

04.09.2024
Sl. No. 126
AKG
Ct. 15

WPA 22165 of 2024
Rajib Samanta
-vs-
The National Highway Authority of India & Ors.

Mr. Dyutiman Banerjee,
Mr. Sourat Nandy

...for the Petitioner

Ms. Manika Roy,
Ms. Ankita Chowdhury

...for NHAI

Mr. Chandi Charan De,
Mr. A. Sarkar

...for the State

The petitioner challenges an order dated August 21, 2024, issued by the Project Director of the National Highway Authority of India, PIU-Kolkata, under Section 26 of the National Highways (Land and Traffic) Act, 2002.

The learned advocate representing respondent no. 2 contends that this order was issued in compliance with an earlier order dated May 15, 2024, passed in a previous writ petition by a Co-ordinate Bench. She asserts that the order dated August 21, 2024, is an appealable order under Section 14 of the National Highways (Land and Traffic) Act, 2002. Additionally, she submits that the concessionaire issued a notice dated June 14, 2024, regarding alleged encroachment by the petitioner on National Highway-41.

Nevertheless, I am inclined to entertain this writ petition despite the alternative remedy of appeal. A

plain reading of the impugned order reveals the violation of principles of justice. A perusal of the order dated August 21, 2024, indicates that the Project Director relied on a report from the concessionaire concerning the disputed plot of land. Based on this report, the Project Director concluded that the petitioner had encroached upon the property.

The learned advocate for the petitioner argues that this report was never provided to the petitioner, a fact that was not disputed by the learned advocate representing respondents no.1 and 2. It is well established that documents relied upon by an authority in making a decision that affects a party's rights must be disclosed to that party to ensure a fair decision-making.

In light of this, the order dated August 21, 2024, is set aside. This order does not preclude the authorities from initiating a fresh proceeding against the petitioner under Section 26 of the National Highways (Land and Traffic) Act, 2002, in accordance with the law.

WPA 22165 of 2024 is disposed of.

Urgent certified *website* copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Kausik Chanda, J.)