

GAHC040002722023



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

Case No. : WP(C) 109/2023

1: Mejo Sangbia and 113 Ors
Wife of Shri Raju Tara
Resident of Near Spun Pipe Company Bora Pani Naharlagun, PO and PS Naharlagun,
District Papum Pare, Arunachal Pradesh, Mobile No 9862492256

2: Tarh Yaniang
D/o Late Tarh Epo
(Vegetable Vendor)
Resident of Dokum Colony Naharlagun
Near Police Station
PO and PS Naharlagun
District Papum Pare
Arunachal Pradesh.

3: Parmila Hajiwari
Near Helipad
Dokum cum Colony Naharlagun
PO and PS Naharlagun
District Papum Pare
Arunachal Pradesh.

4: Khyoda Mary
Wife of Shri Khyoda Taping

Resident Barapani Naharlagun
PO/PS Naharlagun
District Papum Pare
Arunachal Pradesh.

5: Tadar Yakio

W/o Shri Tadar Hepik

under the care of Petitioner No. 1

6: Ha Yake

W/o Shri Ha Tare

under the care of Petitioner No. 1

7: Techhi Sumeh

D/o Shri Ngurang Tangam.

8: Tadar Yati

W/o Shri Tadar Nikam

under the care of Petitioner No. 1

9: Chera Neme

W/o Shri Chera Rummi

under the care of Petitioner No. 1

10: Tadar Cheyom

W/o Shri Tadar Epo

under the care of Petitioner No. 1

11: Nik Yassum

W/o Late Nikh Taje

under the care of Petitioner No. 1

12: Nikh Nako

W/o Shri Nikh Raju

under the care of Petitioner No. 1

13: Yani Duchok

W/o Shri Tanga Duchok

under the care of Petitioner No. 1

14: Tarh Chuma
W/o Shri Tarh Rari

under the care of Petitioner No. 1

15: Taring Yapa
W/o Late Taring Tapak

under the care of Petitioner No. 1

16: Ania Yangfo
W/o Shri Tarh Tania

under the care of Petitioner No. 1

17: Tarh Kai
W/o Shri Tarh Tania

under the care of Petitioner No. 1

18: Gopal Biswas
S/o Late Girindra Biswas

under the care of Petitioner No. 1

19: Chera Yapu
W/o Late Chera Roming

under the care of Petitioner No. 1

20: Misful Begum
W/o Shri Misir Ali

under the care of Petitioner No. 1

21: Biswajit Biswas
S/o Shri Khogan Biswas

under the care of Petitioner No. 1

22: Nabam Yadap
W/o Shri Nabam Lala

under the care of Petitioner No. 1

23: Krisna Saha
S/o Shri Bidyobasu Sahu

under the care of Petitioner No. 1

24: Jarna Biswas
W/o Shri Raj Kumar Biswas

under the care of Petitioner No. 1

25: Gollo Yaper
W/o Shri Gollo Tagum

under the care of Petitioner No. 1

26: Nibya Yania
W/o Shri Nibya Taram

under the care of Petitioner No. 1

27: Taba Aniya
W/o Shri Taba Nara

under the care of Petitioner No. 1

28: Tadar Methe
W/o Shri Tadar Nikam

under the care of Petitioner No. 1

29: Khalil Ansari
S/o Shri P. Ansari

under the care of Petitioner No. 1

30: Yajum Duchok
W/o Shri Tanga Duchok

under the care of Petitioner No. 1

31: Neelam Rinu
W/o Shri Neelam Tatm

under the care of Petitioner No. 1

32: Ampung Nabam
W/o Shri Tajik Nabam

under the care of Petitioner No. 1

33: Nabam Byani
W/o Shri Nabam Tabang

34: Rigam Yasung
W/o Late Rigam Tapok

under the care of Petitioner No. 1

35: Nabam Shanti
W/o Shri Nabam Tadam

under the care of Petitioner No. 1

36: Gimi Yakam Dui
W/o Shri Gimi Talang

under the care of Petitioner No. 1

37: Yajor Dai
W/o Shri Techhi Mom

under the care of Petitioner No. 1

38: Techhi Juma
W/o Shri Techhi Mom

under the care of Petitioner No. 1

39: Teri Yahe
D/o Shri Tana Teji

under the care of Petitioner No. 1

40: Yadang Venia
W/o Shri Bangram Venia

under the care of Petitioner No. 1

41: Santi Nuk
W/o Shri Ajit Nuk

under the care of Petitioner No. 1

42: Nabam Yajik
W/o Shri Nabam Lali

under the care of Petitioner No. 1

43: Neelam Uma
W/o Shri Neelam Tatam

under the care of Petitioner No. 1

44: Chera Yamri
W/o Shri Chera Rumming

under the care of Petitioner No. 1

45: Chera Meena
W/o Shri Chera Nikam

under the care of Petitioner No. 1

46: Chera Nikam
W/o Shri Chera Nikam
under the care of Petitioner No. 1

47: Sita Rai
W/o Shri Tacha Rai

under the care of Petitioner No. 1

48: Yajo Tachang
D/o Shri Nabam Taki

W/o Shri Tacha Rai

under the care of Petitioner No. 1

49: Nabam Yario
W/o Shri Nabam Lala

W/o Shri Tacha Rai

under the care of Petitioner No. 1

50: Techhi Boni
W/o Shri Techhi Tabu

W/o Shri Tacha Rai

under the care of Petitioner No. 1

51: Takio Yama
W/o Shri Takio Taling

W/o Shri Tacha Rai

under the care of Petitioner No. 1

52: Nikh Mimikh
W/o Shri Nikh Taje

W/o Shri Tacha Rai

under the care of Petitioner No. 1

53: Golo Yano

W/o Shri Golo Takar

W/o Shri Tacha Rai

under the care of Petitioner No. 1

54: Nabam Yani

W/o Shri Nabam Tangum

W/o Shri Tacha Rai

under the care of Petitioner No. 1

55: Techhi Usha

W/o Shri Techhi Nida

56: Shankar Maharaj

S/o Shri Bindeshwar Maharaj

W/o Shri Tacha Rai

under the care of Petitioner No. 1

57: B.S. Maharaj

S/o Shri B. Maharaj

W/o Shri Tacha Rai

under the care of Petitioner No. 1

58: Ani Narzary

W/o Shri Rishnu Narzary

W/o Shri Tacha Rai

under the care of Petitioner No. 1

59: Ani Narzary
W/o Shri Rishnu Narzary

W/o Shri Tacha Rai

under the care of Petitioner No. 1

60: Janani Basumatary
W/o Lt. Taren Basumatary

W/o Shri Tacha Rai

under the care of Petitioner No. 1

61: Tam Finya
Tar Yakia
W/o Tam Tukpe

W/o Shri Tacha Rai

under the care of Petitioner No. 1

62: Tarh Yakia
W/o Tarh Changlang

W/o Shri Tacha Rai

under the care of Petitioner No. 1

63: Balo Rina
W/o Shri Tacha Rai

under the care of Petitioner No. 1

64: Prafulla Baruah
W/o Shri Tacha Rai

under the care of Petitioner No. 1

65: Sarswati Devi
W/o Shri Tacha Rai

under the care of Petitioner No. 1

66: Tai Tadum
W/o Shri Tacha Rai

under the care of Petitioner No. 1

67: Yak Baja
W/o Shri Tacha Rai

under the care of Petitioner No. 1

68: Yanu Machey
W/o Shri Tacha Rai

under the care of Petitioner No. 1

69: Tadar Roi
W/o Shri Tacha Rai

under the care of Petitioner No. 1

70: Bengia Yatak
W/o Shri Tacha Rai
under the care of Petitioner No. 1

71: Yatu Pobo
W/o Shri Tacha Rai

under the care of Petitioner No. 1

72: Krishna Boruah
W/o Shri Tacha Rai

under the care of Petitioner No. 1

73: Jeeban Mallah
W/o Shri Tacha Rai

under the care of Petitioner No. 1

74: Mirinal Pal
W/o Shri Tacha Rai

under the care of Petitioner No. 1

75: Akavari Khatoon
W/o Shri Tacha Rai

under the care of Petitioner No. 1

76: Ekbal Hussain
W/o Shri Tacha Rai

under the care of Petitioner No. 1

77: Tarh Anu
W/o Shri Tacha Rai

under the care of Petitioner No. 1

78: Langpu Yasi
W/o Shri Tacha Rai

under the care of Petitioner No. 1

79: Habibur Rahaman
W/o Shri Tacha Rai

under the care of Petitioner No. 1

80: Tame Meena Tarh
W/o Shri Tacha Rai

under the care of Petitioner No. 1

81: Balo Maya Kara
W/o Shri Tacha Rai

under the care of Petitioner No. 1

82: Kipa Papi
W/o Shri Tacha Rai

under the care of Petitioner No. 1

83: Haye Yaro
W/o Shri Tacha Rai

under the care of Petitioner No. 1

84: Echu Pobo
W/o Shri Tacha Rai

under the care of Petitioner No. 1

85: Rubika Cheda
W/o Shri Tacha Rai

under the care of Petitioner No. 1

86: Tadar Aji
W/o Shri Tacha Rai

under the care of Petitioner No. 1

87: Merry Gamang
W/o Shri Tacha Rai

under the care of Petitioner No. 1

88: Lakhon Das
under the care of Petitioner No. 1

89: Mrs Mamta Das
W/o Shri Tacha Rai

under the care of Petitioner No. 1

90: Jelu Jeram
W/o Shri Tacha Rai

under the care of Petitioner No. 1

91: Yajia Tungi
W/o Shri Tacha Rai

under the care of Petitioner No. 1

92: Rigio Yano
W/o Shri Tacha Rai

under the care of Petitioner No. 1

93: Margang Yane
W/o Shri Tacha Rai

under the care of Petitioner No. 1

94: Mojibur Rehman
W/o Shri Tacha Rai

under the care of Petitioner No. 1

95: Yacha Mangfi
W/o Shri Tacha Rai

under the care of Petitioner No. 1

96: Gopal Chandra Dey
W/o Shri Tacha Rai

under the care of Petitioner No. 1

97: Niru Basumatary
W/o Shri Tacha Rai

under the care of Petitioner No. 1

98: Ekaram Husain
W/o Shri Tacha Rai

under the care of Petitioner No. 1

99: Yamdo Mekum Tungi
W/o Shri Tacha Rai

under the care of Petitioner No. 1

100: MD. Habibur Rahman
W/o Shri Tacha Rai

under the care of Petitioner No. 1

101: Langpu Rupa
W/o Shri Tacha Rai

under the care of Petitioner No. 1

102: Kiakpong Kampong
W/o Shri Tacha Rai

under the care of Petitioner No. 1

103: Cheli Maya Bhujel
W/o Shri Tacha Rai

under the care of Petitioner No. 1

104: Saficul Islam
W/o Shri Tacha Rai

under the care of Petitioner No. 1

105: Taying Pinya
W/o Shri Tacha Rai

under the care of Petitioner No. 1

106: Chandra Bdr. Nirola
W/o Shri Tacha Rai

under the care of Petitioner No. 1

107: Md. Soiquil Islam
W/o Shri Tacha Rai

under the care of Petitioner No. 1

108: Rinjin Lhamu Gyana
W/o Shri Tacha Rai

under the care of Petitioner No. 1

109: Mary Narzary
W/o Shri Tacha Rai

under the care of Petitioner No. 1

110: Likha Meenu Tania
W/o Shri Tacha Rai

under the care of Petitioner No. 1

111: Khyoda Yapa
W/o Shri Tacha Rai

112: Khandu Jomba
W/o Shri Tacha Rai

under the care of Petitioner No. 1

113: Balo Api
W/o Shri Tacha Rai

under the care of Petitioner No. 1

114: Reniya Kara
W/o Shri Tacha Rai

under the care of Petitioner No.

VERSUS

1:THE STATE OF AP and 4 Ors.
Represented by the Chief Secretary, of Arunachal Pradesh, Itanagar.

2:The Deputy Commissioner
Capital Complex
Itanagar Capital Region
Itanagar
Papum Pare District
Arunachal Pradesh.

3:The Extra Assistant Commissioner
Capital Region
Naharlagun District
Papum Pare District
Arunachal Pradesh.

4:The Chairman
Town Vending Committee (IMC) Itanagar
District Papum Pare
Arunachal Pradesh.

5:The Executive Engineer
PWD
Naharlagun High Way Division
District Papum Pare
Arunachal Pradesh

Advocate for the Petitioner : Chorpok Modi

Advocate for the Respondent : GA (AP)

**BEFORE
HONBLE MR. JUSTICE NANI TAGIA**

ORDER

Date : 01-03-2023

Heard Mr. C. Modi, learned counsel for the petitioners and Mr. S. Tapin, learned Senior Govt. Advocate for the State, representing all the respondents except respondent No.4.

The petitioner, altogether 114 in numbers, have challenged the Notice dated 24.02.2023, issued by the EAC-cum-Estate Officer, Naharlagun, Arunachal Pradesh, vide memo. No.NLG/EAC/NH-415-B&C-01/2022, whereby it has been provided that a report has been received from the Department of PWD(Highway), Naharlagun Division that the areas near Hatimata D-Sector School, Opposite Takar Complex and daily market beside the wall of BSNL office, Naharlagun, have to be cleared for construction of 4(four)-lane road of NH-415 and all temporary structures within the right of way of NH-415 are deemed as illegal encroachers/occupants. Notice, therefore, have been issued to all the encroachers to vacate the site by 27.02.2023 1600 hrs., failing which eviction on 27.02.2023 at 18000 hrs. shall be carried out without further notice.

The contention of the petitioners is that the petitioners' are street vendors of opposite Takar Complex(84 Sq.Mtr.) and BSNL Complex near Police Station(1085 Sq.Mtr.), Naharlagun. The aforesaid two areas were notified as a vending zones in terms of the *Arunachal Pradesh Street Vendor(Protection of Livelihood and Regulation of Street Vending) Act, 2011*(for short "Act of 2011") by the Deputy Commissioner, Itanagar Capital Complex, Itanagar, vide No.IMC/Dev-14/2013-14/Pt-I, dated 18.05.2017. The petitioners, by relying on the *Street Vendors(Protection of Livelihood and Regulation of Street Vending) Act, 2014*(hereinafter the "Act of 2014" for short) enacted by the Parliament, contends

that once the vending zones has been notified, it has been provided under Section 3(3) of the aforesaid Act of 2014, that no street vendor shall be evicted or, relocated till the Town Vending Committee conducts a survey of all existing street vendors within the areas under its jurisdiction as provided under sub-section 1 of Section 3. The survey of all the existing street vendors within the areas under its jurisdiction having not been conducted by the Town Vending Committee as provided under Section 3(1), the petitioners cannot be evicted or relocated from the aforesaid vending zones at opposite Takar Complex(84 Sq.Mtr.) and BSNL Complex near Police Station(1085 Sq.Mtr.), Naharlagun as prohibited from such eviction/relocation under section 3(3) of the Act of 2014.

While staying the operation of the impugned order dated 24.02.2023, this Court by an order dated 27.02.2023 had granted time to the learned Senior Govt. Advocate to receive instruction in the matter.

Pursuant thereto, a notification dated 11.05.2018, published in the Arunachal Pradesh Gazette Extraordinary on 15.05.2018 has been produced before this Court, which is a notification of the act called "*The Arunachal Pradesh Street Vendors(Protection of Livelihood and Regulation of Street Vending)(Repeal) Act, 2018*, whereby the *Arunachal Pradesh Street Vendor(Protection of Livelihood and Regulation of Street Vending) Act, 2011* has been repealed. It has further been provided that notwithstanding such repeal, all orders issued and all actions taken or purported, to have been issued or taken under the *Arunachal Pradesh Street Vendor(Protection of Livelihood and Regulation of Street Vending) Act, 2011* shall be deemed to have been taken or purported to have been issued/taken under the Act of 2014(Central Act).

The learned Senior Govt. Advocate has also produced before this Court, an order of this Court, dated 16.02.2022 passed in WP(C)256(AP)2021, wherein the

similar issue(s) have been examined by this Court and on examination thereof, it has been found that under the *Arunachal Pradesh Street Vendor(Protection of Livelihood and Regulation of Street Vending) Act, 2011*; the Deputy Commissioner is not the authority competent to issue a notification declaring any area as a vending zone and it is, under the Act of 2011, the Town Vending Committee of the municipality/corporation, who is the competent authority to declare any area as a vending zone.

In that view of the matter, since the notification dated 18.05.2017, relied on by the petitioners contending that they are street vendors at opposite Takar Complex(84 Sq.Mtr.) and BSNL Complex near Police Station(1085 Sq.Mtr.), Naharlagun, issued under the Act of 2011, by the Deputy Commissioner, who has been found to be not authorized and competent to issue such a notification declaring any area as vending zones in the writ petition being WP(C)256(AP)2021, the writ petitioners herein, cannot derive any right from the notification dated 18.05.2017, issued by the Deputy Commissioner, Itanagar Capital Complex, Itanagar.

In view of the above, the saving clause that has been provided in the Repeal Act of 2018 would also not come to the aid of the writ petitioners. Thus, this Court is of the view that the petitioners herein, altogether 114 in numbers, cannot have any right to carry on the vending activities at opposite Takar Complex(84 Sq.Mtr.) and BSNL Complex near Police Station(1085 Sq.Mtr.), Naharlagun, on the strength of the notification of vending zones dated 18.05.2017, issued by the Deputy Commissioner, Itanagar Capital Complex, Itanagar.

Accordingly, in the absence of any right of the petitioners to carry on the vending activities in the areas specified in the notification dated 18.05.2017, issued vide No.IMC/Dev-14/2013-14/Pt-I, by the Deputy Commissioner, Itanagar Capital

Complex, Itanagar, no interference is called for to the impugned Notice dated 24.02.2023, issued by the EAC-cum-Estate Officer, Naharlagun, Arunachal Pradesh, vide memo. No.NLG/EAC/NH-415-B&C-01/2022.

The writ petition, accordingly, stands dismissed being devoid of merit.

Interim order passed earlier shall stand vacated.

Notwithstanding the dismissal of the writ petition, the petitioners may approach the competent authority for notification of vending zone(s) in accordance with law.

JUDGE

Comparing Assistant