI
PS JAMUGURI
DIST SONITPUR
ASSAM 784182

8: ANANTA BHUYAN
S/O SRI MINARAM BHUYAN

RESIDNET OF CHAMDHARA PANIGAON
PO NAHARBARI
PS JAMUGURI
DIST SONITPUR
ASSAM 784182

9: SHYAMAL KOIREE
S/O LATE RAMBADAN KOIREE

RESIDENT OF CHAMDHARA
PO NAHARBARI
PS JAMUGURI
DIST SONITPUR
ASSAM 784182

10: JOGEN NATH
S/O LATE LAKHIRAM NATH

RESIDENT OF VILLAGE CHAMDHARA
PO NAHARBARI
PS JAMUGURI

DIST SONITPUR
ASSAM 784182

11: PURNA KANTA NATH
S/O LATE BHUBAN NATH

RESIDENT OF VILLAGE CHAMDHARA PANIGAON
PO NAHARBARI
PS JAMUGURI
DIST SONITPUR
ASSAM 784182

12: TAPAN NATH
S/O LATE MINARAM NATH
RESIDENT OF VILLAGE NAHARBARI
PO BAKOLA
DIST SONITPUR
ASSAM 784182

13: MAHANANDA NATH
S/O LATE GUNARAM NATH
RESIDENT OF VILLAGE CHAMDHARA
PO NAHARBARI
PS JAMUGURI
DIST SONITPUR
ASSAM 784182

14: RUNU BORAH
D/O LATE NAGEN BORAH
RESIDENT OF VILLAGE CHAMDHARA PANIGAON
PO NAHARBARI
PS JAMUGURI
DIST SONITPUR
ASSAM 784182

15: MAHENDRA NATH
S/O LATE MADHARAM NATH
RESIDENT OF VILLAGE CHAMDHARA PANIGAON
PO NAHARBARI
PS JAMUGURI
DIST SONITPUR
ASSAM 784182

16: MINARAM BHUYAN
S/O LATE PUNARAM BHUYAN

RESIDENT OF VILLAGE CHAMDHARA PANIGAON
PO NAHARBARI

PS JAMUGURI
DIST SONITPUR
ASSAM 784182

17: TUSHESWARI DEVI
W/O LATE LOKESWAR NATH

RESIDENT OF VILLAGE CHAMDHARA PANIGAON
PO NAHARBARI
PS JAMUGURI
DIST SONITPUR
ASSAM 784182

18: CHANDRA KANTA SAIKIA
S/O LATE BHABIRAM SAIKIA

RESIDENT OF VILLAGE CHAMDHARA
PO NAHARBARI
PS JAMUGURI
DIST SONITPUR
ASSAM 78418

VERSUS

GYANENDRA DEV TRIPATHI IAS
PRINCIPAL SECRETARY TO THE GOVT OF ASSAM REVENUE AND
DISASTER MANAGEMENT DEPARTMENT DISPUR GUWAHATI KAMRUP
METRO ASSAM

Advocate for the Petitioner : G. R. SINGHA, MR. N BORAH

Advocate for the Respondent : MR. R K D CHOUDHURY,

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 11-11-2024

Heard Mr. N. Borah, learned counsel for the petitioner and Mr. R.K. Debchoudhury, learned Deputy Solicitor General of India [DySGI], who was

requested to obtain instruction as regards the matter of appointment of an Arbitrator under Section 3G[5] of the National Highways Act, 1956 as regards the acquisition proceedings undertaken under the National Highways Act, 1956 in the State of Assam.

2. The instant contempt petition is preferred alleging non-compliance of the directions made in an order dated 01.03.2024 passed in a writ petition, W.P.[C] no. 1099/2024.

3. In the writ petition, the petitioners, 18 [eighteen] in nos., espousing a common cause of action had stated that their parcels of land have been acquired in an acquisition process initiated under the provisions of the National Highways Act, 1956 for the purpose of a project, 'Construction of 4 laning of National Highway in Sonitpur District' [the Highway Project', for short]. In the process of such acquisition, different amounts of compensation are shown to have been assessed in the estimate prepared under Section 3G of the National Highways Act, 1956 in favour of the petitioners and the said estimate, valuation of the petitioners' parcels of land was shown at Rs. 1,15,000/- per bigha. The petitioners have stated that aggrieved by such purportedly lesser valuation and with projection that the present market value of those parcels of land were much higher at Rs. 13,00,000/- per bigha, they preferred an application under Section 3G[5] of the National Highways Act, 1956 before the Commissioner, North Assam Division, Tezpur, who was appointed as the Arbitrator by the Central Government under Section 3G[5] of the National Highways Act, 1956 for the Highway Project. It is the case of the petitioners that their applications before the Arbitrator were registered and numbered as Appeal Case no. 18/2022. During the subsequent period, the post of Commissioner of Divisions in Assam including the office of the Commissioner, North Assam Division came

to be abolished by a Notification dated 17.07.2023 of the General Administration Department, Government of Assam. It was in such factual backdrop, the petitioners had approached this Court by the writ petition, W.P.[C] no. 1099/2024 on the premise that in the absence of an Arbitrator there would be delay in disposal of their application, Appeal Case no. 18/2022 and their right under Article 300A of the Constitution to get the compensation amount assessed would be prejudicially affected.

4. In the course of the hearing of the writ petition, W.P.[C] no. 1099/2024, a Gazette Notification bearing no. S.O.805[E] of the Ministry of Road Transport and Highways, Government of India issued on 21.02.2024 was placed on record. It was reflected in the Gazette Notification that the officer mentioned therein was appointed by the Central Government to be the Arbitrator under sub-section [5] of Section 3G of the National Highways Act, 1956. As by the Gazette Notification dated 21.02.2024 an Arbitrator under Section 3G[5] stood appointed, the writ petition was disposed of with a direction to the State respondent authorities to transmit the records of Appeal Case no. 18/2022 to the said newly appointed Arbitrator within the stipulated timeline.

5. After disposal of the said writ petition by the Order dated 01.03.2024, the present contempt petition is preferred on the ground that the direction passed in the Order dated 01.03.2024 has not been complied with.

6. When the contempt petition was moved on 25.10.2024, it has been brought to the notice of this Court that the Arbitrator a State Government official, so appointed by the Gazette Notification dated 21.02.2024, has, in the meantime, retired from service on superannuation and as a result, the situation prevailing was that there was no Arbitrator appointed under Section 3G[5] of the National Highways Act, 1956 to decide an application preferred by any

applicant as a person interested under Section 3G[5] of the National Highways Act, 1956.

7. In such backdrop, Mr. Deb Choudhury, learned Deputy Solicitor General [DySGI] of India was requested to obtain up-to-date instruction.

8. Mr. Debchoudhury has placed a Notification bearing no. S.O.4606[E] dated 22.10.2024 of the Ministry of Road Transport and Highways [MoRTH], Government of India [GoI] and has submitted that a new Arbitrator, who is in the rank of 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.

9. 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 • KOKRAJHAT • LAKHIMPUR • MORIGAON • NAGAON • NALBARI • DIMA HASAO • SIVASAGAR • SONITUR • TINSUKIA • CHIRANG	ASSAM

		• BAKSA • UDALGURI • KAMRUP METRO • South Salmara Mankachar • Biswanath • Majuli • HOJAI • CHARAIDEO	
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10. The Notification bearing no. S.O.4606[E] dated 22.10.2024 has been published in the Gazette of India in its issue dated 22.10.2024.

11. As the situation arising from absence of an Arbitrator under Section 3G[5] of the National Highways Act, 1956 is no longer there, with the issuance of the Notification dated 22.10.2024, this contempt petition is disposed of with a direction to the respondent no. 1 to transmit the records of Appeal Case no. 18/2022 wherein the petitioners have sought enhancement/re-assessment of compensation amounts, to the Arbitrator appointed by the Notification dated 22.10.2024 within a period of 4 [four] weeks from the date of submission of a copy of this order by the petitioners before the sole respondent herein. It is further observed that on receipt of the records of arbitration case, Appeal Case no. 18/2022, the Arbitrator so appointed, shall consider and dispose of the application as expeditiously as possible. It is further observed that on receipt of the records of Appeal Case no. 18/2022, the newly appointed Arbitrator shall issue notice to the applicants fixing a date of hearing and thereafter, proceed with the application.

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

the case records.

JUDGE

Comparing Assistant