

Item no.
14
29.04.2024
Saswata

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction**

WPA 607 of 2024

**Apurba Sarkar & Anr.
versus
Union of India & Ors.**

Mr. Saumyajit Dutta
Mr. Gopal Sah

...For the petitioners

Mr. Sourab Kar

...For the Union of India

Mr. Milindo Paul
Mr. Nabankur Paul
Ms. Bedashruti Bose

...For the respondent nos. 2, 3, 4 and 7

Mr. Hirak Barman
Mr. Bikash Singha

...For the State

1. The present writ petition has been filed, inter alia, calling upon the respondent no. 3 to disburse the compensation in favour of the petitioners, consequent upon issuance of notice dated 28th February 2023 and the utilization of petitioners' property, on account of right of user and damage to standing crops.
2. It is the petitioners' case that pursuant to a notification published in the Gazette of India on 28th February 2023 in terms of the proposal of Numaligarh Refinery Limited, the Central Government in exercise of powers conferred under sub-Section (4) of Section 6 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962¹, had directed that the right of user in the lands as specified in the schedule appended to the aforesaid notification for laying the pipeline shall, jointly vest on the date of publication of the declaration in the

GAIL (India) Limited for laying the Barauni Guwahati Natural Gas Pipeline (BGPL) as well as for laying Paradip Numaligarh Crude Oil Pipeline (PNCPL) by Numaligarh Refinery Ltd. for 92.63 Km in Coochbehar (West Bengal) District free from all encumbrances.

3. Pursuant to the aforesaid, a notification dated 13th December 2023 was served on the petitioners in terms of Section 7(1)(i) of the said Act read with Rule 4 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Rules, 1963². The petitioners, consequent upon receipt of the aforesaid notification, had filed their claim before the competent authority on 26th December 2023 as appearing as annexure P-3 of the instant writ petition. Although, the respondents were obliged to prepare the panchnama in presence of the petitioners, the same was not done. No compensation has been afforded to the petitioners. In the circumstances the petitioners had made written representations. Despite the same no steps have been taken by the authorities.
4. Mr. Paul, learned advocate appearing for the respondent nos. 2, 3, 4 and 7 submits that the petitioners did not sign the relevant panchnama for which no compensation was disbursed in their favour. The written instruction placed by Mr. Paul before this Court is retained with the record.
5. In response, Mr. Dutta, learned advocate appearing for the petitioners denies the aforesaid contention. He submits once notice had been served on the petitioners, the authorities cannot deny compensation to the

¹ Hereinafter referred to as the “said Act”

petitioners. In the complaint the petitioners have claimed that the panchnama was prepared behind the petitioners' back. By placing reliance on the provisions of Section 11 of the said Act, it is submitted that in the event of any dispute as to the apportionment of the compensation or any part thereof or as to the persons to whom the same or any part thereon is payable, the competent authority is obliged to refer the dispute to the decision of the District Judge within the limits of whose jurisdiction the land or any part thereof is situated.

6. In the instant case, although the respondent no. 3 was obliged to have the dispute referred to the concerned District Judge, no such steps have been taken by the respondents.
7. Mr. Singha and Mr. Kar, learned advocates, enter appearance on behalf of the State and the Union of India respectively.
8. Heard the learned advocates appearing for the respective parties and considered the materials on record.
9. Admittedly, in this case it is noticed that a notification under Section 6(4) of the said Act was published. The petitioners were also served with a communication dated 13th December 2023 in terms of Section 7(1)(i) of the said Act read with Rule 4 of the said Rules. In pursuance to the aforesaid, the petitioners had duly lodged their claim seeking compensation in terms of Rule 4 of the said Rules. I find the reason disclosed by the respondents for not making the compensation available to the petitioners is the non signing of the

² Hereinafter referred to as the "said Rules"

panchnama. There appears to be some dispute as to whether the panchnama was executed in the presence of the petitioners. Be that as it may when the petitioners have a claim and when there is some dispute as regards the claim for compensation, the same ought to have been adjudicated by the Learned District Judge in terms of Section 11 (5) of the said Act.

10. To morefully appreciate the same, Section 11(5) of the said Act is extracted hereinbelow:-

11. Deposit and payment of compensation-

.....
“(5) If any dispute arises as to the apportionment of the compensation or any part thereof or as to the persons to whom the same or any part thereon is payable, the competent authority shall refer the dispute to the decision of the District Judge within the limits of whose jurisdiction the land or any part thereof is situated and the decision of the District Judge thereon shall be final.”

11. The respondents on their own, cannot deny compensation to the petitioners after having invited the petitioners to lodge their claim. In view thereof, I direct the Competent Authority, being the respondent no. 2 to refer the dispute to the concerned Learned District Judge having jurisdiction in terms of Section 11(5) of the said Act. The said reference shall be made within a period of 6 weeks from the date of communication of this order.

12. Since, no affidavit-in-opposition has been called for, the allegations made in the petition are deemed not to have been admitted by the respondents.

13. With the above observations and directions, the writ application being WPA 607 of 2024 is accordingly disposed of.

14. All parties shall act on the basis of the server copy of this order duly downloaded from this Hon'ble Court's website.

(Raja Basu Chowdhury, J.)