

GAHC040012172023



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

Case No. : WP(C)/54/2021

Olek Mize Tamuk
Age: 48
Occupation :
Address:W/O SHRI OKOM TAMUK
PO PASIGHAT
PS PASIGHAT
EAST SIANG DIST. AP.

VERSUS

The State of AP and 2 Others
Age: 0
Occupation :
Address:LAND MANAGEMENT
GOVT. OF AP
ITANAGAR.
2:THE DIRECTOR
Age: 0
Occupation :
Address:LAND MANAGEMENT
GOVT. OF AP
ITANAGAR.

3:THE DEPUTY COMMISSIONER CUM CHAIRMAN
Age: 0
Occupation :
Address:PASIGHAT SMART CITY DEVELOPMENT CORPORATION LTD. EAST
SIANG DISTRICT
PASIGHAT
AP.

Advocate for : T T Tara
Advocate for : GA (AP) appearing for The State of AP and 2 Others: Advocate ,
, appearing for 2,
3, respectively.

With IA(C)/152/2023

M/s Pasighat Smart City Development Corporation
District East Siang, Arunachal Pradesh, having its registered Office at
JAYPEE Complex, Agam Colony, Mirku-Dapi Tinali, High Region,
Pasighat- 791102, East Siang, Arunachal Pradesh, Represented by its
Town Planner, Shri Tani Taloh, S/o Taye Taloh, R/o PSCDCL Office,
Jaypee- Smart City Campus, Agam Colony, Pasighat- 791102, East
Siang, Arunachal Pradesh.

VERSUS

Olek Mize Tamuk and 3 Ors.
W/O Shri. Okom Tamuk, R/o Pasighat, East Siang District, Arunachal
Pradesh 2:THE STATE OF AP
Age: 0
Occupation :

3:The Director
Age: 0
Occupation :

4:The Deputy Commissioner cum Chairman Pasighat Smart City
Development Corporation Limited
Age: 0
Occupation

Advocate for the Petitioner : N Khera

Advocate for the Respondent : GA (AP)

-BEFORE-

HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

-O R D E R-

17.11.2023

Heard Mr. TT Tara, learned counsel for the petitioner. Also heard Mr. S Deb, learned counsel for the respondent no. 4 and Mr. G Bam, learned Government Advocate, AP.

2. By way of the present writ petition, the petitioner has assailed an order dated 17.02.2021 whereby the Deputy Commissioner, Pasighat has directed one M/s ZM Enterprise to construct Pavement and Pathway within the location of open gym equipment for the convenience of gym users and to enhance aesthetic of area near Mirku Chariali.

3. The basic ground of such challenge is that the petitioner and some similarly situated persons, on the verbal request of the Government through the District Administration of East Siang District, Pasighat donated 30 acres of agricultural land free of cost for establishment of Central Agriculture College on the assurance given by the State authority that alternative plot of land, which has already been occupied by the petitioners' family at Pasighat Township at B Sector near the opposite side of Mirku Chariali since the year 1989 shall be allotted to the petitioner in lieu of land donated. This is the disputed plot of land.

4. This court on the aforesaid backdrop of facts, while issuing notice of motion by an order dated 01.03.2021 suspended the impugned order dated 17.02.2021.

5. In the meantime, M/s Pasighat Smart City Development Corporation Limited (in short PSCDCL) got impleaded itself in the present writ proceeding as respondent No. 4 and filed the connected Interlocutory Application for vacation of the interim order dated 01.03.2021, primarily

on the ground that the respondent/ applicant PSCDCL has carried out a development and construction of the park and an open gym through M/s ZM Enterprise and due to the interim order passed, the project is stalled.

6. While hearing the IA on 16.11.2023, this court expressed a prima-facie view that even if the contention of the petitioner is accepted in toto, a project of public interest shall not be stalled by way of an interim order, more particularly, when even if the writ petition is allowed, the petitioner can either be directed to be provided an alternative plot of land or he can adequately be compensated. At this stage, the learned counsel for the petitioner, Mr. Tara sought for an adjournment to obtain an instruction from his client whether the petitioner is agreeable for relegating him back to the Deputy Commissioner, East Siang District, Pasighat for deciding his claim for right for allotment of land for the reason that he/ his family has donated land for construction of the College in question. Accordingly, when the matter is listed today, Mr. Tara submits that his client has instructed him to that the petitioner is agreeable to relegating the matter to the Deputy Commissioner.

7. The pleading of the writ petition shows the following claim of the petitioner:

- I. The petitioner and similarly situated persons donated land for construction of Central Agriculture College.
- II. The respondents promised to allot the land occupied by the petitioner at Sector B, Pasighat Town in lieu of land donated by the petitioner.
- III. In this regard, the Minister of Education had already put U.A. note on 11.10.2013 recommending allotment of land in favour of the

petitioner and two others on the aforesaid factual background.

IV. Subsequently, the local MLA cum Parliamentary Secretary also recommended allotment of such alternative land.

V. On the basis of such recommendation already land has been allotted in favour of one Osi SiramTamuk in the year 2019, whose name also found a place in the UA note dated 11.10.2013 and recommendation of the MLA dated 17.05.2017.

8. In the aforesaid backdrop, though right of the petitioner has been denied by the respondent authority, in the considered opinion of this court, the Deputy Commissioner shall look into the grievances of the petitioner afresh taking note of the aforesaid facts. The Deputy Commissioner while dealing with the claim of the petitioner must not casually ignore the claim of the petitioner, inasmuch as if the petitioner has actually donated / vacated their land for the purpose of constructing the Central Agriculture College, with a hope that they will be given alternative land, they should not be deprived of such right on the ground that there is defect in recommendation made by the Education Minister and MLA.

9. The Deputy Commissioner can very well ascertain whether the land where the college in question is constructed, actually belong to the petitioner and whether similarly situated persons are already allotted such alternative land.

10. At the same time, this court cannot also be oblivious of the fact that a project of public interest shall not be stalled inasmuch as in the event, the petitioners are held to be entitled for alternative land as claimed, they can very well be given similar alternative land or can be compensated in

terms of money.

11. That being the position and as agreed to by the learned counsel for the petitioner, the present writ petition stands disposed of with the following directions:

I. The claim of the petitioner pending before the Deputy Commissioner shall be considered afresh in terms of the present order and be disposed of within a period of three months from the receipt of a certified copy of this order to be furnished by the petitioner. It is made clear that this court has not commented on the merit of the claim of the petitioner or the respondent.

II. The interim order passed by this court dated 01.03.2021 stands vacated.

III. The respondent No. 4 shall be at liberty to go ahead with the construction of Pavement and Pathway in question in term of the impugned order dated 17.02.2021.

12. With the aforesaid observation and decision, the present writ petition stands disposed of. The parties to bear their own cost.

JUDGE

Comparing Assistant