

39

15-02-2021

(Through Video Conference)

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WPA 8906 of 2020

Ct. 38

Sushil Chandra Biswas & Ors.
Versus
The State of West Bengal & Ors.

Mr. Partha Pratim Roy, Adv.
...for the petitioners

Ms. Manika Roy, Adv.
...for NHAI

Mr. Chandi Charan De, Id. Addl. GP.
Ms. Chandana Ghosh, Adv.
...for the State

Mr. De, learned Additional Government Pleader submits that he has instructions from the Competent Authority under the National Highways Act, 1956 that “arbitral amount had been considered for payment of compensation to the instant petitioner since the order of arbitration was passed prior to the prayer of the petitioner”.

Mr. De in his usual fairness submits that it is not understood as to how even before the petitioners prayed for their matter to be referred to arbitration, an order could have been passed in arbitration.

I completely agree with Mr. De. The instruction, which is to be kept on record, makes very little sense. Without the petitioners having asked for arbitration, possibly no arbitration could have been initiated for reconsidering the claim of the petitioners.

Accordingly, I direct the respondent authorities to initiate arbitration proceedings in terms of Section 3G(5) of the National Highways Act, 1956 in respect of the compensation assessed for the petitioners by the Competent Authority. Let such proceedings be completed within four months from the date of receipt of a copy of this order along with a copy of a writ petition by the Arbitrator contemplated under the statute. The petitioners shall ensure that a copy of this order along with a copy of the writ petition is served on the Arbitrator.

Since I have not called for affidavits, allegations contained in the writ petition shall be deemed not be admitted by the respondents.

WPA 8906 of 2020 is accordingly disposed of.

There shall be no order as to costs.

(Arijit Banerjee, J.)