

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 482 of 2019**

{Arising out of Order dated 20/08/2019 passed in Writ Petition(C) No. 1747 of 2018 by the learned Single Judge}

1. National Highway Authority of India through the Project Director (National Highways Act, 1956-111, New National Highways Act, 1956 Number 180), Abhilasha Parisar, HIG 62, behind New Bus Stand Bilaspur, District Bilaspur, Chhattisgarh. **(Respondent No. 3)**
2. Secretary, Ministry of Road Transport & Highways, Government of India, Transport Bhawan-I, Parliament Street, New Delhi 110001 **(Respondent No. 2)**
-----Appellants.

VERSUS

1. Power Grid Corporation of India Ltd., a Central Government Public Sector Enterprise under the Ministry of Power, Government of India through, Additional General Manager, Power Grid Corporation Limited, 765/400 KV, Power Grid P.S. Varari, District Bilaspur, C.G. **(Petitioner)**
2. The Sub Divisional Officer (Revenue) Land Acquisition (NH-111), New N.H. No. 180, Bilaspur, District Bilaspur, The Competent Authority notified u/s 3c of National Highways Act 1956. **(Respondent No. 1)**
-----Respondents

For Appellants	:	Mr. Dheeraj Kumar Wankhede, Advocate
For Respondent No. 1	:	Mr. Abhishek Sinha, Advocate
For Respondent No. 2	:	Mr. Sudeep Agrawal, Dy. A.G.

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice

Hon'ble Shri Parth Prateem Sahu, Judge

Order on Board

Per P.R. Ramachandra Menon, C.J.

03/12/2019

1. Acquisition proceedings initiated and pursued by the appellant-National Highway Authority of India (NHAI) were put to challenge by the respondent No. 1- Power Grid Corporation of India Ltd., another public sector undertaking belongs to the Central Government, mainly contending that the objections raised by the Corporation were not properly considered and decided and hence it was in-violation of the mandatory requirements of Section 3C of the National Highways Act, 1956 (referred to as 'Act of 1956').

2. After hearing both the sides, the learned Single Judge arrived at a finding that there was infringement of Section 3C of the Act of 1956 and accordingly, the notification in the case of the writ petitioner and the proceedings/ order under challenge (dated 02-12-2017) came to be set aside as per judgment dated 20-08-2019, operative portion of which as contained in paragraph-14 reads as follows:

“14. This subsequent act on the part of the respondents only fortifies the fact that hearing was not given as contemplated under Section 3C(2) of the Act, 1956. After going through para 24 of the reliance placed by the respondents i.e. AIR 2011 SC 2310, this Court is bound to follow the same. The ratio as is laid down that Courts are not expert and the viability and feasibility of the particular project and change of the alignment is not within the domain of this Court. However, the Supreme Court in the same para has observed that when in particular project, if it is found to be ex-facie contrary to the mandate of law then the Court can interfere. Admittedly in this case the order sheet of 02.12.2017 do not subserve the requirement of sub-section (2) of Section 3C and after notification of Section 3D of the Act of 1956, fumbling efforts were made by respondent to form a team and give a finding and tried for a patch work solution. Further para 5 & 6 of the judgment of the Apex Court would show that in such case the objection was made under Section 3C, after hearing the same was decided and rejected. Therefore, the ratio of case cited by respondent rather holds the sway in favour of the petitioner. Consequently, the notification made in respect of the petitioner's property which falls under Section 3D is quashed. Accordingly, the order sheet dated 02.12.2017 which is a cryptic and non-speaking order also liable to be set aside. The respondents shall be at liberty to initiate the proceeding under Section 3C of the Act of 1956 afresh in respect of the land of the petitioner.”

3. On challenging the correctness and sustainability of the said verdict on various grounds by filing present appeal, the matter came up for consideration on 21-10-2019, when we drew serious exemption as to the course and conduct being pursued by two public sector undertakings belonging to the Central Government, crossing swords with each other and expressed our hope to have the issue settled by way of other appropriate means, amicably by convening a meeting at Secretary level of the Ministries concerned.

Accordingly, we passed an order on that day, which is to the following effect:

“ ... Considering the nature of the grievance projected herein, it appears that the both the Appellant as well as the 1st Respondent are two different organs of the very same Government and are pursuing their activities which are of public interest.

The Appellant No.1 seeks to construct the National Highway after acquiring the property in accordance with the provisions of the National Highways Act, 1956 ('the Act', in short). The rival contention of 1st Respondent is that the statutory requirements in terms of the 'opportunity of hearing' envisaged under 3C of the Act, has not been satisfied and this made the learned Single Judge to interdict the proceedings without prejudice to cure the defect by way of appropriate steps and proceed with the matter accordingly. The case of the Appellant is that, pursuant to the objections raised by the 1st Respondent that their installation might be affected, there was a joint inspection at the premises of the 1st Respondent, when it was revealed that only a small portion of the open compound and boundary wall will be affected and there will not be any adverse impact on the installation. It was after considering the objection, that the site inspection was conducted and as such, there is compliance with the provisions under Section 3C of the Act.

We are of the view that this is a case which requires immediate attention at the Secretary level of the Government of both the above establishments and to have an attempt to sort out the issues amicably, as the delay in finalizing the matter virtually will affect the general public.

The learned counsel appearing for the parties from both sides submit that an earnest endeavour will be made in this regard, notwithstanding the rival contentions and the outcome will be brought to the notice by the next date of posting.

The competent authorities of the Appellant and the 1st Respondent are directed to move the matter in the above lines to the Secretary of the Ministry concerned and to have the matter pursued to have the dispute settled accordingly.

Post this matter on 27.11.2019.”

4. The matter was listed for further consideration on 27-11-2019, when the learned counsel appearing for the parties brought it to the notice of this Court that, pursuant to the order dated 21-10-2019, earnest steps were taken, a meeting was convened on 22-11-2019 and the matter was settled accordingly. Learned counsel for the parties on both the sides wanted to bring the factual

position on record and accordingly, time was sought for. Now, an affidavit dated 02-12-2019 has been filed in compliance of the order dated 21-10-2019, categorically stating that the issue has been settled in terms of para 4 of the Minutes of Meeting held on 22-11-2019. A copy of the Minutes of Meeting dated 22-11-2019 has also been produced, with a copy of the sketch, whereby some modification has been effected with regard to lie and location of the National Highway proposed to be set up in the acquired land; part of which also passes through the property of the Power Grid Corporation.

5. In view of the turn of events, we are of the view that the appeal could be disposed of, giving effect to the settlement now arrived at and it is ordered accordingly. The verdict passed by the learned Single Judge setting aside the notification and the proceedings/ order dated 02-12-2017 challenged in the writ petition stands modified to the extent as covered by the settlement mentioned above. The 'Affidavit', the 'Minutes' of Meeting held on 22-11-2019 and the 'Plan' produced along with the said affidavit will form part of the proceedings. We record our appreciation on the efforts taken by the Officers of the appellant-NHAI as well as the respondent Power Grid Corporation and also the sincere and persuasive attempts made by the learned counsel representing the appellant-NHAI and the respondent Power Grid Corporation to give effect to the order passed by this Court on 21-10-2019.
6. Appeal stands disposed of as above.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge