

August 12, 2024
Sl. No.A 35
Court No.9
s.biswas

WPA 11284 of 2024

Alim Mondal
vs.
Union of India and others

Mr. Uday Sankar Chattopadhyay
Mr. Suman Sankar Chatterjee
Ms. Trisha Rakshit
Ms. Rajashree Tah
Ms. Aishwarya Datta
Ms. Bidisha Chakraborty

... for the petitioner

Mr. Ms. Chandreyee Alam
Ms. Sanjukta Gupta

... for the Union of India

Mr. Samridha Sen

...for the ONGC

1. The petitioner is aggrieved by the alleged illegal stacking of soil and earth adjacent to the land of the petitioner, by the workers of Oil and Natural Gas Corporation.
2. It is submitted that a project of the ONGC is coming up under Bongaon Sub-division and the construction of such project has resulted in reckless and indiscriminate use of the land, resulting in loss of lives of at least 1700 birds which the petitioner was breeding in his poultry farm.
3. The petitioner contends that the veterinary doctor also certified that the boundary wall of the project was high and the same obstructed free flow of oxygen.

4. The petitioner has approached this court for compensation and for necessary action, against those persons who were responsible for execution of the project.
5. The learned advocate for the ONGC submits that a part of the land of the petitioner was also leased out to ONGC. The soil had been stacked within the boundary wall of the project. The opinion of the doctor was rebuttable and subject to proof. Thus, the writ court cannot pass any order on such prayer.
6. Learned advocate for the Union of India submits that the matter is between the ONGC and the petitioner and the Union of India does not have any role to play.
7. Heard the parties. The issue of compensation/damages are matters of evidence. The petitioner is granted liberty to approach the civil court. However, the respondent no.4 being a superior officer of the ONGC is directed to ensure that the project does not in any way hamper the daily lives of the petitioner. His business should continue in accordance with law and without any hazard on account of the ongoing project. Health and hygiene should be adequately taken care of. If the petitioner can convince the authority that the action of the persons responsible for

construction of the project had resulted in loss of the lives of the birds or had in any way polluted the area to the extent that the birds did not get adequate oxygen, in that event reasonable compensation must be decided to be paid by

ONGC, as per their calculation. The respondent no.4 shall be approached by the petitioner within two weeks from date and the matter shall be disposed of upon hearing the petitioner and the persons responsible for supervising the project, by passing a reasoned order. The order shall be communicated to the petitioner within two weeks from the date of receipt of the petitioner's representation. If the height of the boundary wall of ONGC can be reduced to ensure free flow of oxygen or can be designed in a way that there is flow of light and air, such issue shall also be looked into by the respondent No.4.

8. Accordingly, the writ petition stands disposed of.
9. All the parties are directed to act on the basis of the server copy of the order.

(Shampa Sarkar, J.)