

WPA 28636 of 2022

**Dhaneswar Mahata
Vs.
Union of India & Ors.**

Mr. Ivan Roy
Mr. Nirupam Dutta
.....for the petitioner
Mr. Asish Kumar Guha
Mr. Rajendra Chaturvedi
.....for the State-respondents
Ms. Manika Roy
.....for the NHAI
Mr. Dwijiadas Chakraborty
.....for the Union of India

Petitioners plot of land was acquired by the concerned authority for construction and expansion of National Highway 32, **vide LA Case No. 28 of 2015/NH-32**. A portion of land of the petitioner was acquired in the said LA case. Accordingly, award of compensation was prepared for acquisition of petitioner's land. The petitioner was served with a notice by the concerned authority determining his compensation. He again served with a notice under Section 3G of N. H. Act, 1956 to submit the details of his documents regarding his title over the plots of land. He produced the documents and made representations with the authority regarding his objections of the amount of compensation but his representations were not considered, hence this writ petition.

It is the contention of the learned counsel for the State authority that award of compensation was

calculated by the concerned authority for acquisition of the petitioner's land. Notice was issued to the petitioner for disbursement his compensation. In response to such notice, the petitioner had appeared and accepted the award of compensation of the said LA case "with protest".

It is the contention of the State-respondents that if he is not happy with the said compensation he may proceed to refer the matter before the concerned arbitrator made under Section 3G(5) of the National Highways Act, 1956.

Learned counsel appearing on behalf of the National Highway submits that the instant writ petition is not at all maintainable. The prayer made in the writ petition is infructuous. She submits that in terms of prayer (a) and (b) of the writ petition, the instant writ petition cannot be maintainable as the petitioner has prayed for *de novo* arbitral proceeding in this matter. She submits that after arbitral proceeding has been done in terms of Section 3G of N.H. Act, 1956, the competent authorities is there to determine the legality and validity of the award under Section 34 of Arbitration and Conciliation Act. Thus, the instant writ petition is not maintainable.

Learned counsel for the petitioner in reply concedes that actually there is no such arbitral proceeding initiated by the competent authority, so he submits that petitioner's representation may be

considered by molding his prayer in the writ petition so that the concerned authority may initiate the arbitral proceeding in respect of the LA case and considering his representation as objection against the amount and calculation of compensation.

Having heard learned counsel for the parties it appears to me that in prayer (a) and (b) of the writ petition is not proper or justified but in respect of prayer (c), in which petitioner has prayed for issuance of mandamus upon the concerned authority for consideration of his representation, seems relevant.

Having heard learned counsel for the parties and after considering the report filed by the State, it appears to me that the State authority has calculated the compensation in terms of provision of Section 3G(1) of the National Highways Authority Act, 1956. After receiving the notice of compensation, the petitioner has accepted the compensation with objection. He made a specific representation with the authority. The authority has not acted upon his representation. Thus, it is justified to hold that the arbitrator was not appointed in this case in terms of Section 3G(5) of the N.H. Act, 1956.

Under the above observation I think it justified to direct the concerned authority to consider the representation of the petitioner treating it as objection of the petitioner in respect of his award and let the same representation be forwarded to the statutory

arbitrator for further determination of the compensation according to the law.

It is not clear before this Court whether the petitioner has accepted compensation or not. The State authority has made specific averment that the petitioner has accepted the compensation. However, the matter whether the petitioner has received the compensation in this case or not, has to be considered by the concerned authority/ arbitrator at the time of disposing of the representation.

Under the above observation the instant writ petition is disposed of by directing the concerned authority/arbitrator to dispose of the representation of the petitioner at page 50 of the writ petition according to law within eight weeks from the date of communication of this order after giving a reasonable opportunity of being heard to all concern.

The decision of the authority shall be intimated to the petitioner within two weeks thereof.

The writ petition is disposed of.

It is made clear that this Court is not entered into the merit of the claim of the representation regarding the calculation of the compensation. The concerned authority/arbitrator shall dispose of representation petition according to the law without being influenced by any observations of this Court.

(Subhendu Samanta, J.)