

a) Whether the appointment of a Divisional Commissioner as an arbitrator would at all be in conformity with the law now declared by Constitutional Bench of the Supreme Court in terms of independence and impartiality being fundamental to the conduct of arbitration in India;

b) Whether an arbitrator appointed by the Government of India for arbitration under the special provisions of the National Highways Act would be free to not render judgments for inordinately long periods such as found in the instant case.

3. At the threshold, evidently, a case has been made out for substitution of the arbitrator on the ground of undue delay in conducting the arbitration, since there has been no movement whatsoever in the matter.

4. Learned Counsel for the Petitioner in fact highlights paragraph 4.5.1(ii) in a manual for land acquisition under the National Highways Act published by the Government of India, in which there is an evident observation stating that there may be officers before whom

may be 100 or more arbitrations are pending and that it may take a few years for these cases to be decided. The manual mandates these officers to conclude arbitration quickly, considering that in a given case, an award was rendered after ten years, resulting in a huge liability on the National Highways Authority of India along with interest for the delay in all these orders.

5. In these circumstances, it would be in public interest to ascertain how to do justice to these matters. Learned Counsel for the Respondent submits that he will need time to take instructions on whether a substituted arbitrator could be appointed to resolve the stand-off in these proceedings.

6. To enable him to take instructions, stand over to ***April 22, 2025***.

7. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]