

18-03-2021
Court No.2
Sh- 1-5

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

**W.P.A. 386 OF 2021
With
W.P.A. 396 OF 2021
With
W.P.A. 397 OF 2021
With
W.P.A. 398 OF 2021
With
W.P.A. 631 OF 2021**

Mr. Subinay Dey,
Mr. Debanjan Das.
.. For the Petitioners in all the matters.
Mr. Hirak Barman..
.. For the Railway Authorities in all the matters.
Mr. Subir Kumar Saha,
Ms. Bedashruti Bose.
..For the State in WPA 396/21 & WPA 398/21.
Mr. Bikramaditya Ghosh,
Mr. Momenur Rahaman.
..For the State in WPA 397/21 & WPA 386/21
Mr. Bikramaditya Ghosh,
Ms. Bedashuri Bose.
.For the State in WPA 631/21,

Affidavit of service furnished by the petitioners
today in Court be taken on record.

Parties are representing through their learned
advocates, the name of whom are shown above at the
beginning of the order sheet.

Issues involved together with relief sought for
being same and identical in all these writ applications
referred to above, on the prayer of the parties, such
cases are taken up together giving a common hearing
for the purpose.

The aforesaid writ applications are directed against the alleged inaction on the part of the respondent authorities to pay compensation to the writ petitioners, who are the land losers, under the provisions of the Land Acquisition Act, even after the land being acquired adhering to the provisions of the law in connection with a government project.

The land was acquired admittedly from the writ petitioners in connection with a project of new railway line, a B.G. line (Guide Bundh) from New Maynaguri to Jogighopa in Cooch Behar District.

Upon notice to the writ petitioners land was so acquired for the referred project. The writ petitioners were under the impression that adequate compensations will be disbursed in favour of the writ petitioners. The petitioners moved from pillar to posts in respect of the office of the respondent authorities in support of their legitimate claim for obtaining compensation. Their all approaches were turned to be a futile exercise ultimately.

The writ petitioners now seek a Writ of Mandamus upon the respondent authorities for making disbursement of compensation as per provisions of the right to fair compensation and transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013(herein after referred to as the said Act, 2013),.

Adhering to the provisions of Section 24(1)(a) of the said Act, 2013, learned advocate for the writ petitioners submits that when compensation has not

been awarded, but land has been acquired in connection with the project under the said Act of 2013, all the provisions of the act will find its scope to apply over the circumstances including the compensation to be awarded in this case to the writ petitioners under the said Act of 2013.

Incidentally, learned advocate for the writ petitioners has taken reference to an order passed by a Co-ordinate Bench of this Court on 23rd February, 2021 and proposes for making consideration of the same decision, in the absence of any appeal having preferred by the respondents till date, being aggrieved with such decision.

Learned advocate representing the State including the respondent no.6 candidly submits that there is a detailed procedure which requires to be undertaken for granting adequate compensation to the writ petitioners/land losers.

Learned advocate for the State respondents thus submits that there is requirement of undertaking a survey work for making assessment of the quantum of lands already acquired, and it is only after doing such exercise, the compensation may be appropriately decided. It is also submitted by the learned advocate for the State respondents that disbursement of compensation is determined upon some calculation based on a survey work, necessary for actual assessment of the quantum of land being acquired for the project.

Learned advocate representing the Railway Authorities namely the respondent nos,8 and 9 submits that the Railway Authorities have already paid compensation to the acquiring body long before. It is further submitted that a revision of the compensation will unnecessarily cause difficulty to the Railway Authorities at this stage.

Learned Advocate for the Railway Authorities proposes for a direction to file affidavits in these matters.

Having considered the submissions of both the parties and bearing in mind the material placed in the record, it is crystal clear that the writ petitioners have not been awarded compensation in spite of their land being acquired long before in connection with a referred project. There is no dispute that the writ petitioners are the land losers, and lands were acquired from the writ petitioners adhering to the provisions of land Acquisition Act. The financial condition of the land losers/writ petitioners are not sound enough for their sustenance drawing income from a source other than land. The deliberate action of the respondent authorities for not determining the compensation within the time and delay caused in making disbursement of the same is not desirable and goes against the principle of natural justice.

There is nothing shown by the State respondent that being aggrieved by the decision rendered by a Co-ordinate Bench of this Court in the case of W.P.A 377/21, WPA 384/21, WPA385/21, WPA 395/21, WPA 328/21, WPA 177/21, WPA 267/21. WPA 269/21, WPA

271/21 AND WPA 273/21 an appeal has been preferred to challenge the said decision. In the absence of any appeal being preferred against such decision, it may safely be presumed that the said respondents have accepted the decision given by the Co-ordinate Bench of this Court on 23rd February, 2021. More so in the absence of anything others to the contrary being shown, this Court finds nothing to give any contrary view to the decision already rendered on 23rd February, 2021.

Though the learned advocate for the Railway Authorities proposed for exchanging affidavits in these matters, but it will hardly serve any practical purpose.

Accordingly, let there be a direction upon the respondent no.6 to undertake a survey work including that of the land that have been acquired from the writ petitioners involved in this case and thereafter determine the compensation within a period of three months from date. After undertaking such exercise, the authority concerned is directed to make payment to the writ petitioners within six weeks from the date of determination of the amount of compensation.

With the above directions all the writ petitions involved in this case are disposed of by a common order.

There will be no order as to costs.

Since no affidavits have been called for the allegations contained in the writ petitions, same are deemed not to have been admitted by the respondents.

With these directions and observations the writ petitions stand disposed of without any order as to costs.

Photostat Certified copy of this order, if applied for, be supplied to the learned advocates for the parties expeditiously on compliances of all requisite formalities.

(SUBHASIS DASGUPTA, J.)