

GAHC010017602024



**THE GAUHATI HIGH COURT  
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

**Case No. : WP(C)/654/2024**

HADIA NILOFAR KHALIL  
WIFE OF LATE KHALIL ULLAH, RESIDENT OF DERGAON TOWN, WARD  
NO.2, PO- DERGAON, GOLAGHAT, ASSAM, PIN- 785614

VERSUS

UNION OF INDIA AND 5 ORS  
REPRESENTED THROUGH THE SECRETARY, MINISTRY OF ROAD  
TRANSPORT AND HIGHWAYS, GOVERNMENT OF INDIA, NEW DELHI,  
110001

2:PRINCIPAL SECRETARY  
GOVT. OF ASSAM  
REVENUE DEPARTMENT  
DISPUR  
ASSAM  
GUWAHATI- 06

3:THE COLLECTOR CUM DEPUTY COMMISSIONER  
DISTRICT- GOLAGHAT  
ASSAM  
PIN- 785621

4:THE ADDITIONAL DEPUTY COMMISSIONER CUM COMPETENT  
AUTHORITY (LA)  
DISTRICT- GOLAGHAT  
ASSAM  
PIN- 785621

5:NATIONAL HIGHWAY INFRASTRUCTURE DEVELOPMENT CORP.  
LIMITED  
3RD FLOOR  
PTI BUILDING  
4-PARLIAMENT STREET

NEW DELHI  
PIN- 110001

6:THE GENERAL MANAGER (PROJECT)  
NATIONAL HIGHWAY INFRASTRUCTURE DEVELOPMENT CORP. LIMITED  
OPPOSITE BRAHMAPUTRA ACADEMY  
JUNIOR COLLEGE  
PIN- 785001  
DIST- JORHA

**Advocate for the Petitioner : MR. S K BARKATAKI**

**Advocate for the Respondent : SC, REVENUE**

Linked Case : WP(C)/563/2024

HADIA NILOFAR KHALIL  
WIFE OF LATE KHALIL ULLAH  
RESIDENT OF DERGAON TOWN  
WARD NO. 2  
P.O. DERGAON  
GOLAGHAT  
ASSAM  
PIN- 785614

VERSUS

UNION OF INDIA AND 5 ORS  
REPRESENTED THROUGH THE SECRETARY  
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GOVERNMENT OF INDIA  
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OPPOSITE BRAHMAPUTRA ACADEMY  
JUNIOR COLLEGE  
PIN- 785001  
DIST.- JORHAT

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Advocate for : MR. S K BARKATAKI  
Advocate for : SC  
REVENUE appearing for UNION OF INDIA AND 5 ORS

Linked Case : WP(C)/509/2024

ABU SAMAD MD KALIM ULLAH  
S/O- LATE KHALIL ULLAH  
R/O- DERGAON TOWN  
WARD NO-2  
P.O- DERGAON  
GOLAGHAT  
ASSAM  
PIN-785614

VERSUS

UNION OF INDIA AND 5 ORS  
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF INDIA  
MINISTRY OF ROAD TRANSPORT AND HIGHWAYS  
NEW DELHI

2:PRINCIPAL SECRETARY  
GOVT. OF ASSAM  
REVENUE DEPARTMENT  
DISPUR  
ASSAM

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3:THE COLLECTOR CUM DEPUTY COMMISSIONER  
DIST- GOLAGHAT  
ASSAM

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CUM COMPETENT AUTHORITY (LA)  
DIST- GOLAGHAT  
ASSAM

5:NATIONAL HIGHWAY INFRASTRUCTURE DEVELOPMENYT  
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3RD CFLOOR  
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4 PARLIAMENT STREET  
NEW DELHI

6:THE GENERAL MNAGER (PROJECT)  
NATIONAL HIGHWAY INFRASTRUCTURE DEVELOPMENYT CORPORATION  
LIMITED  
OPPOSITE BRAHMAPUTRA ACADEMY  
JUNIOR COLLEGE  
PIN-785001  
DIST- JORHAT

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Advocate for : MR. S K BARKATAKI  
Advocate for : SC  
NHIDC appearing for UNION OF INDIA AND 5 ORS

**BEFORE**  
**HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

**ORDER**

Date : 22-02-2024

Heard Ms. M. Das, learned counsel for the petitioners; Mr. K. Gogoi, learned Central Government Counsel for the respondent no. 1; Ms. G. Hazarika, learned Standing Counsel, Revenue Department for the respondent no. 2; Mr. S. Baruah, learned counsel for the respondent nos. 3 & 4; and Ms. R. Borah, learned Standing Counsel, National Highways Infrastructure Development

Corporation Ltd. [NHIDCL] for the respondent nos. 5 & 6.

2. As the issue raised in all the three writ petitions - W.P.[C] no. 654/2024, W.P.[C] no. 509/2024 & W.P.[C] no. 563/2024 – is common, all the three writ petitions are taken up together for consideration at the request of the learned counsel for the parties.

3. The Central Government in the Ministry of Road Transport & Highways [MoRTH] decided to acquire lands under the provisions of the National Highways Act, 1956 for the building/construction of '4-laning of Dergaon Town Section of National Highway - 37 in the stretch from Km 426.800 to Km 437.400' in District - Golaghat. Lands of the petitioners in all these three writ petitions have come under the said process of acquisition.

4. The case projected in the writ petition, W.P.[C] no. 509/2024 can be stated, in brief, at first. The case of the petitioner is that initially, the request of the petitioner seeking enhancement/re-calculation of the compensation amount was considered by the Arbitrator, appointed under Section 3G[5] of the National Highways Act, 1956 in Arbitration Case no. 25/2022 and after consideration, the Arbitrator so appointed, by an Order dated 02.02.2023, had *inter alia* directed the Competent Authority Land Acquisition [CALA] to make a joint field verification and to find out whether compensation could be given in respect of the unused portion of the dismantled building, demolished during the acquisition process, standing on the plots of land of the petitioner. The Competent Authority Land Acquisition [CALA] was directed to verify the matter in the light of the provisions contained in Section 3G[7] of the National Highways Act, 1956 and to submit a Report accordingly. The Commissioner, Upper Assam Division, Jorhat was the Arbitrator appointed by the Central Government under Section

3G[5] of the National Highways Act, 1956. It is the case of the petitioner that subsequently, the office of the Commissioner, Upper Assam Division, Jorhat was abolished by the State Government vide a Notification dated 17.07.2023 of the General Administration Department, Government of Assam. The petitioner has contended that in view of such abolition of the office of the Commissioner, Upper Assam Division, Jorhat, there had not been any Arbitrator, appointed under Section 3G[5] of the National Highways Act, 1956, to consider the case of the petitioner. The petitioner has approached this Court by the writ petition seeking *inter alia* a direction to the respondent authorities to appoint an Arbitrator under Section 3G[5] of the National Highways Act, 1956 for the purpose of disposal of Arbitration Case no. 25/2022.

5. Similarly, the case projected in the writ petition, W.P.[C] no. 563/2024 is, in brief, as follows :- initially, a part of the petitioner's land along with one existing building was acquired by the Ministry of Road Transport and Highways [MoRT&H], Government of India for the purpose of widening/construction of the National Highway-37. As the Award passed under Section 3G[1] of the National Highways Act, 1956 was found to be fraught with many irregularities resulting in lesser and inadequate compensation amount in respect of the remaining part of a building, an application was preferred by the petitioner before the Competent Authority Land Acquisition [CALA]. Thereafter, as no relief was granted by the Competent Authority Land Acquisition [CALA], the petitioner moved an application before the Arbitrator, appointed under Section 3G[5] of the National Highways Act, 1956, seeking proper assessment and enhancement of the compensation amount. The said application has been registered as Arbitration Case no. 25/2022. The Arbitrator passed an Order on 02.02.2023 directing the Competent Authority Land Acquisition [CALA] to make a joint field verification in

the light of the provisions contained in Section 3G[7] of the National Highways Act, 1956. The Commissioner, Upper Assam Division, Jorhat was the then Arbitrator appointed by the Central Government under Section 3G[5] of the National Highways Act, 1956. It is the case of the petitioner that subsequently, the office of the Commissioner, Upper Assam Division, Jorhat was abolished by the State Government vide a Notification dated 17.07.2023 of the General Administration Department, Government of Assam. The petitioner has averred that the Competent Authority Land Acquisition [CALA] had, in the meantime, completed the joint survey and after completion of the joint survey, has forwarded a Report to the Arbitrator. The petitioner has contended that in view of such abolition of the office of the Commissioner, Upper Assam Division, Jorhat, there is no Arbitrator presently appointed under Section 3G[5] of the National Highways Act, 1956 to consider the case of the petitioner. The petitioner has approached this Court by the writ petition seeking *inter alia* a direction to the respondent authorities to appoint an Arbitrator under Section 3G[5] of the National Highways Act, 1956 for the purpose of disposal of the Arbitration Case no. 25/2022.

6. In the writ petition, W.P.[C] no. 654/2024, a direction to the respondent authorities has been sought for appointment of an Arbitrator under Section 3G[5] of the National Highways Act, 1956 for the purpose of disposal of an application preferred by the petitioner seeking enhancement/re-assessment of compensation amount awarded under Section 3G[1] of the National Highways Act, 1956.

7. Thus, in all the three writ petitions, the common grievance is that as there is no Arbitrator presently appointed under Section 3G[5] of the National

Highways Act, 1956 to consider their applications seeking enhancement/re-assessment of the Awards passed in their favour under Section 3G[1], there is every possibility that the arbitration cases are not going to be considered in an expeditious manner.

8. A Notification bearing no. S.O.805[E] of the Ministry of Road Transport and Highways, Government of India issued on 21.02.2024 has been placed on record. On perusal of the said Notification, it is noticed that the said notification has been issued in pursuance of sub-section [5] of Section 3G of the National Highways Act, 1956 whereby the Central Government has appointed the officer mentioned in column [2] of Table therein, to be the Arbitrator under sub-section [5] of Section 3G of the National Highways Act, 1956. The Notification has further indicated that the officer so appointed shall exercise the powers conferred and perform the duties entrusted on an Arbitrator under the National Highways Act, 1956 within the local limits of his respective jurisdiction as specified in column [3] & [4] of the Table. It has further mentioned that sub-section [6] and sub-section [7] of Section 3G of the National Highways Act, 1956 shall be taken into consideration by the Arbitrator while passing the Awards. The relevant excerpts of the Notification is quoted here-under :-

**MINISTRY OF ROAD TRANSPORT AND HIGHWAYS  
NOTIFICATION**  
New Delhi, the 21<sup>st</sup> February, 2024

S.O.805[E]. – In pursuance of sub-section [5] of Section 3G of the National Highways Act, 1956 [48 of 1956], the Central Government hereby appoints the Officer mentioned in column [2] of the Table below, to be Arbitrator for the purpose of the said sub-section, who shall exercise the powers conferred and perform the duties imposed, on an Arbitrator by or under the said Act within the local limits of his respective jurisdiction as specified in column [3] and [4] of the said Table. Sub-Section [6] & [7] of Section – 3G

of the Act shall be taken into consideration while passing awards by the Arbitrator.

**TABLE**

Sl. No.	Designation of the Officer	Revenue District	State
[1]	[2]	[3]	[4]
1	Special Secretary to Govt of Assam	Golaghat	Assam

9. With the appointment of the Arbitrator in respect of the National Highway-37 project within the district of Golaghat, the common grievance raised by the petitioners herein is found to be effectively redressed. In order to facilitate the Arbitrator so appointed, to deal with the arbitration proceedings relating to the applications of the petitioners, the State respondent authorities shall transmit the records of the concerned arbitration cases of the petitioners herein, who have already submitted their applications seeking enhancement/re-assessment of the compensation amount before the office of the erstwhile Divisional Commissioner, to the office of the Arbitrator within a period of 4 [four] weeks from today. On receipt of the records of the arbitration cases of the petitioners, the Arbitrator so appointed, shall proceed to consider and dispose of the applications as expeditiously as possible, preferably within a period of 6 [six] months from the date of receipt of the records.

10. With the observations made and directions given above, these writ petitions are disposed of. No cost.

**JUDGE**

**Comparing Assistant**