



CGHC010137952019



2026:CGHC:44439

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

SHYNA
AJAY

Digitally signed
by SHYNA AJAY
Date:
2026.10.16
19:53:01 +0530

WPC No. 1485 of 2019

Smt. Manjula Rathi W/o Ajay Rathi, Aged About 45 Years, R/o Ward No. 15, Urla Abhanpur, Tahsil Abhanpur District Raipur Chhattisgarh.

--- **Petitioner(s)**

versus

1 - Union Of India Through its Ministry Of Road, Transport and High Ways, Department Of Road, Transport And High- Ways, Transport Bhawan, 1, Parliament Street, New Delhi-110075

2 - National Highways Authority Of India Through Project Director, Project Implementation Unit, Shankar Nagar, Raipur, Chhattisgarh.

3 - Court Of Additional Collector Cum Arbitrator (National Highways Authority Of India), Raipur, District Raipur, Chhattisgarh.

4 - State Of Chhattisgarh Through Sub Divisional Officer, (Revenue) And Competent Authority Under the National Highways Act, 1956, Abhanpur, District Raipur Chhattisgarh.

5 - Sub Divisional Officer (Revenue)/ Land Acquisition Officer Abhanpur, Tahsil Abhanpur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

--- **Respondent(s)**

WPC No. 2850 of 2020

Shrimati Pushpa Rathi W/o Harish Rathi Aged About 54 Years R/o Village - Abhanpur, Tehsil - Abhanpur District - Raipur (Chhattisgarh)

---**Petitioner(s)**

Versus

1 - Union Of India Through - its Ministry of Road, Transport and High Ways, Department Of Road, Transport and High-Ways, Transport Bhavan, 1, Parliament Street, New Delhi - 110075

2 - National Highways Authority Of India Through - Project Director, Project Implementation Unit, Shankar Nagar, Raipur (Chhattisgarh)

3 - Court Of Additional Collector Cum Arbitrator (National Highways Authority Of India) Raipur, District - Raipur (Chhattisgarh)

4 - State Of Chhattisgarh Through - Sub Divisional Officer (Revenue) and Competent Authority Under The National Highways Act, 1956, Abhanpur, District - Raipur (Chhattisgarh)

5 - Sub Divisional Officer (Revenue)/Land Acquisition Officer, Abhanpur Tehsil - Abhanpur, District - Raipur (Chhattisgarh)

--- **Respondent(s)**

WPC No. 2849 of 2020

Shrimati Mamta Rathi W/o Prafull Rathi, Aged About 45 Years, R/o Ward No. -15, Urla, Abhanpur, Tehsil- Abhanpur, District- Raipur, Chhattisgarh

---**Petitioner(s)**

Versus

1 - Union Of India Through its Ministry Of Road, Transport and High Ways, Department Of Road, Transport and High-Ways, Transport Bhavan, 1, Parliament Street, New Delhi- 110075

2 - National Highways Authority Of India, Through Project Director, Project Implementation Unit, Shankar Nagar, Raipur, Chhattisgarh

3 - Court Of Additional Collector Cum Arbitrator (National Highways Authority Of India), Raipur, District- Raipur, Chhattisgarh

4 - State Of Chhattisgarh Through Sub Divisional Officer (Revenue) and Competent Authority Under The National Highways Act, 1956, Abhanpur, District- Raipur, Chhattisgarh

5 - Sub Divisional Officer (Revenue) / Land Acquisition Officer, Abhanpur, Tehsil- Abhanpur, District- Raipur, Chhattisgarh

--- Respondent(s)

(Cause Title downloaded from CIS Periphery)

For Petitioner(s)	:	Mr. Shobhit Koshta, Advocate
For Respondent(s)	:	Mr. Ramakant Mishra, DSGI with Mr. Sagar Soni, Advocate, Mr. Sangharsh Pandey, Govt. Advocate, Mr. Dheeraj Wankhede, Advocate.

SB: Hon'ble Mr. Justice Amitendra Kishore Prasad

Order on Board

14/10/2026

1. Since all the captioned writ petitions involve a common question of law and are founded on similar facts and circumstances, they have been clubbed together, heard analogously and are being disposed of by this common order.
2. For the sake of convenience and clarity, WPC No.1485/2019 has been treated as the lead case and the facts of the said petition are being referred to for the purpose of adjudication. The decision rendered herein shall, however, govern the connected writ petitions as well, as the issues raised therein are identical in nature. The petitioner has prayed for the following relief(s) in WPC No.1485/2019:-

10.1) This Hon'ble Court may kindly be pleased to issue appropriate writ and quash/set-aside the impugned order dated 10/1/19 (Annexure P/5) and other merged orders and appropriate writ/ direction for paying the petitioner compensation at the rate of Rs 4, 700 per square meter rate as awarded for other similarly situated lands owners along with

interest at the rate of 12% p.a. till the date of payment or remand the matter back to the arbitrator for passing a reasoned and speaking order in accordance with law in the interest of justice.

10.2) This Hon'ble Court may kindly be pleased to call for the entire records of the instant case, for kind perusal of this Hon'ble Court.

10.3) Any other relief which this Hon'ble Court deem fit and proper may also kindly be granted to the petitioner in the interest of justice along with the cost of the instant petition.

3. Brief facts of the case are that the petitioner challenges the arbitrary acquisition of her land bearing Khasra No.484/4 total area admeasuring 0.298 hectares, out of which an area admeasuring 1168 square meters (situated at Village Abhanpur, Nagar Panchayat Abhanpur, District Raipur, Chhattisgarh) was acquired for the construction of the Raipur–Dhamtari National Highway (NH-30) under Notifications issued in 2015–2016. A grossly inadequate compensation of Rs.7,40,124/- was awarded by Respondent No. 5 based on an unscientific classification treating land above and below 1000 sq. meters differently despite identical location and commercial value. Aggrieved by this undervaluation and the discriminatory application of per hectare rates instead of per square foot rates applied to similarly situated owners, the petitioner filed an arbitration claim under Section

3G(5) of the National Highways Act, 1956 (in short “the Act of 1956”) seeking enhancement to Rs.1,10,68,435/-. However, after hearing arguments,, Respondent No. 3 arbitrarily terminated the proceedings on 10.01.2019 without deciding the merits, solely on the erroneous technical ground of failure to lead evidence, leaving the petitioner with no efficacious remedy other than approaching this Court.

4. Learned counsel for the petitioners would submit that it is the duty of the Arbitrator to proceed in accordance with the provisions of the Arbitration and Conciliation Act, which has not been done in the present case. Hence, the impugned order(s)/award(s) is liable to be set-aside.
5. On the other hand, learned counsel appearing for the respondents would oppose the prayer.
6. Mr. Wankhede, learned counsel appearing for NHAI would submit that the Writ Petitions against the order passed by the authority while deciding an application filed under Section 3(G)(5) is not maintainable. He would further submit that the petitioner(s) ought to have approached the District Judge under Section 34 of the Arbitration and Conciliation Act, 1996 (for short, the Act of 1996). In support thereof, he placed reliance on the judgment passed by the Hon’ble Supreme Court in the matter of **Bhaven Construction v. Executive Engineer, Sardar Sarovar Narmada Nigam Limited and another [(2022) 1 SCC 75]**.

7. I have heard learned counsel for the parties and perused the documents placed on the file.
8. Admittedly, the petitioner's land was acquired for the construction/widening of the Raipur–Dhamtari National Highway (NH-30) pursuant to Notifications issued under the relevant provisions of the Act of 1956. Being aggrieved by the determination of inadequate compensation awarded by Respondent No. 5, which was evaluated on a per-hectare basis rather than a per-square-foot basis, the petitioner preferred an arbitration application under Section 3G(5) of the Act of 1956 before Respondent No. 3 (the designated Arbitrator/Additional Collector, Raipur), seeking enhancement of compensation to Rs.1,10,68,435/-. However, vide impugned order dated 10.01.2019, the learned Arbitrator summarily terminated/rejected the arbitral proceedings solely on the technical ground of failure to lead evidence, without adjudicating upon the merits of the statutory claim.
9. In the matter of **Bhaven Construction (supra)**, the Hon'ble Supreme Court took note of Section 5 of the Act, 1996, which deals with judicial intervention. The Hon'ble Supreme Court further held that under Article 226/227 of the Constitution of India, the interference is not permissible by the High Court and discretion cannot be exercised to allow the judicial interference beyond procedure established under the Act, 1996. Para-12, 13, 18 and 19 are reproduced hereinbelow:-

12. We need to note that the Arbitration Act is a code in itself. This phrase is not merely perfunctory, but has definite legal consequences. One such consequence is spelled out under :

“5. Extent of judicial intervention.--

“Notwithstanding anything contained in any other law for the time being in force, in matters governed by this Part, no judicial authority shall intervene except where so provided in this Part.”

(emphasis supplied)

The non-obstante clause is provided to uphold the intention of the legislature as provided in the Preamble to adopt UNCITRAL Model Law and Rules, to reduce excessive judicial interference which is not contemplated under the Arbitration Act.

13. The Arbitration Act itself gives various procedures and forums to challenge the appointment of an arbitrator. The framework clearly portrays an intention to address most of the issues within the ambit of the Act itself, without there being scope for any extra statutory mechanism to provide just and fair solutions.

18. In any case, the hierarchy in our legal framework, mandates that a legislative enactment cannot curtail a Constitutional right. In Nivedita Sharma v. Cellular Operators Association of India, (2011) 14 SCC 337, this Court referred to several judgments and held:

“11. We have considered the respective arguments/submissions. There cannot be any dispute that the power of the High Courts to issue directions, orders or writs including writs in the nature of habeas corpus, certiorari, mandamus, quo warranto and prohibition under Article 226 of the Constitution is a basic feature of the

Constitution and cannot be curtailed by parliamentary legislation - L. Chandra Kumar v. Union of India, (1997) 3 SCC 261. However, it is one thing to say that in exercise of the power vested in it under Article 226 of the Constitution, the High Court can entertain a writ petition against any order passed by or action taken by the State and/or its agency/ instrumentality or any public authority or order passed by a quasi-judicial body/authority, and it is an altogether different thing to say that each and every petition filed under Article 226 of the Constitution must be entertained by the High Court as a matter of course ignoring the fact that the aggrieved person has an effective alternative remedy. Rather, it is settled law that when a statutory forum is created by law for redressal of grievances, a writ petition should not be entertained ignoring the statutory dispensation. (emphasis supplied)

It is therefore, prudent for a Judge to not exercise discretion to allow judicial interference beyond the procedure established under the enactment. This power needs to be exercised in exceptional rarity, wherein one party is left remediless under the statute or a clear 'bad faith' shown by one of the parties. This high standard set by this Court is in terms of the legislative intention to make the arbitration fair and efficient.

19. *In this context we may observe M/s. Deep Industries Limited v. Oil and Natural Gas Corporation Limited, (2019) SCC Online SC 1602, wherein interplay of Section 5 of the Arbitration Act and Article 227 of the Constitution was analyzed as under (para-16 & 17):*

"16. Most significant of all is the non- obstante clause contained in Section 5 which states that notwithstanding anything contained in any other law, in matters that arise under Part I of the

Arbitration Act, no judicial authority shall intervene except where so provided in this Part. Section 37 grants a constricted right of first appeal against certain judgments and orders and no others. Further, the statutory mandate also provides for one bite at the cherry, and interdicts a second appeal being filed (See Section 37(2) of the Act) .

17. This being the case, there is no doubt whatsoever that if petitions were to be filed under Articles 226/227 of the Constitution against orders passed in appeals under Section 37, the entire arbitral process would be derailed and would not come to fruition for many years. At the same time, we cannot forget that Article 227 is a constitutional provision which remains untouched by the non-obstante clause of Section 5 of the Act. In these circumstances, what is important to note is that though petitions can be filed under Article 227 against judgments allowing or dismissing first appeals under Section 37 of the Act, yet the High Court would be extremely circumspect in interfering with the same, taking into account the statutory policy as adumbrated by us herein above so that interference is restricted to orders that are passed which are patently lacking in inherent jurisdiction.”

(emphasis supplied)

10. Considering the facts and circumstances of the present case and in light of the principles laid down in the aforesaid judgment, this Court is of the view that the Writ Court should not interfere with the findings recorded by the Arbitrator, as the petitioners ought to have availed the remedies available to them under the Act of 1996 before the competent statutory forum. Therefore, in the opinion of this Court, all

the writ petitions challenging the impugned award(s)/order(s) passed by the Arbitrator are not maintainable and are hereby dismissed.

11. However, liberty is reserved to the petitioners to challenge the orders/awards passed by the Arbitrator in accordance with the provisions of the Act of 1996, before the competent statutory forum, if so advised.

12. Consequently, all the Writ Petitions are **dismissed**.

Sd/-

(Amitendra Kishore Prasad)
Judge

Shyna Ajay