

WPA 4005 of 2021

M/s. Kishan Straw Board & Paper Mills Pvt. Ltd.
Vs.
The State of West Bengal & Ors.

Adv. Partha Pratim Roy,
Adv. Sarbananda Sanyal,
...for the petitioner.
Adv. Manika Roy,
Adv. S. A. Munshi,
...for the NHAI.
Adv. Md. T. M. Siddiqui,
Adv. Nilotpal Chatterjee,
...for the State.

Report submitted on behalf of the State respondents
is taken on record.

Heard learned counsels for the parties.

It is contended on behalf of the petitioner that being aggrieved by the award declared in favour of the petitioner under Section 3G(1) of the National Highways Act, 1956, the petitioner submitted an application under Section 3G(5) of the Act before the learned Arbitrator which was dealt with by the learned Arbitrator by enhancing the compensation payable to the petitioner by an order passed on 10th September, 2015.

It is submitted by the petitioner that subsequently a notification was issued by the Ministry of Road, Transport and Highways, Government of India dated 28th December, 2017, Clause 4.6(iii) (c) of which records that in cases of land acquisition where award has not been announced under Section 3G of the National Highways Act, till 31st

December, 2014 or where such award has been announced but compensation has not been paid in respect of majority of the land holdings under acquisition as on 31st December, 2014, compensation would be payable according to the 1st Schedule of the Act of 2013.

In view of such notification the petitioner submitted a representation before the concerned authority on 19th December, 2018 claiming compensation in terms of the said notification as well as under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The said representation is pending consideration. The petitioner prays for a direction upon the concerned authority to consider the said representation in terms of the notification stated earlier.

It is submitted on behalf of the National Highways Authority of India that since the petitioner participated in the arbitral proceedings, his recourse lies under Section 34 of the Arbitration and Conciliation Act.

In reply, learned counsel for the petitioner submits that arbitral award is not under challenge in the writ petition and the petitioner has only claimed statutory relief in terms of the notification as well as the Act of 2013.

Upon consideration of the submission made by the parties, this Court is inclined to hold that since the notification dated 28th December, 2017 was subsequent to the arbitral award passed on 10th September, 2015, the

petitioner is entitled to the statutory reliefs granted by the said notification under the Act of 2013. Since the arbitral award has not been challenged by the petitioner in the present writ petition, the question of taking recourse to Section 34 of the Arbitration and Conciliation Act does not arise.

In view of the above, the writ petition being WPA 4005 of 2021 is disposed of directing the 3rd respondent to consider and dispose of the representation submitted by the petitioner dated 19th December, 2018 in the light of the observation made in this order as well as in terms of the notification issued on 28th December, 2017 upon affording reasonable opportunity of hearing to all the interested persons including the petitioner within two months from the date of communication of this order, in accordance with law.

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

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

There shall however, be no order as to costs.

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

(Suvra Ghosh, J.)