

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.536 of 2022

Sanjay Pratap Singh @ Sanjay Singh Son of Late Shaligram Singh @ Shalik Singh @ Shalik Rai, resident of Village - Karishat, P.S. - Udwant Nagar, District - Bhojpur.

... .. Petitioner/s

Versus

1. The Union of India through National Highway Authority of India, Ministry of Road Transport and Highways, Government of India, New Delhi.
2. The Project Director, National Highway Authority of India, Patna.
3. The Joint Commissioner Cum Secretary Regional Transport Authority, Patna Commissionery, Patna.
4. The State of Bihar through the Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
5. The Secretary, Land Acquisition and Land Reforms Department, Government of Bihar, Patna.
6. The Director, Land Acquisition and Land Reforms Department, Government of Bihar, Patna.
7. Arbitrator Cum, Commissioner Patna Division, Patna.
8. The District Land Acquisition Officer, Bhojpur, Ara.
9. The Land Acquisition Officer, Bhojpur, Ara.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Aditya Narayan Singh.1, Adv.
For the Respondent/s	:	Mr.Dr. K.N. Singh (Asg)
For the NHAI	:	Mr. Sant Kumar Mishra, Adv.

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

2 31-03-2022 Heard the parties.

The case is being taken up from defect side.

Learned counsel for the petitioner is directed to submit the original petition alongwith attested affidavits and also remove all the defects pointed out by the Registry within two weeks from today.



In the writ petition, the petitioner has come up before this Court for challenging the order passed by the Commissioner dated 21.05.2019 / 20.06.2019 while deciding the Arbitration Act and acting as Arbitrator. The power has been exercised by the Commissioner in terms of Section 3 G (5) of the NHAI Act, 1956. As per Section 3 G (6) the provisions of Arbitration and Conciliation Act, 1996 would apply to every arbitration under this Act. Thus the order passed by the Commissioner under challenge would be treated as an award passed under the Act of 1996.

The award passed by the arbitrator is final and the only recourse available to a party to the arbitration proceedings would be to challenge the same under Section 34 by removing an application before the concerned District Judge for setting aside the arbitral award.

Keeping in view, the provisions of Section 34 which applied exclusively to all the awards passed under the Act of 1996, the present writ petitions would not be maintainable directly challenging the award of arbitrator.

The Division Bench of this Court in case of Pushpesh Kumar Patel Vs. Union of India and Ors. passed in C.W.J.C. No. 1696/2022 dated 24.03.2022 has observed as under:



“Petitioner lays challenge to the award dated 09.12.2021 passed by the learned Arbitrator in N.H. Arbitration Case No. 164 of 2019. The present petition, filed under Article 226 of the Constitution of India, is totally misconceived in law. The law on the issue is evidently clear as stands laid down by the Hon’ble Apex Court in (2005) 8 SCC 618, titled as SBP & CO. Vs. Patel Engineering Ltd. And Anr. (Paras-45, 46 and 47) and reiterated in (2020) 15 SCC 706, titled as M/s. Deep Industries Ltd. Vs. Oil and Natural Gas Corporation (Para-17), to which our attention is invited by Shri Sajid Salim Khan, SC-25. The petitioner ought to have taken recourse to the remedies provided under the provisions of the Arbitration and Conciliation Act, 1996.

In this view of the matter, petition is disposed of, reserving liberty to the petitioner to take recourse to such other alternative remedies as are otherwise available in law.”

In view of the above, the present writ petition is



dismissed leaving it open to the petitioner to pursue the remedy
as above.

Accordingly, the writ petition is dismissed.

(Sanjeev Prakash Sharma, J)

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