

2026.PHHC.084371



213+214 (u) **IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Decided on:-26.05.2026

1. CWP-16367-2026 (O&M)

Girraj Singh

....Petitioner.

vs.

National Highway Authority of India and ors.

....Respondents.

2. CWP-16384-2026 (O&M)

Prithvi Singh

....Petitioner.

vs.

National Highway Authority of India and ors.

....Respondents.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr.Shubham Bhalla, Advocate with
Mr. Nishith Bansal, Advocate for the petitioner(s).

Mr. D.K. Prajapati, Advocate for
Mr.Mahender Joshi, Advocate for respondents No.1 & 2-NHAI.

Ms. Komal Sharma, DAG, Haryana for respondents No.3 to 5.

HARKESH MANUJA J. (Oral)

1. By this common judgment, the aforementioned two civil writ petitions are being decided as common question of law and facts are involved.

2. By way of present writ petition, challenge has been laid to orders dated 28.04.2026 and 06.05.2026 (Annexure P-11 and P-13 respectively) passed by the learned Arbitrator-cum-Deputy Commissioner, Palwal, whereby two applications moved at the instance of petitioner(s)-

landowner(s), were declined.

3. Briefly stating, some land owned by the petitioner(s)-landowner(s) forming part of Tehsil Hodal, District Palwal, came to be notified/acquired under the provisions of the National Highways Act, 1956 (for brevity, “**1956 Act**”); followed by an Award dated 26.04.2012 passed by respondent No. 4.

3.1. Being aggrieved of the said determination, the petitioner invoked arbitration which came to be decided by respondent No. 5 vide its award dated 11.10.2017 (Annexure P-4). The validity of the said award was assailed at the instance of petitioner(s)-landowner(s) having invoked Section 34 of the 1996 Act, which was partly allowed vide order dated 24.08.2022 (Annexure P-5). The relevant paragraphs thereof are extracted hereunder:-

*“18. As discussed above the impugned award dated 11.10.2017 is devoid of reasoning, appreciation of evidence in relation to the facts of the case and the Principles of law applicable to it. Hence, the award is arbitrary, illegal and cannot be sustained. The same is liable to be set aside. However the prayer of remanding back the case to the same Arbitrator and giving him specific directions are not maintainable, as per the provisions under section 34 (4) of The Act, as held in **Kinnari Mullick's case (supra)**.*

19. For the reasons recorded above, the present petition is partly allowed with costs, to the effect that the award order dated 11.10.2017 of the Learned Arbitrator is hereby set aside. Memo of costs be prepared accordingly. File be consigned to the record room, after due compliance.”

3.2. Thereafter, the order dated 24.08.2022 passed by the learned Additional District Judge, Palwal was assailed before this Court by way filing of FAOs, which were ordered to be dismissed as withdrawn vide order dated 03.03.2023 (Annexure P-6) and the same is extracted hereunder:-

“Learned counsel for the appellant(s) after arguing some time and realizing that the award has been set aside and there is no bar for seeking fresh arbitration, seeks permission to withdraw the present appeals.

Dismissed as withdrawn.

A photocopy of this order be placed on the files of connected cases.”

3.3 In view of the aforesaid, fresh petition under Section 3-G of the 1956 Act, was filed at the instance of petitioner(s)-landowner(s) before respondent No.5 to seek re-determination and enhancement of compensation. During the said proceedings, the evidence of the petitioner(s)-landowner(s) came to be closed on 24.04.2026. Immediately thereafter, the petitioner(s)-landowner(s) moved two separate applications; one for recalling of the order dated 24.04.2026 with permission for examination of witnesses besides production of records; and another in terms of Section 27 of the 1996 Act to seek approval of the Arbitration Tribunal for taking Court assistance for deposing evidence and recording of material witnesses. Both the aforementioned applications preferred at the instance of petitioner(s)-landowner(s) were dismissed by respondent No.5 vide two separate orders dated 28.04.2026 and 06.05.2026, which have been assailed by way of present writ petition(s).

4. Learned counsel appearing on behalf of the petitioner(s) restricts his prayer solely with respect to the issuance of direction to respondent No.4 for production of the Divisional Level Price Fixation Committee report dated 27.12.2010 and also for summoning of the witnesses related thereto. Learned counsel submits that the said evidence is very much necessary for the complete and effective adjudication of the case by the learned Arbitrator so that the rights of the parties can be adjudicated upon in

a complete and effective manner. Thus, in view of these circumstances, ld. counsel submits that the prayer in the present petition deserves to be allowed.

5. Separate replies on behalf of respondents No.1 & 2 in both the cases have been filed in Court today and the same are taken on record.

6. Learned counsel appearing on behalf of the respondents opposes the prayer made on behalf of the petitioner(s) while challenging the maintainability of present writ petition by relying upon judgment passed by the Hon'ble Apex Court in **"M/s S.B.P. & Co. vs. M/s Patel Engineering Ltd. and another"** reported as **2006 AIR Supreme Court 450**. Relevant paragraphs No.44 and 45 thereof are extracted hereunder:-

"44. It is seen that some High Courts have proceeded on the basis that any order passed by an arbitral tribunal during arbitration, would be capable of being challenged under Article 226 or 227 of the Constitution of India. We see no warrant for such an approach. Section 37 makes certain orders of the arbitral tribunal appealable. Under Section 34, the aggrieved party has an avenue for ventilating his grievances against the award including any in-between orders that might have been passed by the arbitral tribunal acting under Section 16 of the Act. The party aggrieved by any order of the arbitral tribunal, unless has a right of appeal under Section 37 of the Act, has to wait until the award is passed by the Tribunal. This appears to be the scheme of the Act. The arbitral tribunal is after all, the creature of a contract between the parties, the arbitration agreement, even though if the occasion arises, the Chief Justice may constitute it based on the contract between the parties. But that would not alter the status of the arbitral tribunal. It will still be a forum chosen by the parties by agreement. We, therefore, disapprove of the stand adopted by some of the High Courts that any order passed by the arbitral tribunal is capable of being corrected by the High Court under Article 226 or 227 of the Constitution of India. Such an intervention by the High Courts is not permissible.

45. *The object of minimizing judicial intervention while the matter is in the process of being arbitrated upon, will certainly be defeated if the High Court could be approached under Article 227 of the Constitution of India or under Article 226 of the Constitution of India against every order made by the arbitral tribunal. Therefore, it is necessary to indicate that once the arbitration has commenced in the arbitral tribunal, parties have to wait until the award is pronounced unless, of course, a right of appeal is available to them under Section 37 of the Act even at an earlier stage.*

No material arguments have been addressed relating to the merits of the claim set up in the writ petition.

7. I have heard learned counsel for the parties and gone through the paper book.

8. With respect to maintainability of the present writ petition(s), reference is required to be made to the decision rendered by Delhi High Court in ***“Surender Kumar Singhal and others vs Arun Kumar Bhalotia and others”*** decided on 25.03.2021, wherein the issue pertaining to the maintainability of a writ petition as against the orders passed by the Arbitral Tribunal during pendency of the arbitration proceedings has been elaborately dealt with after having considered the law laid down in ***M/s S.B.P. & Co.’s case (supra)***. Even, an SLP (C) No.6171-2021 filed against the aforesaid judgment dated 25.03.2021, stood dismissed by the Hon’ble Apex Court on 27.04.2021. The Relevant paragraphs No.18 to 20 of ***Surender Kumar Singhal’s case (supra)*** are extracted hereunder:-

“ Maintainability

18. *Dealing with the first aspect, the law is well settled that Arbitral tribunals are a species of tribunals over which the High Court exercises writ jurisdiction. Challenge to an order of an arbitral tribunal*

can be raised by way of a writ petition. In Union of India v. R. Gandhi, President Madras Bar Association (supra) the Supreme Court observed on the question as to what constitutes 'Courts' and 'Tribunals' as under:

"38. The term 'Courts' refers to places where justice is administered or refers to Judges who exercise judicial functions. Courts are established by the state for administration of justice that is for exercise of the judicial power of the state to maintain and uphold the rights, to punish wrongs and to adjudicate upon disputes. Tribunals on the other hand are special alternative institutional mechanisms, usually brought into existence by or under a statute to decide disputes arising with reference to that particular statute, or to determine controversies arising out of any administrative law. Courts refer to Civil Courts, Criminal Courts and High Courts. Tribunals can be either private Tribunals (Arbitral Tribunals), or Tribunals constituted under the Constitution (Speaker or the Chairman acting under Para 6(1) of the Tenth Schedule) or Tribunals authorized by the Constitution (Administrative Tribunals under [Article 323A](#) and Tribunals for other matters under [Article 323B](#)) or Statutory Tribunals which are created under a statute (Motor Accident Claims Tribunal, Debt Recovery Tribunals and consumer fora). Some Tribunals are manned exclusively by Judicial Officers (Rent Tribunals, Motor Accidents Claims Tribunal, Labour Courts and Industrial Tribunals). Other statutory Tribunals have Judicial and Technical Members (Administrative Tribunals, TDSAT, Competition Appellate Tribunal, Consumer fora, Cyber Appellate Tribunal, etc)."

19. Similar observations were made by the Supreme Court in SREI Infrastructure Finance Limited (supra) as under :

"14. Arbitration is a quasi judicial proceeding, equitable in nature or character which differs from a litigation in a Court. The power and functions of arbitral tribunal are statutorily regulated. The tribunals are special arbitration with institutional mechanism brought into existence by or under statute to decide dispute arising with reference to that particular statute or to determine controversy referred to it. The tribunal may be a statutory tribunal or tribunal constituted under the provisions of the Constitution of India. [Section 9](#) of the Civil Procedure Code vests into the Civil Court jurisdiction to entertain and determine any civil dispute. The constitution of tribunals has been with intent and purpose to take out different categories of litigation into the special tribunal for speedy and effective determination of disputes in the interest of the society. Whenever, by a legislative enactment jurisdiction exercised by ordinary

civil court is transferred or entrusted to tribunals such tribunals are entrusted with statutory power. The arbitral tribunals in the statute of 1996 are no different, they decide the lis between the parties, follows Rules and procedure conforming to the principle of natural justice, the adjudication has finality subject to remedy provided under the 1996 Act. [Section 8](#) of the 1996 Act obliges a judicial authority in a matter which is a subject of an agreement to refer the parties to arbitration. The reference to arbitral tribunal thus can be made by judicial authority or an arbitrator can be appointed in accordance with the arbitration agreement under [Section 11](#) of the 1996 Act."

20. *Thus, the Supreme Court held that arbitral tribunals are private tribunals unlike those tribunals set up under the statute or specialized tribunals under the Constitution of India. Thus, a Petition under [Article 227](#) challenging orders of an Arbitral Tribunal would be maintainable.*

9. Even otherwise, the contention raised on behalf of the respondents by relying upon the case of *M/s S.B.P & Co's case (supra)* does not find merit since the 1956 Act contemplates a form of statutory arbitration, wherein the Arbitrator is appointed by the Central Government, unlike consensual arbitration contemplated under section 10 and 11 of The Arbitration and Conciliation Act, 1996 where the appointment of the arbitrator is primarily founded upon the party autonomy of the disputants. Thus, even though writ jurisdiction against arbitral awards rendered under the 1996 Act is undoubtedly limited, the same principle cannot be applied with equal rigidity to arbitration proceedings conducted under the 1956 Act. Also, given that such arbitrators are appointed by the Central authority itself, the possibility of perceived institutional bias or lack of complete neutrality cannot be altogether ruled out. In such circumstances, a writ court exercising jurisdiction under Articles 226/227 of the Constitution of India may be justified in exercising a broader supervisory scrutiny to ensure justice, fairness, parity to the aggrieved landowner. Furthermore, most recently, a 3 judge-bench of the Hon'ble Supreme Court presided over by Hon'ble Chief

Justice of India in the case of ***M/ s Riar Builders Pvt Ltd & Anr. v. Union of India & Ors.*** reported as ***2026 LiveLaw (SC) 65*** while suggesting reanalysis of the legislative scheme for parity in compensation mechanisms for land acquisition observed as under:-

- “ 5. *Adverting to the main case, it has transpired during the course of the hearing that under the 1956 Act, the remedy provided to an expropriated land owner/interested party, if such person is aggrieved by the rate of compensation determined by the competent Authority, is to invoke arbitration under Section 3G(5) read with provisions of the 1996 Act. Such an arbitration petition is adjudicated not by a judicial authority but by an officer notified by the Central Government. Invariably, the Collectors or Commissioners of the Revenue Districts/Divisions are notified to act as arbitrators. These officers are generally pre-occupied with their multiple administrative responsibilities and they also do not have the desired experience of a judicially trained mind to adjudicate the complex issues like determination of market value of the land or other statutory benefits to which the affected parties are now entitled to in light of the decision of this Court Union of India & another v. Tarsem Singh & others, (2019) 9 SCC 304, as well as the subsequent amendments made by the Parliament in the 1956 Act.*
6. *Not only this, the further recourse left to an aggrieved expropriated land owner or any other interested party is to file an appeal under Section 34 of the 1996 Act, followed by a further appeal under Section 37 of the 1996 Act before the High Court. By now, the restricted and limited scope of interfering with an arbitral award, by a superior forum in purported exercise of its powers under Sections 34 or 37 of the 1996 Act, as the case may be, has been well defined by this Court in a catena of judgments.*
7. *Contrarily, the expropriated land owners/interested persons, whose lands were earlier being acquired under the Land Acquisition Act, 1894 (in short, the "Old Act"), were entitled to seek further enhancement through a reference under Section 18 of the Old Act and such references were decided only by the*

Judicial Courts, comprising a Presiding Officer in the rank of District Judge/Additional District Judge. There was a further remedy of first appeal before the High Court, and thus even the High Court had the power to re-appreciate and re-appraise the evidence and then form an opinion re: market value of the acquired land.

8. *Such a recourse for the expropriated land owners and other interested parties has been further widened by the grant of additional statutory benefits and a higher rate of compensation under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short, the "New Act").*
9. *It may, thus, be seen that the land owners, whose land is acquired under the 1956 Act, vis-a-vis the land owners whose lands are acquired now under the New Act, have been treated as separate classes, apparently without any intelligible differentia. This leads to grave heartburn among the land owners of the first category, namely, those whose lands are acquired under the 1956 Act.*
10. *While there seems to be a lot of legislative wisdom discernible from the mechanism encapsulated under the 1956 Act, to the effect that the acquisition under this Act must take place in a time-bound and expeditious manner so that the development of National Highways is not hampered or delayed. Though such a legislative policy is laudable, prima facie, it seems that this object can be kept intact while ensuring the land owners that they will be entitled to assessment of compensation for the acquired land in the same manner as is determined for the land owners whose lands are acquired under the Old Act or under the New Act, even when such acquisition is also for infrastructural development.*
11. *Keeping these factors in view, we implore and suggest that the Union of India should revisit the legislative scheme and consider the desirability of bringing parity in the matter of providing a mechanism for the determination of the market value of acquired land with reference to Article 300A of the Constitution of India.”*

10. Furthermore, with respect to the issue pertaining to the present

case it would be apposite to refer to Section 18 of the 1996 Act which provides that a full and effective opportunity is to be given to the parties to present their case and Section 26 thereof which allows the Arbitral Tribunal to appoint an independent expert on technical issues and ensures that both parties get a fair opportunity to examine the expert, challenge his report, and inspect the material relied upon by him. The aforesaid sections are reproduced hereunder:

Section 18

18. Equal treatment of parties.—The parties shall be treated with equality and each party shall be given a full opportunity to present this case.

Section 26

26. Expert appointed by arbitral tribunal.—(1) Unless otherwise agreed by the parties, the arbitral tribunal may—

(a) appoint one or more experts to report to it on specific issues to be determined by the arbitral tribunal, and

(b) require a party to give the expert any relevant information or to produce, or to provide access to, any relevant documents, goods or other property for his inspection.

(2) Unless otherwise agreed by the parties, if a party so requests or if the arbitral tribunal considers it necessary, the expert shall, after delivery of his written or oral report, participate in an oral hearing where the parties have the opportunity to put questions to him and to present expert witnesses in order to testify on the points at issue.

(3) Unless otherwise agreed by the parties, the expert shall, on the request of a party, make available to that party for examination all documents, goods or other property in the possession of the expert with which he was provided in order to prepare his report.

10.1 A conjoint reading of Sections 18 and Section 26 of the 1996 Act makes it evident that the statutory right of a party to be treated equally and to be afforded a full opportunity to present its case encompasses the right to effectively contest and scrutinize expert evidence relied upon by the Arbitral Tribunal. Section 26 specifically provides a mechanism whereby an expert may be examined and questioned by the parties, and the underlying material relied upon by such expert may be made available for examination. Thus,

where an expert report is relied upon for adjudication of issues in dispute, refusal to permit a party to summon, examine or cross-examine the expert, despite a justified request, may amount to denial of a fair hearing and infringement of the principles embodied in Section 18 of the Act.

11. Further, reliance is placed upon the recent decision rendered in the case of ***Sujit Kumar Jaiwal v. The Managing Director Dalmia Research International Pvt. Ltd.*** reported as **2026 NCDHC 2716** wherein the Hon'ble Delhi Court held that an arbitrator's refusal to summon material witnesses and rejection of relevant evidence without assigning cogent reasons strikes at the very root of the principles of natural justice. The Court observed that such procedural lapses deprive a party of equal treatment and a meaningful opportunity to present its case, thereby undermining the fairness and integrity of the arbitral process. Relevant paragraphs are reproduced hereunder:

"59. It is a settled and fundamental principle of Arbitration law that notwithstanding the procedural flexibility accorded to an arbitral tribunal, such flexibility cannot be exercised in a manner that compromises the core tenets of fairness and justice. The conduct of arbitral proceedings must, at all times, remain aligned with the basic principles of natural justice, which constitute the bedrock of any adjudicatory process. These principles, inter alia, require that no party be condemned unheard and that the decision-making process be fair, transparent, and free from arbitrariness.

60. In this context, it is apposite to refer to Section 18 of the Act, which statutorily embodies these foundational requirements. The provision mandates that the parties shall be treated with equality and that each party shall be afforded a full and fair opportunity to present its case. This obligation is not merely procedural in nature but goes to the very root of the legitimacy of the arbitral process. Any deviation from these principles, whether by denial of adequate opportunity or unequal treatment, would vitiate the proceedings and render the resultant award vulnerable to challenge. Section 18 of the Act is reproduced herein under for ready reference:

"Section 18. Equal treatment of parties. - The parties shall be treated with equality and each party shall be given a full opportunity to present his case."

61. In the present case, the refusal of the learned Arbitrator to permit the examination of the individuals who were directly party to the said disputed Agreement, entered on behalf of the Respondent, effectively curtailed the Petitioner's ability to substantiate the circumstances in which the Agreement relied upon by him came to be executed. Such a course of action is inconsistent with the statutory mandate embodied in Section 18 of the Act and consequently undermines the fairness of the arbitral process.”

12. In the present case, the arbitration proceedings have been invoked at the instance of the petitioners-landowners under Section 3-G(5) of the 1956 Act seeking re-assessment of the market value determined in respect of their acquired land. The award dated 26.04.2012 passed by respondent No.4/CALA is admittedly, founded upon the report dated 27.12.2010 submitted by the Divisional Level Price Fixation Committee. The said report, therefore, constitutes a foundational piece of evidence having a direct bearing upon the controversy pending before the learned Arbitrator.

13. Though the report in question was not formally obtained by the Id. Arbitrator under Section 26 of the 1996 Act, however the same been prepared by an expert body namely District Level Price Fixation Committee and further expressly relied upon by respondent no.4/CALA in its award dated 26.04.2012, the principle embodied in the said section furnishes a valuable analogy for the purposes of the present case. When Section 26 itself recognizes the right of a party to examine and test expert material relied upon in arbitral proceedings, the petitioners-landowners cannot be denied an opportunity to examine the basis, methodology and material underlying the report of the Divisional Level Price Fixation Committee, particularly when the same constitutes the very foundation of the compensation determined by respondent No.4/CALA. The rationale behind Section 26 is that technical or

specialized material affecting the rights of parties must not remain immune from scrutiny and challenge. The same principle applies with equal force to the report of the expert body-Divisional Level Price Fixation Committee even though the same was not obtained by the Id. Arbitrator during the arbitration proceedings but was the basis of the award passed by CALA.

14. Moreover, the report dated 27.12.2010 forms part of the original record culminating in the award dated 26.04.2012. Therefore, the authenticity, correctness and evidentiary value of such report cannot be effectively examined unless the same, along with the material and record relied upon in arriving at the assessment of market value, is produced before the learned Arbitrator through an official witness conversant with the process and preparation thereof. Unless such an opportunity is afforded, the petitioners-landowners would be effectively precluded from testing the very foundation of the compensation determined therein, thereby rendering illusory the right guaranteed under Section 18 of the 1996 Act to present their case fully and effectively.

15. In fact, respondent No.4, while seeking to sustain the award dated 26.04.2012, was required to place on record the report dated 27.12.2010 of the Divisional Level Price Fixation Committee together with the entire material forming the basis thereof before the learned Arbitrator. Since the same has not been done, it becomes imperative that respondent No.4 be directed to produce the said report and the connected record so as to enable the petitioner-landowners to understand its basis, test its correctness and effectively controvert the conclusions sought to be drawn therefrom.

16. In view of the aforesaid factual and legal discussion, the orders dated 28.04.2026 and 06.05.2026 passed by the learned Arbitrator-cum-

Deputy Commissioner, Palwal, are hereby set aside. Accordingly, respondent No.4 is directed to produce the report dated 27.12.2010 of the District Level Price Fixation Committee along with the entire record pertaining to the assessment of market value of the acquired land before the learned Arbitrator through an official witness connected with the preparation, processing or maintenance of the said record, so as to enable the petitioner-landowners to put appropriate questions and effectively test the basis of the valuation. In the considered opinion of this Court, such a direction is essential not only for a fair and complete adjudication of the dispute but also for ensuring adherence to the principles of natural justice, fairness and equal opportunity which permeate the scheme of Sections 18 and 26 of the 1996 Act.

17. Resultantly, both writ petition(s) stand disposed of.

18. Pending miscellaneous application(s), if any, shall also stand disposed of.

26.05.2026
sonika

(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No