

Item No.11
05.01.2026
Court. No. 2
SKG

*CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE JURISDICTION*

WPA 2579 of 2025

Sri Agnimoy Ganguly
VS
The State of West Bengal & Ors.

*Mr. Bapi Sarkar,
Mr. Roumyadip Sahu*

...for the Petitioner.

*Mr. Pretom Das,
Mr. Bikash Singha*

...for the State.

*Mr. Dipankar Das,
Ms. Supriya Singh,
Ms. Susmita Ghosh*

...for N.H.A.I

*Mr. Sudipto Kumar Mazumder, Ld. DSGI
Mr. Sourab Kar, CGC*

*...for the Union of India
Respondent no. 1 & 2*

1. The petitioner has challenged the decision of the Special Learned Acquisition Officer, Cooch Behar dated December 2, 2025.
2. By the order impugned, the concerned authority rejected the claim of the petitioner, seeking compensation on the basis of a notification dated February 9, 2016 published by the Joint Secretary, Ministry of Rural Development.
3. Learned Advocate for the petitioner challenges the above order on various grounds. First ground taken is that, the order suffers from mis-appreciation of

law. The National Highway Authority is an instrumentality of the Union. The appropriate Government is the Central Government. The notification should have been made applicable by applying the multiplier 2 in place of 1.1. The authority erroneously held that as the land was situated within the State of West Bengal, the State of West Bengal was the appropriate Government and as such the multiplier of 1.1 should be made applicable.

4. The acquisition of the land was for the purpose of building the National Highway. The requiring body was the National Highway Authority of India. The public purpose involved was for construction of a road by the National Highway, to implement the policies of the Union.
5. The Learned DSG appears on behalf of the Union of India and submits that the order impugned is a decision on the compensation payable to the petitioner. The authority decided once again that the multiplier of 1.1 would be applicable in case of the petitioner. Such decision cannot be challenged by filing a writ petition as the National Highways Act, 1956 provides an efficacious remedy to the petitioner to approach the arbitrator. It is further submitted that the notification of 2016 will not apply as the notices under Section 3A and 3D of the 1956

Act, were issued in 2011 and 2012 respectively.

Thus, the market value was calculated at the rate prevailing at the relevant point of time.

6. Ms. Supriya Singh, learned Advocate for the National Highway Authorities submits that the decision can only be challenged under the provisions of the National Highways Act, 1956. The notification of 2016 has not been given retrospective effect. It is further submitted that the acquisition relates to Kholta Mouza. The award was published long ago. The arbitration in respect of the entire Mouza was completed long time ago. The award was published and an application under Section 34 of the Arbitration and Conciliation Act, 1996 from the said award, had also been preferred.
7. Under such circumstances, whether the calculation arrived at by the State authority is correct or not is a matter for adjudication by the arbitrator under the provisions of Section 3G(5) of the National Highway Authorities Act, 1956. Section 3G provides the method and mechanism for determination of the amount payable as compensation. The same is quoted below:

“3G. Determination of amount payable as compensation.—(1) Where any land is acquired under this Act, there shall be paid an amount which shall be determined by an order of the competent authority.

(2) Where the right of user or any right in the nature of an easement on, any land is acquired under this Act, there shall be paid an amount to the owner and any other person whose right of

enjoyment in that land has been affected in any manner whatsoever by reason of such acquisition an amount calculated at ten per cent, of the amount determined under sub-section (1), for that land.

(3) Before proceeding to determine the amount under sub-section (1) or sub-section (2), the competent authority shall give a public notice published in two local newspapers, one of which will be in a vernacular language inviting claims from all persons interested in the land to be acquired.

(4) Such notice shall state the particulars of the land and shall require all persons interested in such land to appear in person or by an agent or by a legal practitioner referred to in sub-section (2) of section 3C, before the competent authority, at a time and place and to state the nature of their respective interest in such land.

(5) If the amount determined by the competent authority under sub-section (1) or sub-section (2) is not acceptable to either of the parties, the amount shall, on an application by either of the parties, be determined by the arbitrator to be appointed by the Central Government—

(6) Subject to the provisions of this Act, the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply to every arbitration under this Act.

(7) The competent authority or the arbitrator while determining the amount under sub-section (1) or sub-section (5), as the case may be, shall take into consideration—

(a) the market value of the land on the date of publication of the notification under section 3A;

(b) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the severing of such land from other land;

(c) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the acquisition injuriously affecting his other immovable property in any manner, or his earnings;

(d) if, in consequences of the acquisition of the land, the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change.”

8. Section 3G(5) which is quoted above provides that if the amount determined by the competent authority under sub Section 1 or 2 of Section 3G is not

acceptable to either of the parties, the amount shall be determined by the arbitrator to be appointed by the Central Government. Subsection 7(a) states that the market value on the date of notification under Section 3A should be taken into consideration for determination of the market value. Such notification was published in 2011. Thus, the multiplier of 2 came into operation in 2016. The writ petition cannot be entertained. The petitioner's remedy was before the arbitrator. In any event, as a co-ordinate Bench had directed the Special Land Acquisition Collector to decide the applicability of the notification, the reasoned order rejecting the applicability of the notification of 2016 was passed.

9. Under such circumstances, the writ petition is disposed of, granting liberty to the petitioner to proceed strictly in accordance with law.
10. There shall be no order as to costs.
11. Parties to act on the server copy of this order duly downloaded from the official website of this Court.

(Shampa Sarkar, J.)