

M/L 10
04.08.2025
Court. No. 19
Sourav

WPA 17437 of 2023

**Biplab Kundu & Anr.
Vs.
Union of India & Ors.**

*Mr. Arindam Das
Ms. Ananya Chakraborty
Mr. Snehasish Ghosh*

...for the petitioners.

Mr. Debangshu Dinda

...for the State.

*Ms. Manika Roy
Ms. Ankita Chowdhury
Mr. Atanu Sur*

...for NHAI.

1. The parties to the instant writ petition are represented by their respective learned advocates.
2. At the very outset, Mr. Dinda, learned advocate appearing on behalf of the respondent/State submits before this Court that he intends to file a report supported by affidavit in connection with the instant writ petition.
3. On perusal of the orders dated 16.08.2023, 17.11.2023, 05.01.2024, 09.02.2024, 20.03.2024, 17.05.2024 and 10.06.2025, it appears to this Court that on all the occasions, the respondent/State and its instrumentalities were represented by their learned advocate, however, no prayer was made before this Court to file a report and/or affidavit-in-opposition.
4. Such being the position, this Court is of considered view that it would be unjust if any accommodation is given to

the State to submit a report since the instant writ petition is pending for a period of two years or more.

5. Ms. Roy, learned advocate appearing on behalf of the NHAI/authority submits before this Court that apart from the report as filed by the respondent nos. 2, 3 and 4 and as affirmed on 13.12.2023, she intends to file some more documents. She also seeks for an accommodation.
6. Prayer for accommodation is considered and rejected since the respondent nos. 2, 3 and 4 have already submitted their report and against such report, an exception has been filed by the writ petitioners.
7. By filing the instant writ petition, the writ petitioners have prayed for issuance of appropriate writ/writs against the respondents/authorities, more specifically, against the respondent no. 7/authority for quashing of the award as passed under Section 3G(1) of the National Highways Act, 1956 (hereinafter referred to as 'the said Act of 1956' in short) in connection with L.A. Case No. 54A/NH/10-11.
8. Mr. Das, learned advocate appearing on behalf of the writ petitioners at the very outset draws attention of this Court to Page No. 18 of the report as submitted on behalf of the respondent nos. 2, 3 and 4. It is submitted that from Page No. 18 of the said report, being a copy of the memo dated 13.08.2015, it would reveal that the award in connection with the said land acquisition case was declared on 31.03.2015.
9. At this juncture, Mr. Das took me to the 4th Schedule of the said Act of 2013 wherefrom it reveals that the said Act

of 1956 is included in the 4th Schedule of the said Act of 2013. It is submitted by Mr. Das that though the said Act of 2013 was brought into effect on January 1, 2014, however, from Page No. 29 of the said report of the NHAI/authority, it would reveal that in respect of the said Act of 1956, the said Act of 2013 was made applicable with effect from 01.01.2015.

10. At this juncture, Mr. Das again draws attention of this Court to Clause III(c) of the Manual of Guidelines on Land Acquisition for National Highways under the said Act of 1956 as has been annexed with the report of the respondent nos. 2, 3 and 4 at Page Nos. 28 and 29. It is submitted that from the said Guidelines, it would reveal that all cases of land acquisition, where the award has not been announced under Section 3G of the said Act of 1956 till 31.12.2014, the compensation would be payable in accordance with the first schedule of the said Act of 2013.
11. It is thus submitted by Mr. Das that in view of such clear guideline, the respondent no. 7/authority has miserably failed to assess the award in connection with L.A. Case No. 54A/NH/10-11 in terms of the provisions of the said Act of 2013.
12. It is thus submitted by Mr. Das that in view of the facts and circumstances as involved in the instant writ petition, appropriate relief/reliefs may be granted to the writ petitioners in accordance with the prayers as made in the instant writ petition.
13. In course of her submission, Ms. Roy, learned advocate appearing on behalf of the respondent nos. 2, 3 and 4 at

the very outset draws attention of this Court to the paragraph nos. 11, 12 and 13 of the said report as affirmed on 13.12.2023. It is submitted that under cover of the said paragraphs of the said report, it is the specific case of the respondent nos. 2, 3 and 4/authorities that since in respect of the majority of the land holdings under acquisition as on 31.12.2014 compensation has been paid, the writ petitioner is not entitled to the reliefs as prayed for.

14. It is further submitted by Ms. Roy that from Page Nos. 30 and 31 of the said report, it would reveal that in respect of majority of the land acquisition in various mouzas, compensation was disbursed prior to the cutoff date which would be evident from Annexure R-6 of the report of the respondent nos. 2, 3 and 4 at page nos. 30 and 31.
15. In course of hearing, Ms. Roy, learned advocate appearing on behalf of the respondent nos. 2, 3 and 4 submits before this Court that an identical question was involved in WPA 21413 of 2014 (***Santosh Kumar Saha and Others Vs. The State of West Bengal and Others***) wherein this Court expressly held thus:

“28. At this juncture, if I once again look to the internal page nos. 4, 5, 6 and 7 of the order under challenge, it reveals to this court that in respect of the majority of the land holding under acquisition as on 31.12.2014 the awards have been announced and compensation has been paid prior to the cut off date, i.e., 31.12.2014. in view of such, this court finds sufficient force in the submissions of Ms. Roy and Mr. Dey that though in respect of mouza Itla, award was declared

after 31.12.2014 more specifically on 31.03.2015, but in respect of the majority of the land holding under self-same acquisition process, awards have been declared either on or before 31.12.2014.

*29. As rightly pointed by Mr. Dey, learned AGP for the State, if I look to Clause 4.6 (iii) (e) of the said guideline, it again appears to this court that **in respect of the majority of the land under acquisition** the process of acquisition has been completed by passing of the award by CALA and by deposit of the amount by the acquiring body with the CALA and disbursement of compensation to the land owners on or before the cut off date that is 31.12.2014 and thus as per the said guideline, those cases cannot be reopened any further.*

30. In absence of any perversity in the order under challenge, this Court finds very little scope to interfere with the order impugned.”

16. It is thus submitted by Ms. Roy that in view of such, the writ petitioners are not entitled to the reliefs as prayed for.
17. Mr. Dinda, learned advocate appearing on behalf of the respondent/State supports the contention of Ms. Roy.
18. This Court has meticulously gone through the entire materials as placed before this Court, this Court has given due consideration over the submissions of the learned advocates for the contending parties.
19. Since the learned advocate for the writ petitioner and the learned advocate for the respondent nos. 2, 3 and 4 have placed their reliance upon the aforementioned manual of guidelines on land acquisition for National Highways under the said Act of 1956, this Court proposes to look to

Page No. 29 of the relevant portion of the said report which is as under:

“iii) By now, it is also a settled proposition that the First, Second and Third Schedule of the RFCTLARR Act, 2013 shall be applicable to the NH Act, 1956 with effect from 01.01.2015. As such, the following is clarified:

(c) All cases of Land Acquisition where the Awards had been announced under Section 3G of the NH Act till 31.12.2014 or where such awards had been announced but compensation had not been paid in respect of majority of the land holdings under acquisition as on 31.12.2014, the compensation would be payable in accordance with the First Schedule of the RFCTLARR Act, 2013.”

20. Keeping in mind the relevant portion of the guidelines, if I look to the Page Nos. 30 and 31 of the said report as filed on behalf of the respondent nos. 2, 3 and 4, it reveals that in respect of the relevant acquisition proceeding, compensation has been paid to the majority of the land losers on or before 31.12.2014, however, in case of the writ petitioners as appearing in serial no. 58 at Page No. 31 of the said report, it reveals that the compensation was paid after 31.12.2014.
21. In view of such factual position, the moot question arises for consideration as to whether the writ petitioners are entitled to the relief as prayed for that is to say a writ in the nature of mandamus directing the respondent no. 7/authority to redetermine the compensation as paid to them in terms of the said Act of 2013.

22. On careful consideration of the Clause (iii)(c) of the said Manual as available at Page No. 29 of the said report, it appears to this Court that it is the clear directive that the compensation would be payable in accordance with the provisions of the said Act of 2013 in the following cases namely:

where the awards have not been announced under Section 3G of the said Act of 1956 till 31.01.2014

Or

Where such awards have been announced but compensation had not been paid in respect of the majority of the land holding under acquisition as on 31.12.2014.

23. It thus appears to this Court that the said two clauses are separated by a disjunctive clause 'or'. It thus appears to this Court that in the event, anyone clause is satisfied the payment of compensation in terms of the first schedule of the said Act of 2013 will not apply.

24. As rightly pointed out by Ms. Roy, learned advocate appearing on behalf of the respondent nos. 2, 3 and 4 that from Page Nos. 30 and 31 of the report as submitted by the respondent nos. 2, 3 and 4, it would reveal that in connection with the aforementioned land acquisition cases, award has been announced and compensation has been paid in respect of the majority of the land holding under acquisition on or before the cut off date, that is 31.12.2014.

25. Such being the position, this Court has got no hesitation to hold that since in respect of the majority of the land holdings under acquisition compensation has been paid

prior to the cut off date, the writ petitioners will not get any benefit only because they were awarded compensation after 31.12.2014.

26. As rightly pointed out by Ms. Roy, learned advocate for the NHAI authority the same view was taken by me in the case of '***Santosh Kumar Saha (supra)***'.
27. With the aforementioned observations, the instant writ petition being **WPA 17437 of 2023** is dismissed.
28. There shall be, however, no order as to costs.
29. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Partha Sarathi Sen, J.)