

29.08.2022
rc/ct.no.10
Item No.17

WPA No. 17592 of 2022

Mrs. Suman Sahanabis ...for the Petitioners

Mr. Susovan Sengupta
Mr. Subir Pal ...for the State

Affidavit of service filed in Court today is taken on record.

Heard learned counsels appearing on behalf of the parties.

The petitioners' grievance is that being aggrieved by the compensation disbursed to their predecessor-in-interest, the said predecessor approached the Arbitrator under Section 3(G)(5) of the National Highways Act, 1956 (in short, "the Act"). The predecessor-in-interest expired on July 23, 2018 and notice of arbitration was issued to him on June 12, 2019, i.e. after expiry of the said predecessor. The petitioners were not aware of the proceeding under Section 3(G)(5) of the Act and subsequently learnt that an award was passed in respect of their predecessor who had since expired. The petitioners submitted an application before the 6th respondent under Section 3(G)(5) of the Act which is yet to be considered. The petitioners pray for a direction upon the authority to consider and dispose of the said application at the earliest.

It is submitted by the learned counsel appearing on behalf of the State-respondents that as the Arbitrator has already published award under Section 3(G)(5) of the Act, the petitioners should take recourse to the Arbitration and Conciliation Act, 1996 for setting aside the arbitral award as the Arbitrator has become functus officio after passing the award.

It is evident from the record that the award was published against a dead person and the petitioners were neither served with notice of the arbitration proceedings or the award, nor given an opportunity to represent themselves before the Arbitrator.

In view of the same this Court is inclined to hold that the objection filed by the petitioners before the 6th respondent be directed to be considered by the said respondent in accordance with law.

Accordingly, the writ petition is disposed of directing the 6th respondent to consider and dispose of the objection filed by the petitioners dated February 13, 2020 within one month from the date of communication of this order upon affording reasonable opportunity of hearing to all the interested parties including the petitioners, in accordance with law.

The decision taken by the authority shall be communicated to the petitioner within a week thereof.

It is made clear that this Court has not gone into the merits of the case and the parties shall be at liberty to

place their respective contention before the authority at the time of hearing.

With the above observations and directions this writ petition is disposed of.

There shall be, however, no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be furnished to the parties upon compliance of necessary formalities.

(Suvra Ghosh,J)