

GAHC040002472023



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

Case No. : WP(C) 103/2023

1:Neelam Richo and 5 Ors.
S/o Late Neelam Richo,
Village Dem,
PO Deed,
Lower Subansiri District, (AP)
Contact No. 8413926495

2: Neelam Nega
S/o Shri Neelam Richo

Village Dem

PO Deed

Lower Subansiri District
(AP)
Contact No. 8974946317

3: Neelam Mama
S/o Shri Neelam Richo
Village Dem

PO Deed

Lower Subansiri District
(AP)
Contact No. 9856946858

4: Neelam Tama
S/o Shri Neelam Richo

Village Dem

PO Deed

Lower Subansiri District
(AP)

Contact No. 8730903651

5: Likha Pekh
S/o Late Likha Medo

Village Dem

PO Deed

District Lower Subansiri (AP)
Contact No. 8415073770

6: Likha Choya
S/o Late Likha Teti

Village Kugitago
PO Deed
Lower Subansiri District
(AP)
Contact No. 986237364

VERSUS

1:THE STATE OF AP and 5 Ors.
Represented by the Chief Secretary, Govt. of Arunachal Pradesh, Itanagar 791111

2:The Secretary
(Land Management)
Govt. of Arunachal Pradesh. Itanagar
791111

3:The Deputy Commissioner
Lower Subansiri District
Ziro
Arunachal Pradesh 791120

4:The Chief Engineer (Highway)

Western Zone
PWD
Itanagar
Arunachal Pradesh 791111

5:The Union of India
Represented by the Secretary
Ministry of Road Transport and Highway
Govt. of India
Transport Bhawan
No. 1
Parliament Street
New Delhi 11001

6:The National Highway and Infrastructure and Development Corporation Limited
Represented by the Managing Director
3rd Floor
PTI Building
4 Parliament Street
New Delhi 11000

Advocate for the Petitioner : Subu Koyang

Advocate for the Respondent : GA (AP)

BEFORE
HONBLE MR. JUSTICE NANI TAGIA

ORDER

Date : 02-03-2023

Heard Mr. S. Koyang, learned counsel for the petitioners. Also heard Mr. S. Tapin, learned Senior Govt. Advocate for the State, representing respondents No.1 & 3; Mr. R. Saikia, learned counsel for the respondent No.4; and Mr. D. Loyi, learned CGC, representing respondents No. 5 & 6.

None has appeared for the respondent No.2.

The petitioners, altogether 6(six) in numbers, have filed this writ petition

praying for payment of solatium for the land that have been acquired from them by the respondent authorities.

The petitioners' case, in brief, is that, pursuant to a notification dated 25.10.2016, issued by the Secretary(Land Management), Govt. of Arunachal Pradesh, Itanagar, vide No.12/2016, which is a notification issued under Section (10) of the *Balipara/Tirap/Sadiya Frontier Tract Jhum Land Regulation, 1947*, for acquisition of land in the District of Lower Subansiri, starting from Taro village at 20km to 50km towards Koloriang on existing Joram-Koloriang road under Trans Arunachal Highway, the petitioners' land was acquired, for which, each of the petitioners were paid the compensation, which are as under:

The petitioner No.1 @ Rs.28,50,000/-;

The petitioner No.2 @ Rs.12,09,600/-;

The petitioner No.3 @ Rs.15,00,000/-;

The petitioner No.4 @ Rs.1,33,300/-;

The petitioner No.5 @ Rs.1,10,300/-; and

The petitioner No.6 @ Rs.10,49,000/-.

The contention of the petitioners is that when the aforesaid amount was paid to them by the respondent authorities for the land acquired from them, solatium was not paid to them, which the petitioners are entitled to under *the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013*.

In support of their contention, the petitioners have relied on a decision of this Court, rendered in the writ appeal being W.A. No.15(AP)2022, wherein it has been held that even though the land is acquired under the *Balipara/Tirap/Sadiya Frontier Tract Jhum Land Regulation, 1947*, the principle of *the Right to Fair*

Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 would be applicable for payment of the compensation for the land that has been acquired.

In view of the above, it is the contention of the petitioners that the petitioners would entitle to be paid the solatium, in terms of the law laid down by this Court in W.A. No.15(AP)2022.

I have perused the order of this Court, dated 12.09.2022, passed in W.A. No.15(AP)2022, wherein, in paragraph Nos.63 & 66 thereof, it has been held as follows:

"...63. In view of the conclusions arrived that both the Regulations of 1947 and the Act of 2013 would be applicable in the State of Arunachal Pradesh, where the Regulations of 1947 is for the dominant purpose of regulating, safeguarding and protection of the tribes indigenous over the Jhum lands, where Section 10 provides for an enabling provision to also acquire Jhum lands by carving out an exception, and Section 10 of the Regulations of 1947 providing for a reasonable compensation to be paid to the 'required lands' upon being acquired, where the reasonable compensation is to be computed by taking recourse to the relevant provisions of law in force, which in the present case would be the Act of 2013, we accordingly set aside the communication dated 12.07.2018 of the Deputy Commissioner, Lower Subansiri District, by which the Lawyer of the petitioners was informed that as the acquisition was done under Section 10 the Regulations of 1947 therefore, no solatium is required to be paid under the law.

66. The appellants, i.e. the authorities under the State of Arunachal Pradesh as well as the NHIDC, are accordingly conjointly directed by doing the needful to pay the solatium and interest on the compensation paid to the writ petitioners on the value of the acquired land as per the provisions of the relevant law of acquisition that may be/have been in force. The requirement be done within a period of four months from the date of receipt of a certified copy of this judgment and order..."

In view of the above, this writ petition is disposed of, with a direction to the Deputy Commissioner, Lower Subansiri District, Ziro, to verify as to whether the petitioners have been paid the compensation mentioned hereinabove, pursuant to a land that was acquired in terms of the notification dated 25.10.2016, issued u/s (10) of the *Balipara/Tirap/Sadiya Frontier Tract Jhum Land Regulation, 1947*, by the Secretary(Land Management), Govt. of Arunachal Pradesh, Itanagar, vide No.12/2016. If on such verification made, it is found that the petitioners were paid the aforesaid compensation amount, pursuant to a notification dated 25.10.2016, issued by the Secretary(Land Management), Govt. of Arunachal Pradesh, Itanagar, the petitioners shall also be paid a solatium along with the interest as per the provisions of *the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013*.

The writ petition is disposed of, with the above direction.

JUDGE

Comparing Assistant