

Form J(2)

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

WPA 19612 of 2013

**Gostha Behari Jana & Ors.
Vs.
The State of West Bengal & Ors.**

**For the petitioners : Mr. Lalratan Mondal,
Mr. Dilip Kumar Sadhu**

For respondent Nos.4 & 5 : Sk. Rejaul Alam

**Heard &
Judgement on : 18.07.2023.**

Bibek Chaudhuri, J.

The petitioners have approached this Court by filing the instant writ petition claiming interest of compensation, which was paid to them by virtue of the order of this Court.

It is not in dispute that vide LA Case No.4/1996-97 petitioners' land at Mouza Rajarampur was acquired. In spite of acquisition, they were not paid interest according to the provisions of Section 33 of the West Bengal Industrial Infrastructural Development Corporation Act, 1974 though they are entitled to get such interest, since the amount of compensation had not been paid or deposited before taking

possession of their land. Previously the petitioner No.1 preferred a writ petition being WP No.14946(W) of 2005. A Co-ordinate Bench disposed of the said writ petition on 5th June, 2006 with the following order, "In this case, on the facts, I hold that the amount was sought to be paid to the petitioner in terms of provisions of Section 31(2) of the Act. Admittedly, the petitioner did not take any step for receiving the amount. The question is whether he was required to say anything expressly regarding his decision not to receive the amount. In my view, he was not under any obligation to inform the Collector about his decision not to receive the amount. Such a situation, if visualized in the provisions in Section 30(3) of the Act, in my opinion, is bound to defeat the purposes of the provisions in Sections 32 and 33. If all the provisions are read together, there cannot be any doubt that if the tendered amount of compensation is not received by the person entitled to compensation, then such amount has to be deposited by the Collector in the Court before taking possession of the land."

With the above observation, the writ petition was allowed directing the State Government to pay interest to the petitioners in terms of the provisions in Section 33 of the 1974 Act within six weeks from the date of receipt of a copy of the order by the respondents.

The record shows that the State of West Bengal preferred an appeal before the Division Bench presided over by the then Chief

Justice by filing FMA 1883 of 2006. The said appeal was dismissed on the observation:-

“Admittedly the amount was not deposited in Court and was in fact paid by the Collector in two instalments on 23rd May, 2003 and July 6, 2005. Clearly, therefore, the petitioner was entitled to receive interest as provided under Section 33 of the Act. We find no error or infirmity in the judgment of the learned Single Judge.”

Subsequently, a proceeding was initiated by the Special Land Acquisition Officer, Haldia and by his order dated 24th September, 2012, he held that the petitioners are entitled to get interest in accordance with the provision of Section 34 of the Land Acquisition Act, 1894.

The petitioners were compelled to file the instant writ petition for a direction upon the State respondents to pay compensation to them in terms of the order passed by this Court, Appellate Court and Special Land Acquisition Officer, Haldia.

The Land Manager, Haldia Development Authority has submitted a report, stating, *inter alia*, that they have deposited the entire amount for acquisition of the land in question before the Collector of undivided Midnapure.

However, fact remains that the amount of interest has not been paid to the petitioners.

In view of such circumstances, the LA Collector, Purba Midnapore is directed to calculate the interest on compensation and pay the said sum to the petitioners within six from the date of this order. If the amount is lying in the treasury or in the Court of Paschim Midnapore because of the fact that the amount was deposited by the Haldia Development Authority to the LA Collector of undivided Midnapore, the LA Collector, Purba Midnapore shall takes step for getting the amount under his treasury and pay the same to the petitioners within the stipulated period of time.

The instant writ petition is accordingly, **disposed of.**

(Bibek Chaudhuri, J.)

***Mithun De.
A.R. (Ct).
SI No.12.***