

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (C) No. 4489 of 2019

Union of India Through Executive Engineer, Public Works Department,
National Highway, Division Ambikapur, Chhattisgarh.

---Petitioner(s)

Versus

- 1.** Satyabhagwan Agrawal S/o Natthulal Agrawal, R/o Surajpur, Tehsil and District Surajpur, Chhattisgarh.
- 2.** Land Acquisition Officer/Sub-Divisional Officer (Revenue), Surajpur District Surajpur, Chhattisgarh.
- 3.** Additional Commissioner, Surguja Division Ambikapur, District Surguja, Chhattisgarh.

---Respondents

For Petitioner	:	Shri B. Gopa Kumar, Assistant Solicitor General.
For State	:	Shri Vivek Ranjan Tiwari, Additional Advocate General with Shri P. Acharya, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

14.01.2020

- 1.** Challenge in the present Writ Petition is to the award dated 30.06.2018 (Annexure P/1) on the ground that the Arbitrator did not have the power to entertain the arbitration proceeding as he has not been notified by the Central Govt. to act as an Arbitrator under the National Highways Act, 1956 (in short, the Act, 1956).
- 2.** Learned counsel for the petitioner submits that the disputed land in issue is one which situates in Village Pacheda under District Surajpur and the said village was not notified under Section 3G(5) of the Act, 1956. It was also the contention of the petitioner that the Central Govt. also had not appointed any Arbitrator for the said project and for this reason also the award passed by the Arbitrator is null and void and without competence and jurisdiction.
- 3.** At the outset, this court finds it difficult to entertain the writ petition for the reasons; firstly, since the challenge is to the award passed under Section

3G(5) of the Act, 1956. Clause-6 of Section 3G of the Act, 1956 clearly envisages that the provisions of the Arbitration and Conciliation Act, 1996 (in short, the Act, 1996) would be applicable so far as arbitration proceedings are concerned.

4. Given the said provision of law, the award passed by the Arbitrator first would have to be challenged under Section 34 of the Act, 1996 before the concerned authorities. The petitioner has not done so.
5. The second ground on which this court is not inclined to entertain the writ petition is the fact that the award has been passed as early as on 30.06.2018 and the writ petition now has been filed in November, 2019 i.e. after a period of more than 1 and ½ years.
6. No plausible explanation is provided by the petitioner for not filing the case early or promptly. Record show that the department had received the certified copy in the year, 2018 itself. If definitely needs a probe to verify as to whether there has been any deliberate attempt made by any officer or employee not to challenge the award promptly. It is expected that the department will look into this aspect with all seriousness.
7. The third ground on which this court is not inclined to entertain the petition is the notification of the Government of India dated 02.09.2016, whereby the Central Govt. itself has invoking the provisions of Sub-Section 5 of Section 3G of the Act, 1956, appointed the officers mentioned in column 3 of the table given therein to act as an Arbitrator for the purpose of arbitration arising out of acquisition of land in the State of Chhattisgarh. The table given in the said notification provides name of the districts and Talukas in each of the districts and the officers appointed for such districts and Talukas.

- 8.** The disputed land in the present case is one which falls in village Pacheda. Village Pacheda was found to be situated in Taluka Surajpur under District Surajpur. Item No.6 of the table specifies the project i.e. Ambikapur-Pathalgaon Section of NH-78. The officer designated as per the notification was the Additional Commissioner, Surguja, who is the authority who has passed the award Annexure P/1. The districts provided in the said project are Surguja, Surajpur and Jashpur. Apart from these three districts, column No.5 also reflected different Talukas namely Ambikapur, Sitapur, Lundra, Battauli Surajpur and Pathalgaon. Once when the notification prescribes Taluka Surajpur and the disputed land in the instant case situating in Taluka Surajpur, the ground which the petitioner alleges that the authority was not notified is difficult to accept.
- 9.** Another contention which the petitioner raises is that, the petitioner till date has not been given the signed copy of the award, as is required under Sub-section 5 of Section 31 of the Act, 1996. This contention of the petitioner is not one which could be entertained by this court under writ jurisdiction. The petitioner would have to avail the option available to the petitioner under the Act, 1996 in respect of the said grievance.
- 10.** Given the aforesaid facts and circumstances of the case, this court does not find any strong case made out by the petitioner calling for an interference with the impugned award dated 30.06.2018 (Annexure P/1). The writ petition therefore fails and is accordingly rejected.

Sd/-
(P. Sam Koshy)
Judge