



**IN THE HIGH COURT OF UTTARAKHAND**  
**AT NAINITAL**

**Writ Petition (MS) No. 534 of 2025**

Saravan Singh And Others. .... Petitioners.

Versus

Competent Authority Special Land Acquisition And Another.  
.....Respondents.

With

**Writ Petition (MS) No. 65 of 2025**

Vipin Kumar Gupta. .... Petitioner.

Versus

Competent Authority Special Land Acquisition And Another.  
.....Respondents.

With

**Writ Petition (MS) No. 128 of 2025**

Vijayant Jaiswal. .... Petitioner.

Versus

Competent Authority Special Land Acquisition And Another.  
.....Respondents.

With

**Writ Petition (MS) No. 129 of 2025**

Kuldeep Singh Sandhu. .... Petitioner.

Versus

Competent Authority Special Land Acquisition And Another.  
.....Respondents.

With

**Writ Petition (MS) No. 136 of 2025**

Ajeet Kumar. .... Petitioner.

Versus

Competent Authority Special Land Acquisition And Another.



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.....Respondents.

With

**Writ Petition (MS) No. 174 of 2025**

Amit Jindal. .... Petitioner.

Versus

Competent Authority Special Land Acquisition And Another.

.....Respondents.

With

**Writ Petition (MS) No. 176 of 2025**

Sudarshan Kumar. .... Petitioner.

Versus

Competent Authority Special Land Acquisition And Another.

.....Respondents.

With

**Writ Petition (MS) No. 177 of 2025**

Ajay Juneja. .... Petitioner.

Versus

Competent Authority Special Land Acquisition And Another.

.....Respondents.

With

**Writ Petition (MS) No. 192 of 2025**

Madan Mohan Madan. .... Petitioner.

Versus

Competent Authority Special Land Acquisition And Another.

.....Respondents.

With

**Writ Petition (MS) No. 195 of 2025**

Gulshan Kumar Madaan. .... Petitioner.

Versus

Competent Authority Special Land Acquisition And Another.

.....Respondents.

With

**Writ Petition (MS) No. 476 of 2025**



Priyanka Batra. .... Petitioner.

Versus

Competent Authority Special Land Acquisition And Another.  
.....Respondents.

With

**Writ Petition (MS) No. 538 of 2025**

Rajendra Kumar. .... Petitioner.

Versus

Competent Authority Special Land Acquisition And Another.  
.....Respondents.

With

**Writ Petition (MS) No. 542 of 2025**

Rajendra Kumar. .... Petitioner.

Versus

Competent Authority Special Land Acquisition And Another.  
.....Respondents.

With

**Writ Petition (MS) No. 545 of 2025**

Jasbeer Singh and Another. .... Petitioners.

Versus

Competent Authority Special Land Acquisition And Another.  
.....Respondents.

With

**Writ Petition (MS) No. 547 of 2025**

Saravan Singh And Others. .... Petitioners.

Versus

Competent Authority Special Land Acquisition And Another.  
.....Respondents.

With

**Writ Petition (MS) No. 549 of 2025**



Saravan Singh. .... Petitioner.

Versus

Competent Authority Special Land Acquisition And Another. .... Respondents.

With

**Writ Petition (MS) No. 613 of 2025**

Yashpal Taneja. .... Petitioner.

Versus

Competent Authority Special Land Acquisition And Another. .... Respondents.

With

**Writ Petition (MS) No. 2650 of 2025**

Atar Singh. .... Petitioner.

Versus

Competent Authority And Another. .... Respondents.

With

**Writ Petition (MS) No. 2658 of 2025**

Asha Arora. .... Petitioner.

Versus

Competent Authority And Another. .... Respondents.

Present:

Ms. Priyanka Agrawal, learned counsel for the petitioner.

Mr. Sudhir Kumar Nailwal and Mr. K.S. Mehta, learned Standing Counsel for the State.

Mr. Raunak Pant, learned counsel holding the brief of Mr. Naresh Pant, learned counsel for NHAI.

**Hon'ble Mr. Justice Rakesh Thapliyal, J.**

1. In all these bunch of writ petitions preferred under Article 227 of the Constitution of India, common question of law and facts are involved, therefore, all the writ petitions are being heard and decided together by



this common judgment. Writ Petition No. 534 of 2025 is being treated to be leading one.

2. In all these writ petitions, petitioners are challenging the order passed by the Arbitrator /Collector, Udham Singh Nagar, whereby applications preferred by petitioners under Section 3 (G) (5) of the National Highway Act, 1956 has been rejected at the admission stage on the ground of limitation. Admittedly, land of the petitioners were acquired for widening of NH 74 from Kashipur to Sitarganj from 175 km. to 252 km and the Competent Authority / Special Land Acquisition Officer i.e. respondent no. 1 herein has passed an Award on 27.04.2015 followed by Supplementary Award dated 20.01.2017.
3. Case of the petitioners are that due to financial constraints and lack of legal knowledge Award could not be challenged within time and subsequently, after arranging the fund, the application was filed under Section 3 (G) (5) of the National Highway Act after seven years of the Award. The aforesaid application was rejected by the order impugned without going into the merit of the case on the ground that the same is barred by limitation and while rejecting the application, the Arbitrator in its order impugned take note of the fact that no application was moved for condoning the delay since the contention of the applicant was that the provision of Limitation Act are not applicable and observed even assuming that the provision of Limitation Act are not applicable even then period of limitation would be 3 years as provided under Article 137 of Limitation Act



and as such at a belated stage of i.e. after 7 years the application cannot be allowed.

4. It is argued by the learned counsel for the petitioners that order impugned is bad in the eyes of law since the provision of Limitation Act are not applicable and is liable to be set aside.
5. The moot question raised in these petitions are on two folds:

*“(i) Whether the Arbitrator was right in rejecting the application filed by the petitioner under Section 3 (G) (5) of the National Highway Act, 1956 on the ground of limitation more particularly under Article 137 of the Limitation Act, 1963?”*

*“(ii) Whether Limitation Act, 1963 is applicable to the Arbitrator who is deciding the application under Section 3 (G) (5) of the National Highway Act, 1956 in capacity of the quasi judicial body.”*

6. It is argued by learned counsel for the petitioners that learned Arbitrator while passing the impugned order has not considered Section 2 (4) of the Arbitration and Conciliation Act, which reads as under:

*“2 (4) This Part except sub-section (1) of section 40, sections 41 and 43 shall apply to every arbitration under any other enactment for the time being in force, as if the arbitration were pursuant to an arbitration agreement and as if that other enactment were an arbitration agreement, except in so far as the provisions of this Part are inconsistent with that other enactment or with any rules made thereunder.”*



7. By referring the aforesaid provision, learned counsel for the petitioner argued that Section 2 (4) of the Arbitration and Conciliation Act, shows that Section 43 which talks about limitation is not applicable to arbitration under any other enactment as the case in hand. Section 43 of the Arbitration and Conciliation Act is read as under:

*“Limitations. – (1) The Limitation Act, 1963 (36 of 1963), shall apply to arbitrations as it applies to proceedings in court. (2) .....*”

8. It is argued that on bare perusal of Section 2 (4) and Section 43 of the Arbitration and Conciliation Act, 1996, clearly shows that Section 2 (4) is has exempted the application of Section 43 on Arbitration proceedings under other enactment, which means if no limitation is prescribed under any other enactment, provisions of limitation would not apply on such arbitration under such enactments.
9. It is argued that Section 3 (G) (5) and (6) of the National Highway Act does not prescribe any limitation at the time of filing arbitration applications for enhancement of compensation and hence, on account of enactment being silent on limitation, Article 137 of the Limitation Act will not apply.
10. Learned counsel for the petitioners has placed reliance on the judgment of Hon’ble Supreme Court in the case of **Uttam Namdeo Mahalay Vs. Vithal Deo (1997) 6 SCC 73** as well as judgment of Karnataka High Court in the case of **NHAI Vs. Uday Kumar and another (2016) SCC online Kar 1318** and also the judgment of Madras High



Court in the case of **Project Director, NHAI Vs. K. Periyasamy and others.**

11. Learned counsel finally concluded her arguments by submitting that the order passed by the Arbitrator is per se illegal and liable to be set aside, since in the facts of the present case provisions of the Limitation Act would not apply.
12. Counter affidavit has been filed on behalf of the National Highway Authority of India, wherein, a preliminary objection has been raised with regard to maintainability of the writ petition by submitting that writ petitions are not maintainable in view of the alternative and statutory remedy, as provided under Section 34 of the Arbitration and Conciliation Act, 1996.
13. It is contended that order of rejecting the application is appealable under Section 34 of the Arbitration and Conciliation Act, therefore, the petitioners should file an appeal before the learned District Judge against the order impugned.
14. In reference to the maintainability of the writ petition, respondent has placed reliance on the judgments of the Hon'ble Supreme Court in the case of **SBP & Co. Vs. Patel Engineering Ltd. and another (2005) 8 SCC 618, Bhaven Construction Vs. Executive Engineer and another (2022) 1 SCC 75; South India Bank Ltd. Vs. Naveen Mathew Philip and another (2023) SCC online 435; Shiur Sakhar Karkhana Pvt. Ltd. Vs. State Bank of India, (2020) 19 SCC 592; Nekkalapudi Ramakrishana Pratap Vs. the District Collector cum Arbitrator, West Godavari District and another, (2006) LAC 517 AP.**



15. Mr. Raunak Pant, learned counsel for the respondent no. 2 submits that Section 3G (6) of the National Highway Act stipulates that the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply to every arbitration under this Act wherein Section 43 makes provisions of limitation and Section 21 of the Arbitration Act states that the arbitration proceedings will be deemed to be commenced from the date of award or cause of action, arising to be referred to arbitration, which as per Article 137 of the Act is 3 years.
16. Apart from this, he submits that judgments as relied upon by the petitioners are not applicable in the instant case and moreover, the judgments passed by the different High Courts with regard to applicability limitation are subjudice before the Hon'ble Supreme Court. He further submits that award passed by the Arbitrator under Section 3G (5) dismissing the arbitration application on the ground of delay is absolutely correct and in this particular case, admittedly, there is an inordinate delay in challenging the award.
17. He further submits that the Kerala High Court in WA No. 1600 of 2022 National Highway Authority of India Vs. P.V. Gorge, decided on 23.07.2024 in paragraph 6 and 7 has held as under:

*"6. It is clear from Section 2 (4) of the Arbitration and Conciliation Act that Section 43 will not apply to every arbitration under any other enactment. This means that if no limitation is prescribed under any other enactment, provisions of Limitation Act would not apply to such arbitration under such enactment. In the light of the above, we are of the view that Limitation Act will not apply for*



*arbitration under the National Highway Act.*

*7. The question of interfering with the writ petition challenging the decision has been dealt with by the Division Bench of this Court in Writ Appeal No. 1364 of 2024. This Court, in categorical terms held that the remedy to challenge the decision of the Arbitrator, who is the District Collector, is by invoking the provisions under Section 34 of the Arbitration and Conciliation act. Thus, it is clear that that the writ petition is not maintainable against the decision of the Arbitrator, who happens to be a District Collector. Thus, holding that the writ petition is not maintainable, we set aside the impugned judgment and allow this writ appeal.*

18. As pointed out the issue whether Limitation Act would apply or not is still subjudice before the Hon'ble Supreme Court and admittedly, the petitioners have a statutory remedy as provided under Section 34 of the Arbitration and Conciliation Act, therefore, taking into consideration the preliminary objection of National Highway Authority, this Court is of the view of that all these writ petitions are not maintainable against the order of Arbitrator / Collector, Udham Singh Nagar.
19. Accordingly, in view of the alternative statutory remedy as provided under Section 34 of the Arbitration and Conciliation Act, all these bunch of writ petitions are dismissed as not maintainable.
20. No order as to costs.

**(Rakesh Thapliyal, J.)**

**09.03.2026**

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