

Form J(2)

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

WPA 21581 of 2023

Arpita Bhakta Mondal

Vs.

Union of India & Ors.

For the petitioner : Mr. Dhananjay Nayak
For the NHAI : Ms. Manika Roy
**For Union of India : Mr. B.K. Singh,
Ms. Aparna Banerjee**
**For the State Respondents : Mr. Soumitra Bandyopadhyay,
Mr. Priyabrata Batabyal**
Judgement on : 11.10.2023.

Bibek Chaudhuri, J.

Affidavit of service on behalf of the petitioner be taken on record.

The petitioner claims to be the owner of LR Plot No.828/912 measuring about 1.66 cottahs corresponding to LR Khatian No.1308 of Mouza Kamarbagh within the Police Station Tamluk. She carries on a business of Packaged Drinking Water with the permission of the concerned authority and having trade licence from the local

Panchayat. It is the case of the petitioner that her purchased land is situated adjacent to the National Highway.

It is the case of the petitioner that the National Highway Authority digs the land lying under their possession appertaining to the metal portion of the Highway land. This digging has obstructed her ingress and egress over her place of business. So is the instant writ petition.

The learned Advocate on behalf of the National Highway Authority, on the other hand, submits that the National Highway Authority found some illegal encroachment on the land appertaining to the metal portion of the road and concrete construction was made over the said portion. One Milan Mondal who happens to be the husband of the writ petitioner was served with the notice requiring him appearing before the National Highway Authority for hearing but he did not appear before the National Highway Authority in spite of receipt of notice. Subsequently, the National Highway Authority passed order in the said proceeding. After the order being passed, the petitioner has submitted a demand notice through her learned Advocate.

It is contended by the learned Advocate for the National Highway Authority that the proceeding under Section 26(2) of the Control of National Highways (Land and Traffic Act), 2002 has been

concluded but the reasoned order is yet to be passed. The husband of the petitioner did not take part in the said proceeding.

In view of such circumstances, the petitioner cannot get any relief in the instant writ petition.

However, since reasoned order is yet to be passed in the said proceeding under Section 26(2) of the said Act, the instant writ petition is disposed of directing the respondent No.4 to accept the demand notice submitted by the petitioner who happens to be the wife of the said Milan Mondal as a notice to show cause against the proceeding under Section 26(2) of the said Act and give an opportunity to both Milan Mondal and his wife of being heard and passed a reasoned order within 60 days from the date of communication of this order.

With the above direction, the instant writ petition is disposed of.

(Bibek Chaudhuri, J.)

***Mithun.
A.R. (Ct).
SI No.18.***