

WPA 5515 of 2022

Md. Isaruddin & ors.

Vs.

The State of West Bengal & Ors.

Adv. Partha Pratim Roy,
Adv. Anirban Das,

...for the petitioners.

Adv. Manika Roy,

...for the NHAI.

Adv. Santanu Kumar Mitra,
Adv. Subhabrata Das,

...for the State.

The petitioners have claimed compensation in terms of the arbitral award as well as the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the 'Act of 2013'). Being aggrieved by the award declared by the respondents, the petitioners approached the Arbitrator under Section 3G(5) of the National Highways Act, 1956. Upon hearing the aggrieved awardees including the petitioners, the learned Arbitrator passed an award on 7th November, 2019 directing payment of compensation in favour of the petitioners in accordance with the first Schedule of the Act of 2013 in view of the guideline issued by the Ministry of Road, Transport and Highways, Government of India vide no. NH-11011/30/2015-L.A. dated 28th December, 2017.

The petitioners' grievance is that the competent authority, in calculating the revised award, has missed out

on the interest of solatium as applicable under the Act of 2013. Learned counsel for the petitioners has placed reliance on the authority in ***Tamil Nadu Housing Board vs. Abdul Salam Sarkar & ors.*** reported in **2021 (219) AIC 247.**

In opposing the contention of the petitioners, learned counsel for the National Highways Authority of India submits that since the petitioners have accepted the revised compensation without demur, they are debarred from challenging the same at a later stage.

There is nothing on record to suggest that the detailed calculation of the revised award was made available to the petitioners when the revised compensation was paid. Since the petitioners have been deprived of a statutory component, they are entitled to claim the same even at a subsequent stage, moreso, since it is evident from the record that the revised compensation has not been calculated in terms of the arbitral award or Act of 2013.

In view of the above, this Court is inclined to hold that the matter be sent back to the competent authority, being the 3rd respondent herein, for revisiting the amount of compensation payable to the petitioners in terms of the arbitral award as well as the Act of 2013 and the law laid down by the Hon'ble Supreme Court in the authority referred to above.

The entire exercise shall be completed within two months from the date of communication of this order.

With the aforesaid directions, WPA 5515 of 2022 is disposed of.

There shall however, be no order as to costs.

Since no affidavit in opposition 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 on usual undertakings.

(Suvra Ghosh, J.)