

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2106 of 2019**

Shatrughan Sonker, S/o. Bhakhadu Sonker, Aged About 55 Years, Through Its Power Of Attorney Holder Jeevrakhan Sonkar, Aged About 51 Years, S/o. Bhakadu Sonker, R/o Ward No. 15, Village - Post – Simga, District - Baloda Bazar – Bhatapara, Chhattisgarh.

---- Petitioner**Versus**

1. Government Of India, Ministry Of Road Transport And Highways, Department Of Road Transport And Highways, Transport Bhawan - 1, Parliament Street, New Delhi – 75
2. National Highways Authority Of India, Through Project Director, Project Implementation Unit Raipur, District – Raipur, Chhattisgarh.
3. Additional Collector / Arbitrator, Balodabazar - Bhatapara, District - Baloda-Bazar - Bhatapara Chhattisgarh.
4. Sub Divisional Officer (Rev) & Competent Authority Under The National Highways, Act, 1956 And Land Acquisition Officer, Simga, District - Balodabazar - Bhatapara Chhattisgarh.

---- Respondents**WPC No. 2107 of 2019**

1. Anuj, S/o. Dhunari, Aged About 55 Years, Caste - Sonker, R/o. Bhanthipara, Ward No. 14, Village - Post Simga, District Baloda Bazar Bhatapara, Chhattisgarh.
2. Ashok, S/o. Dhunari, Aged About 40 Years, Caste - Sonker, R/o. Bhanthipara, Ward No. 14, Village - Post Simga, District Baloda Bazar Bhatapara Chhattisgarh.
3. Rajkumar, S/o. Dhunari, Aged About 35 Years, Caste - Sonker, R/o. Bhanthipara, Ward No. 14, Village - Post Simga, District Baloda Bazar Bhatapara, Chhattisgarh.
4. Kamla Bai, W/o. Gangaram, Aged About 35 Years, R/o. Bhatgaon, Raipur, District Raipur Chhattisgarh.
5. Vimal Bai, W/o. Chatrapal, Aged About 38 Years, R/o. Village - Titurghat, Tahsil - Dhamdha, District Durg, Chhattisgarh.

Petitioner No. 2 to 5 Through Power Of Attorney Holder Through Petitioner No. 1 Anuj.

---- Petitioners**Versus**

1. Government Of India, Ministry Of Road Transport And Highways, Department Of Road Transport And Highways, Transport Bhawan - 1, Parliament Street, New Delhi – 75
2. National Highways Authority Of India, Through Project Director, Project Implementation Unit Raipur, District – Raipur, Chhattisgarh.
3. Additional Collector / Arbitrator, Balodabazar - Bhatapara, District - Baloda-Bazar - Bhatapara Chhattisgarh.

4. Sub Divisional Officer (Rev) & Competent Authority Under The National Highways, Act, 1956 And Land Acquisition Officer, Simga, District - Balodabazar - Bhatapara Chhattisgarh.

---- Respondents

WPC No. 2108 of 2019

Keja Bai Sonker, D/o. Shri Budhhu Sonkar, Aged About 40 Years, Through Its Power Of Attorney Holder Banshi Sonkar, Aged About 62 Years, S/o. Bhaou Sonkar, R/o. Mahamaya Ward No, 15, Village Tahsil Simga, District Baloda Bazar Bhatapara Chhattisgarh.

---- Petitioner

Versus

1. Government Of India, Ministry Of Road Transport And Highways, Department Of Road Transport And Highways, Transport Bhawan - 1, Parliament Street, New Delhi – 75
2. National Highways Authority Of India, Through Project Director, Project Implementation Unit Raipur, District – Raipur, Chhattisgarh.
3. Additional Collector / Arbitrator, Balodabazar - Bhatapara, District - Baloda-Bazar - Bhatapara Chhattisgarh.
4. Sub Divisional Officer (Rev) & Competent Authority Under The National Highways, Act, 1956 And Land Acquisition Officer, Simga, District - Balodabazar - Bhatapara Chhattisgarh.

---- Respondents

WPC No. 2109 of 2019

Manaram Sonker S/o Shri Khorbahara Sonker Aged About 50 Years R/o Ward No. 15, Mahamaya Para, Village - Post Simga, District Baloda Bazar Bhatapara Chhattisgarh., District : Balodabazar-Bhatapara, Chhattisgarh

---- Petitioner

Versus

1. Government Of India, Ministry Of Road Transport And Highways, Department Of Road Transport And Highways, Transport Bhawan - 1, Parliament Street, New Delhi – 75
2. National Highways Authority Of India, Through Project Director, Project Implementation Unit Raipur, District – Raipur, Chhattisgarh.
3. Additional Collector / Arbitrator, Balodabazar - Bhatapara, District - Baloda-Bazar - Bhatapara Chhattisgarh.
4. Sub Divisional Officer (Rev) & Competent Authority Under The National Highways, Act, 1956 And Land Acquisition Officer, Simga, District - Balodabazar - Bhatapara Chhattisgarh.

---- Respondents

WPC No. 2111 of 2019

Chiman Lal Devangan (Dead), Through His Legal Heirs Ramji Devangan, Aged About 62 Years, R/o. Ward No. 10, Village - Post - Simga, District Baloda Bazar Bhatapara Chhattisgarh.

---- Petitioner

Versus

1. Government Of India, Ministry Of Road Transport And Highways, Department Of Road Transport And Highways, Transport Bhawan - 1, Parliament Street, New Delhi – 75
2. National Highways Authority Of India, Through Project Director, Project Implementation Unit Raipur, District – Raipur, Chhattisgarh.
3. Additional Collector / Arbitrator, Balodabazar - Bhatapara, District - Baloda-Bazar - Bhatapara Chhattisgarh.
4. Sub Divisional Officer (Rev) & Competent Authority Under The National Highways, Act, 1956 And Land Acquisition Officer, Simga, District - Balodabazar - Bhatapara Chhattisgarh.

---- Respondents

WPC No. 2112 of 2019

Bhakadu Sonker, S/o. Tetku Sonkar, Aged About 62 Years, Through Its Power Of Attorney Holder Jeevrakhan Sonkar, S/o. Bhakadu Sonkar, R/o. Ward No. 11, Village Tahsil - Simga, District Balodabazar - Bhatapara Chhattisgarh.

---- Petitioner

Versus

1. Government Of India, Ministry Of Road Transport And Highways, Department Of Road Transport And Highways, Transport Bhawan - 1, Parliament Street, New Delhi – 75
2. National Highways Authority Of India, Through Project Director, Project Implementation Unit Raipur, District – Raipur, Chhattisgarh.
3. Additional Collector / Arbitrator, Balodabazar - Bhatapara, District - Baloda-Bazar - Bhatapara Chhattisgarh.
4. Sub Divisional Officer (Rev) & Competent Authority Under The National Highways, Act, 1956 And Land Acquisition Officer, Simga, District - Balodabazar - Bhatapara Chhattisgarh.

---- Respondents

&

WPC No. 2113 of 2019

Rajkumar Mandal, S/o. Ajit Mandal (Bangali), Aged About 49 Years, R/o. Village - Post Simga, District Baloda - Bazar – Bhatapara, Chhattisgarh.

---- Petitioner

Versus

1. Government Of India, Ministry Of Road Transport And Highways, Department Of Road Transport And Highways, Transport Bhawan - 1, Parliament Street, New Delhi – 75
2. National Highways Authority Of India, Through Project Director, Project Implementation Unit Raipur, District – Raipur, Chhattisgarh.

3. Additional Collector / Arbitrator, Balodabazar - Bhatapara, District - Baloda-Bazar - Bhatapara Chhattisgarh.
4. Sub Divisional Officer (Rev) & Competent Authority Under The National Highways, Act, 1956 And Land Acquisition Officer, Simga, District - Balodabazar - Bhatapara Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Yogesh Pandey, Advocate
For Govt. of India/ Respondent No.1	:	Mr. B.Gopakumar, Asstt. S.G.
For Project Director NHAI/ Respondent No.2	:	Mr. Navin Shukla, Advocate on behalf of Mrs. Fouzia Mirza, Advocate for respective respondent.
For State/Respondents No.3 & 4.	:	Mr. Ashish Surana, Mr. Sumit Singh & Mr. Ansuman Shrivastava, Panel Lawyers

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

27.06.2019

Heard.

1. Since the cause of action and facts involved in these petitions are similar in nature, therefore, they are being heard together and decided by this common order.
2. Learned counsel for the petitioner submits that in the similar matter WPC No.1850 of 2019 and other connected matters, the similar issue has been adjudicated and orders have been passed on 17.06.2019 which reads as under :

“2. Perusal of the papers available in the record would indicate that pursuant to the land acquisition award under the National Highways Act, 1956 (in short “the Act, 1956”), the petitioners moved arbitration proceedings before the Arbitrator appointed under Section 3 G (5). The Arbitrator i.e. the Additional Collector passed the award(s) on different dates refusing to enhance the award amount. Challenging this award of the Additional Collector, the petitioners moved before the District Judge, Baloda Bazar under Section 34 of the Arbitration and Conciliation Act,

1996 (in short "the Act, 1996"). By order(s) dated 17.5.2018, the District Judge partially allowed the appeals and remitted the matter back to the Arbitrator for making a fresh award.

3. After the remand order was passed by the District Judge, the Additional Collector, Baloda Bazar instead of passing fresh award either enhancing or refusing to enhance the amount of compensation, referred the matter to the Land Acquisition Officer for recalculating the award amount vide order dated 17.1.2019. The Land Acquisition Officer passed the impugned order on 3.5.2019 refusing to amend the original award thereby impliedly rejecting the petitioners' application for enhancement of the award amount.
4. The petitioners' counsel would contend that once the Arbitrator directed the Land Acquisition Officer to recalculate the amount of compensation admissible to the petitioners, the concerned SDO(R) committed serious error of law by not obeying the command of the Arbitrator.
5. Whether or not the SDO(R) should have followed the order passed by the Arbitrator or whether at the inception, the Arbitrator could have directed the Land Acquisition Officer to recalculate the amount of compensation is a matter to be seen by the Authority constituted under the Act, 1956 including the Arbitrator.
6. If the SDO(R) has failed to obey the order passed by the Additional Collector-cum-Arbitrator, the appropriate remedy for the petitioners under the Scheme of the Act, 1956 lies in moving before the concerned District Judge under Section 34 of the Act, 1996. In matters arising out of the proceedings under the provisions of the Act, 1996, the writ petition would not be maintainable. The Act, 1996 read with the Act, 1956 is a self contained code for initiation and completion of arbitration proceeding for enhancement of award amount.
7. Let the petitioners move before the concerned District Judge under Section 34 of the Act, 1996 to assail the

order(s) passed by the concerned SDO(R) as also the order(s) passed by the Arbitrator i.e. the concerned Additional Collector.

8. *If an application under Section 34 is moved by the petitioners, wherein, the challenge is also thrown to the Additional Collector's order(s) dated 17.1.2019, the same shall be dealt with by the concerned District Judge on its own merits without raising the plea of limitation, provided the petitioners move before the District Judge within a period of 30 days from today.*

9. *The writ petitions are disposed of."*

3. It is not disputed by the learned counsel appearing for the respondents that the issue is similar and they submit that the similar order may be passed in these petitions also.

4. It is ordered accordingly.

Sd/-
Goutam Bhaduri
Judge