

W.P.A. 13640 of 2021

(Via Video Conference)

Susanta Sarkar
Vs.
Union of India & Ors.

Mr. Amit Pan
Ms. T. Santra ...for the petitioner.

Mr. Susovan Sengupta
Ms. Supriya Dubey ...for the State.

Mr. Suman Chattopadhyay ...for the UOI.

Ms. Maanika Roy ...for the NHAI.

The State files a report in Court which is taken on record.

The prayer of the writ petition in prayer (a) to the writ petition is as follows:

“A writ in the nature of Mandamus commanding the respondent No.2 to supply a signed copy of the Arbitral Award so made in connection with the Arbitration Case No. XII/Arbi/2017 on 06.07.2017 in the name of the petitioner in respect of the said land, if any forthwith;”

The writ petitioner submits that being aggrieved by the amount of compensation granted to him for acquisition of his land for the purpose of extension of National Highway, he approached the Arbitrator for redressal of his grievance and enhancement of the compensation awarded to him.

By an order dated 6th July, 2017 passed by the Arbitrator in Arbitration Case No. XII/Arbi/2017, the learned Arbitrator enhanced the amount of compensation payable to the petitioner and other awardees.

The petitioner has alleged that a signed copy of such order was not communicated to him in terms of Section 31(5) of the Arbitration and Conciliation Act, 1996. Also, the amount of enhanced compensation was communicated to him not by the Arbitrator but by the Additional District Magistrate (L.A.) and competent authority under the National Highways Act, 1956, who was a party to the arbitration proceeding.

The petitioner placed reliance on a judgment passed by a co-ordinate Bench of this Court in WPA 2413 of 2020 on 11th January, 2021 in a similar matter.

Learned counsel for the NHAI submits that the fact situation in that judgment differs from the present case and the judgment is not applicable herein.

Enhanced compensation was received by the petitioner without any objection and such delayed application of the petitioner ought not to be entertained by the writ Court.

Learned counsel for the State refers to the report filed by him and submits that the enhanced compensation was received by the petitioner without any objection in 2018 and it is after a delay of about three years that the present writ petition has been filed.

I have considered the submissions made on behalf of the parties.

It appears that the arbitration proceeding culminated by an order dated 6th July, 2017, wherein it was observed by the learned Arbitrator that “*The Awardees may collect the order from District Record Room, maintaining all formalities.*”

The petitioner claims not to have received any copy of the award but gladly accepted the enhanced amount awarded in the said order dated 19th January, 2018.

During these three years, the petitioner did not find it necessary to either take steps for receiving the copy of the award or otherwise and is, therefore, not entitled to the relief prayed for in prayer (a) of the petition.

However, the petitioner is at liberty to collect the order from the District Record Room maintaining all formalities as recorded in the arbitration award itself.

With the above observations, WPA 13640 of 2021 is disposed of. There will be no order as to costs.

As affidavits have not been invited, the allegations made in this writ petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)