

15
18.01.2023
Ct. No.10
b.das

W.P.A. 1885 of 2018

Subhas Chandra Bose & Ors.
Vs.
Union of India & Ors.

Mr. Samim Ahammed
Ms. Ambiya Khatun ...for the petitioners.

Mr. Soumitra Bandyopadhyay
Mr. Subhasis Bandyopadhyay ...for the State.

Mr. Dipankar Das ...for NHAI.

Heard learned counsels for the parties.

It is contended on behalf of the petitioners that the land of the petitioners was acquired by a notification issued under Section 3A(1) of the National Highways Act, 1956 for the purpose of expansion of National Highway-34 and being unhappy with the compensation granted by the authority, the petitioners approached the learned Arbitrator under Section 3G(5) of the National Highways Act, 1956. No opportunity of hearing was granted to the petitioners by the learned Arbitrator and the arbitral award also was not communicated to the petitioners.

The petitioners have sought liberty to submit a fresh application under Section 3G (5) of the Act of 1956 before the learned Arbitrator for consideration of enhancement of the compensation amount declared in their favour and also for consideration of the same in terms of Right to Fair

Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

Learned counsel for the petitioners has placed reliance on a judgment of an Hon'ble Division Bench of this Court passed on 7th September, 2022 in MAT 1520 of 2019 with IA CAN 2 of 2021.

It is submitted on behalf of the National Highway Authority of India that the arbitral award has been challenged by the authority before the District Court being AMC 176 of 2017, which is pending.

Learned counsel for the State respondents submits that the petitioners may make an application under Section 3G(5) of the Act of 1956 before the Arbitrator, who shall decide the same in accordance with the Arbitration and Conciliation Act, 1996 as well as the Act of 2013.

It has been observed by the Hon'ble Division Bench in the judgment referred to earlier that in the event the petitioners are not granted an opportunity of hearing before the learned Arbitrator, the petitioners cannot be said to be bound by the order passed by the Arbitrator and are at liberty to file a fresh application under Section 3G(5) of the Act of 1956.

In view of the above, this Court is inclined to hold that since the petitioners are admittedly entitled to compensation under the Act of 2013, they may be granted liberty to file an application under Section 3G(5) of the Act

of 1956 before the learned Arbitrator appointed under the Act within one month from date.

The learned Arbitrator shall consider the applications submitted by the petitioners in accordance with the Arbitration and Conciliation Act, 1996 as well as the Act of 2013 upon giving reasonable opportunity of hearing to all the interested persons including the petitioners, in accordance with law and complete the entire exercise within six months from the date of filing of the applications by the petitioners.

Copy of the arbitral award be served upon the petitioners within a month thereafter.

With the above observations and directions this writ petition being WPA 1885 of 2018 is disposed of.

However, there shall be 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 supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)