

GAHC040013522022



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

Case No. : WP(C) 425/2022

1:Nani Ribia
S/o Lt. Nani Pilya,
Vill Reru, PO/PS Ziro, District Lower Subansiri, Arunachal Pradesh.
Mobile No. 8414922126

VERSUS

1:THE STATE OF AP and 3 Ors.
Represented by the Secretary Land Management, Govt. of Arunachal Pradesh,
Itanagar.

2:The Director
of Land Management
Govt. of Arunachal Pradesh
Itanagar.

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

4:The Superintendent of Police
Ziro
Lower Subansiri District
Arunachal Pradesh

Advocate for the Petitioner : Khoda Tari

Advocate for the Respondent : GA (AP)

**BEFORE
HONBLE MR. JUSTICE NANI TAGIA**

ORDER

Date : 05-01-2023

Heard Mr. Khoda Tari, learned counsel for the petitioner.

Also heard Mr. Dugmar Kamduk, learned standing counsel, Department of Land Management, Government of Arunachal Pradesh, appearing on behalf of respondents No. 1 & 2; and Ms. Riyum Basar, learned Government Advocate, appearing on behalf of respondents No. 3 & 4.

2. This writ petition has been filed with the following prayers:

“PRAYER

In the premises as aforementioned, it is therefore prayed that, Your Lordship may be pleased to admit this petition, call for records of the case and issue a rule calling upon the respondent to show cause as to why;

A writ in the nature of Mandamus should not be issued, by directing the respondent authority more particularly to the Deputy Commissioner, Lower Subansiri District, Ziro (Respondent no. 3) to allot an alternative plot of land suitable for commercial/ residential purpose to the petitioner in specified period of time.

Or

To return his private land at Pare Ami PIC (women working Hostel) or land allotted to the petitioner, occupied by the Superintendent of police office at Hapoli

Any other order/orders as may be deemed fit and proper in the facts and circumstances of the case.

And on cause/causes being shown, perusal of the records and hearing of the parties to make the Rule absolute and/or to pass such direction and/or order as Your

Lordship may deem fit and proper.”

3. The facts leading to the filing of this writ petition, briefly stated, are, as follows:

The case projected by the petitioner in this writ petition is that he had a private plot of land at “Pare Ami”, Hapoli, Lower Subansiri District, which was purchased from Bamin Michi villager. In the year 1996, the then Deputy Commissioner, Lower Subansiri District, Ziro, Sri Raajiv Yaduvanshi, IAS, had requested the writ petitioner to give his private plot of land for construction of the present PIC Building(Women Working Hostel) and assured him to allot an alternative plot of land within the Hapoli Township in lieu of his private plot of land. Accordingly, the present PIC Building(Women Working Hostel) was constructed in the petitioner’s private plot of land.

Before allotment of an alternative plot of land in lieu of the petitioner’s private plot of land where the present PIC Building(Women Working Hostel) has been constructed, could be made by the then Deputy Commissioner, Lower Subansiri District, Ziro; the then Deputy Commissioner, Lower Subansiri District, Ziro, was transferred as Secretary to the Governor of Arunachal Pradesh, Itanagar. As the then Deputy Commissioner, Lower Subansiri District, Ziro, could not allot an alternative plot of land to the petitioner while serving as the then Deputy Commissioner, Lower Subansiri District, Ziro; the Secretary to the Governor of Arunachal Pradesh, Itanagar, wrote a letter to the Deputy Commissioner, Lower Subansiri District, Ziro, to consider the petitioner’s case for allotment of an alternative plot of land at Hapoli, vide his letter, dated 09.10.1996.

It is the further case of the writ petitioner that when the petitioner had apprised the State Government about the construction of the present PIC Building(Women Working Hostel) at his private plot of land; the Government of Arunachal Pradesh i.e.

Director of Land Management, Government of Arunachal Pradesh, Itanagar, had approved for allotment of a plot of land measuring 500 sq. mtrs. for residential purpose in the petitioner's favour at Hapoli Township and requested the Deputy Commissioner, Lower Subansiri District, Ziro, to issue a formal allotment order vide his letter, dated 02.07.2005, vide Memo. No. LR-69/89(Vol-IV)/1147.

It is also the case of the writ petitioner that pursuant to the letter, dated 02.07.2005, written by the Director of Land Management, Government of Arunachal Pradesh, Itanagar, to the Deputy Commissioner, Lower Subansiri District, Ziro, referred to above; conveying the approval of the State Government for allotment of a plot of land measuring 500 sq. mtrs. for residential purpose to the petitioner at Hapoli Township; the Deputy Commissioner, Lower Subansiri District, Ziro, had issued an allotment order, dated 01.12.2006, vide Memo. No. LRZ-73/98(Vol.-I); whereby he was allotted a plot of land measuring 500 sq. mtrs. for residential purpose, the boundary description of which plot of land, is as under:-

- (1). In the North : APP Colony
- (2). In the South : Road to Quarry Line
- (3). In the East : Private Land
- (4). In the West : APP Colony.

The aforesaid plot of land given to the petitioner was cancelled by the State Government vide letter, dated 28.08.2007, written to the Deputy Commissioner, Lower Subansiri District, Ziro, by the Director of Land Management, Government of Arunachal Pradesh, Itanagar, vide Memo. No. LR-39/91/1065; which, however, was again cancelled by the Government vide letter, dated 04.12.2007, written to the Deputy Commissioner, Lower Subansiri District, Ziro, by the Director of Land Management, Government of Arunachal Pradesh, Itanagar, vide Memo. No. LR-39/91/1399; thus, restoring the allotment of land given to the petitioner vide Land Allotment Order, dated 01.12.2006, referred to hereinabove.

While the matter rested thus; it is the further case of the petitioner, as stated in paragraph No. 8 of the writ petition, that the then Superintendent of Police, Lower Subansiri District, Ziro, had approached and requested the petitioner to allow them to construct the Office of the Superintendent of Police, Ziro, at his allotted plot of land. According to the petitioner, keeping in view the larger interest of public and the Government; he consented for construction of the Office of the Superintendent of Police, Lower Subansiri District, Ziro, at his allotted plot of land on the assurances made by the then Deputy Commissioner, Lower Subansiri District, Ziro, and by the then Superintendent of Police, Lower Subansiri District, Ziro, to allot him, an alternative plot of land at suitable place.

The grievance of the writ petitioner, as highlighted in the instant writ petition, is that despite the aforesaid assurances made by the then Deputy Commissioner, Lower Subansiri District, Ziro, and the then Superintendent of Police, Lower Subansiri District, Ziro, to allot him an alternative plot of land, till date; no such allotment for an alternative plot of land has been made in his favour, either, by the Deputy Commissioner, Lower Subansiri District, Ziro, or, by the Superintendent of Police, Lower Subansiri District, Ziro. Aggrieved, therefore; the petitioner had submitted an application, dated 22.01.2008, to the Deputy Commissioner, Lower Subansiri District, Ziro, requesting for allotment of an alternative plot of land at any suitable commercial area.

Since no response was received from the Deputy Commissioner, Lower Subansiri District, Ziro, on the application made by the petitioner, dated 22.01.2008, he submitted further representations i.e. dated 04.01.2011 to the Director of Land Management, Government of Arunachal Pradesh, Itanagar; dated 29.01.2016, to the Deputy Commissioner, Lower Subansiri District, Ziro; dated 01.07.2021, to the Deputy

Commissioner, Lower Subansiri District, Ziro; and dated 10.01.2022, to the Hon'ble Minister, Tourism & Land Management Department, Government of Arunachal Pradesh. However, as no response has been received by the petitioner from any of the authorities; he has approached this Court by preferring the instant writ petition.

4. Mr. Tari, learned counsel for the petitioner, has argued that since the Office Building of the Superintendent of Police, Lower Subansiri District, Ziro, was allowed to be constructed on the petitioner's private plot of land on the assurances made by the then Deputy Commissioner, Lower Subansiri District, Ziro, as well as by the then Superintendent of Police, Lower Subansiri District, Ziro, that he would be allotted an alternative plot of land; the State Respondents are duty bound to allot the petitioner, an alternative plot of land in lieu of the Office of the Superintendent of Police, Lower Subansiri District, Ziro, having been constructed on the petitioner's private plot of land on the assurances made by the then Deputy Commissioner, Lower Subansiri District, Ziro, and by the then Superintendent of Police, Lower Subansiri District, Ziro, that he would be allotted an alternative plot of land at Hapoli Township.

Since the then Deputy Commissioner, Lower Subansiri District, Ziro, and the then Superintendent of Police, Lower Subansiri District, Ziro, have failed to honour the assurances made by themselves; an appropriate direction needs to be issued to the Deputy Commissioner, Lower Subansiri District, Ziro, and the Superintendent of Police, Lower Subansiri District, Ziro, more particularly, the Deputy Commissioner, Lower Subansiri District, Ziro, to allot the petitioner, an alternative plot of land, as the then Deputy Commissioner, Lower Subansiri District, Ziro, and the then Superintendent of Police, Lower Subansiri District, Ziro, had assured the petitioner to allot an alternative plot of land.

5. Mr. Kamduk, learned standing counsel, Department of Land Management,

Government of Arunachal Pradesh, representing the Respondents No. 1 & 2; on the other hand, has submitted that the Deputy Commissioner and the Superintendent of Police, are not the authority competent to allot land in the State and it is the State Government, under the Rules, which is the authority, competent to allot land. Since the authority, competent to allot land, has not made any assurances to the petitioner; he has no legally enforceable right against the State Respondents for allotment of land in his favour.

Mr. Kamduk, learned standing counsel, Department of Land Management, Government of Arunachal Pradesh, has further submitted that insofar as the allotment of land is concerned; the Deputy Commissioner is only a recommending authority and thus, neither, the Deputy Commissioner, nor, the Superintendent of Police, can give any assurances to anybody regarding allotment of land, which can legally bind the State Government to issue a land allotment order on such assurances made by the Deputy Commissioner or by the Superintendent of Police.

Accordingly, Mr. Kamduk, learned standing counsel, Department of Land Management, Government of Arunachal Pradesh, has submitted that this writ petition is misconceived and therefore, it is legally not maintainable.

6. Ms. Basar, learned Government Advocate, representing the Respondents No. 3 & 4; while endorsing the submissions advanced by Mr. Kamduk, learned standing counsel, Department of Land Management, Government of Arunachal Pradesh, has submitted that the State Government has not cancelled the land allotment order given to the writ petitioner and thereby, neither, any prejudice is caused to him, nor, any of his rights has been infringed by the respondent authorities. It is the petitioner, who himself was responsible for construction of the Office Building of the Superintendent of Police, Lower Subansiri District, Ziro, in his allotted plot of land in the purported larger

public interest and, therefore, no fault can be found with the State authorities requiring any interference by this Court.

Ms. Basar, learned Government Advocate, has also submitted that no right has accrued to the petitioner for allotment of an alternative plot of land on the assurances made by the then Deputy Commissioner, Lower Subansiri District, Ziro, and the then Superintendent of Police, Lower Subansiri District, Ziro, which can be enforced through a *writ of mandamus* by this Court in exercise of powers conferred under Article 226 of the Constitution of India, and accordingly, in the absence of any legally enforceable rights accrued to the petitioner; this writ petition filed by the petitioner, is ill-conceived and thus, not maintainable.

7. Rival contentions advanced by the learned counsels for the parties have received due consideration of this Court and the materials placed before this Court, have been duly perused.

8. Upon hearing the learned counsels appearing for the parties and on perusal of the materials available on record; though the writ petitioner has contended in paragraph No. 3 of the writ petition that the Secretary to the Governor of Arunachal Pradesh, had written a letter to the Deputy Commissioner, Lower Subansiri District, Ziro, vide his letter, dated 09.10.1996, for allotment of some suitable land to the petitioner but on perusal of the Annexure-1 to the writ petition, it appears that one Shri Raajiv Yaduvanshi, IAS, Deputy Commissioner, Papum Pare District, Itanagar, had written a letter, dated 09.10.1996, to the Deputy Commissioner, Lower Subansiri District, Ziro(Annexure-1 to the petition) to consider the petitioner's case for allotment of an alternative plot of land at Hapoli, Ziro.

9. The aforesaid letter, dated 09.10.1996, is extracted hereinbelow, for ready

reference:

“Raajiv Yaduvanshi, IAS

***Deputy Commissioner
Papum Pare District
Itanagar-791111
Arunachal Pradesh
No..DC/PA/Misc-14/96
Dated, the 9th Oct, 96.***

Dear Shri Y.D. Thongchi

I am writing this letter with regard to the land allotment of Shri Nani Ribia at Hapoli, Ziro. During my tenure I had wanted to give a plot of land to Shri Nani Ribia in view of his occupied land at the present PIC building. But due to my sudden transfer I could not able to process the same. I am to request you to kindly look into the matter and consider his case for allotment of some suitable land at Hapoli, Ziro.

With regards

***Yours Sincerely,
Sd/-
(Raajiv aduvanshi)IAS***

***To,
Shri Y. D. Thongchi,
Deputy Commissioner
Lower Subansiri District,
Hapoli, Ziro”***

10. Thereafter, the Director of Land Management, Government of Arunachal Pradesh, Itanagar, by his letter, dated 02.07.2005, vide Memo. No. LR-69/89(Vol-IV)/1147, written to the Deputy Commissioner, Lower Subansiri District, Ziro(Annexure-2 to the petition), had conveyed the approval of the Government for allotment of a plot of land measuring 500 sq. mtrs. for residential purpose in the Hapoli Township to the petitioner. Pursuant thereto, the Deputy Commissioner, Lower Subansiri District, Ziro, had issued an allotment order, dated 01.12.2006, vide Memo. No. LRZ-73/98(Vol.-I), (Annexure-3 to the petition); whereby the petitioner was allotted a plot of land measuring 500 sq. mtrs. for residential purpose, the boundary description of which plot of land, as indicated in the order, dated 01.12.2006, is, in the North : APP Colony; in the South : Road to Quarry Line; in the East : Private Land, and in the West : APP Colony. The aforesaid allotment of land, dated 01.12.2006, was cancelled by the State Government vide letter, dated 28.08.2007, written to the Deputy Commissioner, Lower

Subansiri District, Ziro, by the Director of Land Management, Government of Arunachal Pradesh, Itanagar, vide Memo. No. LR-39/91/1065 (Annexure-5 to the petition); which, however, was again cancelled by the Government vide letter, dated 04.12.2007, written to the Deputy Commissioner, Lower Subansiri District, Ziro, by the Director of Land Management, Government of Arunachal Pradesh, Itanagar, vide Memo. No. LR-39/91/1399 (Annexure-6 to the petition); thus, reviving the allotment of land given to the petitioner vide Land Allotment Order, dated 01.12.2006, referred to hereinabove.

11. It is also noticed that the petitioner had submitted an application, dated 22.01.2008, to the Deputy Commissioner, Lower Subansiri District, Ziro(Annexure-8 to the petition), requesting for allotment of an alternative plot of land. Likewise, the petitioner had also submitted application, dated 04.01.2011, written to the Director of Land Management, Government of Arunachal Pradesh, Itanagar (Annexure-9 to the petition); application dated 29.01.2016, written to the Deputy Commissioner, Lower Subansiri District, Ziro(Annexure-10 to the petition); application dated 01.07.2021, written to the Deputy Commissioner, Lower Subansiri District, Ziro (Annexure-11 to the petition) ; and application dated 10.01.2022, to the Hon'ble Minister, Tourism & Land Management Department, Government of Arunachal Pradesh(Annexure-12 to the petition) ; praying for allotment of an alternative plot of land.

12. The application, dated 22.01.2008, submitted by the petitioner to the Deputy Commissioner, Lower Subansiri District, Ziro, which is the first application, submitted requesting for allotment of an alternative plot of land, which also contains the substance of the argument of the petitioner is extracted hereinbelow, for ready reference:

“To,

Dtd:22nd January/2008

The Deputy Commissioner

**Lower Subansiri District, Ziro
Arunachal Pradesh.**

Sub: Request for alternative plot.

Sir,

As you know that, the government allotted me a plot of land vide your order No. LRX-73/98(VOL-I) Dtd 1st December/2006 measuring 500 Sq.mtrs in lieu of my private land at Pare Ami and the present existing PIC buildings (women working hostel). I have given my private land for the construction of PIC building as requested by Shri Rajive Yaduvanshi, IAS the then DC Ziro to allot me a commercial plot at bazaar area in lieu of my private land in the year 1996. But, he could not materialize the same as he was suddenly transferred out from the district in the same year. The same story I have revealed to the State Government and accordingly the government allotted the said plot.

After obtaining your allotment order my allotted plot is interested by Mr. Tussar Taba APPS, SP Ziro for their office building and requested me to take alternative plot in lieu of my allotted plot. Accordingly, I have agreed upon at the larger interest and given my consent to SP Ziro for their construction of SP building at my government allotted land.

Therefore, I shall be grateful if you could allot alternative land against my allotted plot and any suitable commercial area which may cover 500 Sq.mtrs at the earliest so that I could start my civil works.

Thank you with due regards.

**Yours Faithfully
(Nani Ribia)
Paigate, Hapoli.**

Copy to the Director Land Management, Government of Arunachal Pradesh for kind information and needful action please."

13. From perusal of the application, dated 22.01.2008, written by the petitioner to the Deputy Commissioner, Lower Subansiri District, Ziro, which is extracted hereinabove; it is evident that the petitioner was allotted a plot of land measuring 500 sq. mtrs. vide land allotment order, dated 01.12.2006, issued by the Deputy Commissioner, Lower Subansiri District, Ziro, as described hereinabove in lieu of the petitioner's plot of land at "Pare Ami" having been allowed by the petitioner for construction of the present PIC Building(Women Working Hostel). The petitioner, in the year 1996, appears to have allowed for construction of the present PIC Building(Women Working Hostel) at the request of one Raajiv Yaduvanshi, IAS, the

then Deputy Commissioner, Lower Subansiri District, Ziro, who had assured the petitioner to allot him a commercial plot at Bazar area in lieu of his private plot of land at "Pare Ami" but the same could not materialized as Raajiv Yaduvanshi, IAS, the then Deputy Commissioner, Lower Subansiri District, Ziro, was transferred out from the Lower Subansiri District, in the same year.

14. The allotment order, dated 01.12.2006, measuring 500 sq. mtrs., as described hereinabove; appears to have been given in furtherance of the assurance given by the then Deputy Commissioner, Lower Subansiri District, Ziro. It is further evident from the application, dated 22.01.2008, submitted by the petitioner to the Deputy Commissioner, Lower Subansiri District, Ziro, that after the aforesaid land was allotted to him, one Sri Tussar Taba, APPS, the then Superintendent of Police, Lower Subansiri District, Ziro, had requested the petitioner to allow construction of the Office Building of the Superintendent of Police, Lower Subansiri District, Ziro, in the allotted plot of land of the petitioner and the then Superintendent of Police, Lower Subansiri District, Ziro, also requested the petitioner to take an alternative plot of land in lieu of the land allotted to the petitioner vide land allotment order, dated 01.12.2006.

15. The petitioner, as is evident from the application, dated 22.01.2008, consented for construction of the Office Building of the Superintendent of Police, Lower Subansiri District, Ziro, in his allotted plot of land of the petitioner, referred to above, purportedly, in the larger public interest.

Thus, in short, it is evident that the writ petitioner had allowed construction of the Office Building of the Superintendent of Police, Lower Subansiri District, Ziro, in his allotted plot of land at the request of the Sri Tussar Taba, APPS, the then Superintendent of Police, Lower Subansiri District, Ziro, for allowing construction of the Office Building of the Superintendent of Police, Lower Subansiri District, Ziro, and in

lieu thereof, to take alternative plot of land.

16. Though argument has been advanced by Mr. Tari, learned counsel for the petitioner, that the assurance for providing allotment of an alternative plot of land was given by the then Deputy Commissioner, Lower Subansiri District, Ziro, as well as the then Superintendent of Police, Lower Subansiri District, Ziro; the application, dated 22.01.2008, written by the petitioner to the Deputy Commissioner, Lower Subansiri District, Ziro, requesting allotment of an alternative plot of land, makes it abundantly clear that after the 500 sq. mtrs. of land was allotted to the petitioner vide order, dated 01.12.2006, by the Deputy Commissioner, Lower Subansiri District, Ziro; the Deputy Commissioner, Lower Subansiri District, Ziro, was in no way involved in giving any assurance to the petitioner for providing him allotment of an alternative plot of land; rather, it was Sri Tussar Taba, APPS, the then Superintendent of Police, Lower Subansiri District, Ziro, who had requested the petitioner to allow construction of the Office Building of the Superintendent of Police, Lower Subansiri District, Ziro, in his allotted plot of land and in lieu thereof, take allotment of an alternative plot of land, as can be gathered from the petitioner's application, dated 22.01.2008, submitted to the Deputy Commissioner, Lower Subansiri District, Ziro.

17. There is no dispute at the Bar that the authority competent to issue the land allotment is the State Government and the Deputy Commissioner is only a recommending authority. Thus, if it is the State Government alone who is the competent authority to allot the land under the Rules for allotment of land, it logically follows that neither, the Deputy Commissioner, nor, the Superintendent of Police, can in any matter, give an assurance to anybody for allotment of an alternative plot of land giving rise to a legally enforceable right in favour of such person(s).

18. From reading of the application, dated 22.01.2008, submitted by the writ

petitioner to the Deputy Commissioner, Lower Subansiri District, Ziro, no assurance is discernible to have been given by Sri Tussar Taba, APPS, the then Superintendent of Police, Lower Subansiri District, Ziro, for allotment of an alternative plot of land to the petitioner, much less the then Deputy Commissioner, Lower Subansiri District, Ziro. Even if the then Deputy Commissioner, Lower Subansiri District, Ziro, is assumed to have given the assurance to the petitioner, as contended by Mr. Tari, learned counsel for the petitioner, that the petitioner would be given allotment of an alternative plot of land in lieu of his allowing of construction of the Office Building of the Superintendent of Police, Lower Subansiri District, Ziro, in his allotted plot of land, in question; it cannot be said that such an assurance given either by the Deputy Commissioner of the District or the Superintendent of Police of the District, or, by both, can create any right in favour of the petitioner which can be enforced through a Court of law for the reason that neither the Deputy Commissioner or the Superintendent of Police, is the competent authority to allot a land under the Rules but it is only the State Government which is competent and authorized to allot a land.

19. In the instant case, as has been discussed hereinabove; it was only the Sri Tussar Taba, APPS, the then Superintendent of Police, Lower Subansiri District, Ziro, who had only requested the petitioner to allow construction of the Office Building of the Superintendent of Police, Lower Subansiri District, Ziro, in the allotted land of the writ petitioner and in lieu thereof, asked the petitioner to take allotment of an alternative plot of land.

20. It is no longer a *res integra* that a writ of mandamus can be issued by this Court in exercise of powers under Article 226 of the Constitution of India, only, when a legal duty is imposed on the authority, in question, and the petitioner has a legal right to compel the performance of this duty. In the instant case, as have been discussed above, the writ petitioner has not been able to place any material before this Court indicating, either, a legal duty on the part of the State to issue a land allotment in his

favour, or, any legal right which would entitle the petitioner to be issued an alternative plot of land by the State in his favour.

21. In view of the above, I find sufficient force in the submissions advanced by Mr. Kamduk, learned standing counsel, Department of Land Management, Government of Arunachal Pradesh, representing the Respondents No. 1 & 2; as well as by Ms. Basar, learned Government Advocate, representing Respondents No. 3 & 4.

22. Accordingly, I am of the considered view that relief as sought for by the writ petitioner in this writ petition, cannot be granted to the petitioner as the petitioner has not been able to show that he has a legally subsisting and enforceable right in his favour.

23. For the reasons and discussions made hereinabove; I do not find any merit in this writ petition and the same accordingly stands dismissed being devoid of merit.

JUDGE

Comparing Assistant