

19.03.2024

Ct. no.654

Sl. No.172

ss

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
(Appellate Side)

W.P.A. 2603 of 2023
(specially assigned)

Ambia Mandal
Vs.
Union of India & ors.

Mr. Chittapriya Ghosh

Mr. Asit Barun Ghosh

Ms. Priyanka Saha

Mr. Debayan Pal

... for the petitioner

Ms. Aparna Banerjee

Mr. Pradip Paul

... for the Union of India

Mr. Chandi Charan De, Ld. AGP

Mr. Anirban Sarkar

... for the State

This writ petition has been filed by the petitioner for a direction upon the respondent no.3, Competent Authority and Additional District Magistrate (Land Acquisition), Bankura to take immediate steps to refer the objection raised by the co-sharers dated 7th December, 2018 for reconsideration of the determination of the compensation amount by an Arbitrator appointed in terms of Section 20F(6) of the Railways (Amendment) Act, 2008 (hereinafter referred to as 'Act of 2008').

The brief fact of the petitioner's case is that the compensation in respect of the acquired land-in-question within Mouza Mahaldanga under Police Station Joypur,

District Bankura, was assessed by the Competent Authority in L.A. Case No.50 of 17-18. Being aggrieved by the assessment of the compensation the co-sharers filed application before the Competent Authority for proper valuation of the land-in-question. The Special Land Acquisition Officer, Bankura vide its letter dated 19th December, 2018 directed the petitioner to submit valid tangible documents in support of his claim for enhancement. However, since the matter was not referred to the Arbitrator in terms of Section 20F(6) of the Act of 2008 the petitioner is constrained to file the present writ petition.

Mr. Chittapriya Ghosh, learned Advocate for the petitioner submits that the petitioner aggrieved by assessment of compensation by the Competent Authority filed an application before the Competent Authority for enhancement of the compensation amount. In terms of Section 20F(6) of the Act of 2008 if an award is not acceptable to either of the parties, such compensation shall be determined by the Arbitrator to be appointed by the Central Government. In spite of raising grievance with regard to assessment of compensation no such Arbitrator was appointed till date for considering the aspect of enhancement. He seeks for appropriate direction so that the grievance of the petitioner for enhancement of the compensation amount be determined by the Arbitrator appointed by the Central Government.

Ms. Aparna Banerjee, learned Advocate for the respondent-Railway authorities informs this Court that the Divisional Commissioner, Medinipur Division is the Arbitrator appointed by the Central Government to act in terms of Section 20F(6) of the Act of 2008. She submits that the petitioner be directed to file application before the said Arbitrator for consideration of his grievance.

Mr. Chandi Charan De, learned Additional Government Pleader also submits in the similar fashion.

In order to appreciate the issue raised in the writ petition it is apposite to reproduce the provisions of Section 20F(6) of the Act of 2008 as hereunder:

“If the amount determined by the competent authority under sub-section (1) or as the case may be, sub-section (3) is not acceptable to either of the parties, the amount shall, on an application by either of the parties, be determined by the arbitrator to be appointed by the Central Government in such manner as may be prescribed.”

Bearing in mind the aforesaid provisions, since the petitioner has raised grievance with regard to determination of compensation, the same needs to be determined by an arbitrator appointed by the Central Government. Accordingly, the petitioner is granted liberty to file appropriate application before the Arbitrator i.e. Divisional Commissioner, Medinipur Division within four weeks from date. Upon such application being made the Divisional Commissioner, Medinipur Division being the Arbitrator appointed by the Central Government shall

consider and dispose of the application of the petitioner in accordance with law and on merits within a period of four months from the date of filing of the application by the petitioner after giving opportunity of hearing to all the concerned parties including the petitioners by passing a reasoned order.

The result of such decision of the Arbitrator i.e. Divisional Commissioner, Medinipur Division shall be communicated to the petitioner within a week thereof.

With the above directions, this writ petition being **WPA 2603 of 2023** stands disposed of along with all connected applications, if any.

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

Interim order, if any, stands vacated.

All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.

Urgent photostat copy of this order, if applied for, be given to the parties upon compliance of necessary legal formalities.

(Bivas Pattanayak, J.)