

GAHC030000112021



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

Case No. : WP(C)/4/2021

Petitioners:

1. Sh. K.Laltluanga

S/o K. Chawma (L)

R/o Khanpui, Aizawl Dist., Mizoram.

2. Sh. Dengrikhuma

S/o Khuaia 'L '

R/o Khanpui, Aizawl Dist, Mizoram.

3. Sh. H.Kapkima

S/o Bawihthuama

R/o Khanpui, Aizawl Dist, Mizoram.

4. Sh. K. Pathiauva

S/o Hmaitea (L)

R/o Khanpui, Aizawl Dist, Mizoram.

5. Sh. Liansanga

S/o Siamliana

R/o Khanpui, Aizawl Dist, Mizoram

6. Sh. Laldenga

S/o Sena (L)

R/o Khanpui, Aizawl Dist, Mizoram

7. Sh. Vanlalruata

S/o Mangbawiha

R/o Khanpui, Aizawl Dist, Mizoram

8. Sh. Biakthanga

S/o Zawhlira 'L'

R/o Khanpui, Aizawl Dist, Mizoram

9. Sh. Upa Thankhuma

S/o Chhunnhleia 'L'

R/o Khanpui, Aizawl Dist, Mizoram

10. Sh. Lalnunringa

S/o Hualkunga

R/o Pehlawn, Aizawl Dist, Mizoram

11. Sh. Laldawngliana

S/o Hranghnuna

R/o Pehlawn, Aizawl Dist, Mizoram

12. Sh. Roluahthanga

S/o Thangliana (L)

R/o Pehlawn, Aizawl Dist, Mizoram

13. Sh. R. Thangzuala

S/o Thangchhunga

R/o Pehlawn, Aizawl Dist, Mizoram

14. Sh. Chhawntluanga

S/o Laithangvunga 'L'

R/o Pehlawn, Aizawl Dist, Mizoram

15. Smt. Lalbiaktluangi

D/o Hrangzika 'L'

R/o E. Phaileng, Aizawl Dist, Mizoram

16. Sh. Laldawngliana Khawlhing

S/o K. Chhawma 'L'

R/o Republic Veng, Aizawl, Mizoram.

By Advocates :

Mr. Saurabh Pradhan

Mr. Albert VL Nghata

Ms. Rosalynn L Hmar

Mr. C. Lalbiakkima

- Versus -

Respondents :

1. State of Mizoram represented by the Chief Secretary to the Govt. of Mizoram, Aizawl.

2. The Secretary, Public Works Department,
Govt. of Mizoram, Aizawl.

3. The Deputy Commissioner/District Collector,
Aizawl District, Aizawl, Mizoram.

4. The Secretary, Land Revenue & Settlement,
Govt. of Mizoram, Aizawl.

By Advocates :

Mr. C. Zoramchhana, Addl. Advocate General

:::B E F O R E:::

HON'BLE MR. JUSTICE NELSON SAILO

Date of hearing & Judgment : 13.07.2023

J U D G M E N T & O R D E R (Oral)

Heard Mr. Saurabh Pradhan, learned counsel for the petitioners and Mr. C. Zoramchhana, learned Addl. Advocate General for the respondents. By filing this writ petition, the petitioners have prayed for a direction to the respondents to make verification and assessment for the value of their land including solatium and interest payable under the Land Acquisition Act, 1894 (LA Act) for their acquired land.

[2.] The case of the petitioners is that their land was acquired for construction and widening of National Highway - 150 to two lane standard from 0/00 to 60/00 Kms passing through Khanpui, Pehlawn and Khawruhlian villages. For acquiring the land, the respondents published a Notification under Section 4 of the LA Act on 24.06.2010. Thereafter, upon completing the required procedure, the Collector made the Award No. 6/2010 on 02.07.2010. According to the petitioners, they are Periodic Patta holders and as for petitioner No. 16, he is a holder of Agriculture Land Settlement Certificate but as per the said Award, no compensation has been paid to them towards

land value. They were only paid compensation for their crops. Aggrieved with the action of the respondents, the petitioners submitted a representation to the respondents on 04.09.2019 demanding payment of compensation towards the value of their land along with solatium and interest as payable under the LA Act. However, as no relief was granted to them, they are before this Court through the instant writ petition.

[3.] Mr. Saurabh Pradhan, learned counsel for the petitioners submits that although the petitioners are having their respective land holdings in the form of Periodic Patta and in respect of the petitioner No. 16, in the form of Agriculture LSC but the Collector as per the Award No. 6/2010 has remarked that the petitioners did not possess any Pass. The learned counsel further submits that this Court in *State of Mizoram & Ors. -Vs- C. Lalbiakthanga, 2012 (1) GLT 53*, has held that even Periodic Patta holders are entitled to compensation towards land value. As such, the present petitioners are also entitled to compensation towards their land value and for that, this Court may direct the respondent authority concerned to make appropriate assessment.

[4.] Mr. C. Zoramchhana, learned Addl. Advocate General on other hand by referring to the affidavit-in-opposition filed by the respondents on 12.01.2022 submits that the petitioners have already been compensated as per the pronouncement of Award No. 6/2010 on 30.07.2010 and now, after a lapse of 10 years, they cannot make a fresh claim for payment of compensation towards land value. He submits that at the time of

acquisition of the land of the petitioners, there was no law which provided that land value should be given to those having Periodic Patta. By further referring to the additional affidavit filed by the respondents on 24.03.2022, the learned counsel submits that as per Notification dated 29.12.2009 issued by the Commissioner & Secretary to the Govt. of Mizoram, Revenue Department, it was clearly provided that Periodic Patta holder do not acquire the Patta holder right over the land and therefore, value of land should not be assessed. Such being the position, the learned Addl. Advocate General submits that the claim of the petitioners cannot be accepted and at any rate, there being a delay of more than 10 years in making such claim without availing for any other recourse available in law, the writ petition should be dismissed.

[5.] I have heard the learned counsels for the rival parties. For acquisition of the land for construction and widening of NH-150 to two lane standard, an acquisition proceeding was initiated by issuance of Notification under Section 4 of the LA Act on 24.06.2010. Pursuant thereto, after completing the procedural requirements, Award No. 6/2010 was made by the concerned Collector on 02.07.2010. As stated by the petitioners, they were given compensation towards crops only and not for the value of their land. The admitted position is that the petitioners did not file a reference petition under Section 18 of the LA Act projecting their non-acceptance of the Award or insufficiency of the Award. Much later, on 04.09.2019, the petitioners submitted a joint representation to the respondents for grant of compensation towards the value of their land as well as solatium and interest as per the LA Act. Since their prayer has not

been granted, they are before this Court. The issue to be considered and decided is as to whether the petitioners can be granted compensation for value of their land along with interest as per the LA Act. To press their claim, reliance has been placed on the case of *State of Mizoram & Ors. -Vs- C. Lalbiakthanga* (supra) wherein, this Court rejected the contention of the appellants therein that a Periodic Patta holder is not entitled to any compensation. What can be seen from the facts involved in that case is that for construction and widening of Aizawl - Thenzawl - Lunglei road under the World Bank aided project, acquisition of land was necessary and the State Government came up with a policy called 'Resettlement & Rehabilitation Policy' applicable for World Bank aided projects for construction of roads in the State of Mizoram. As per Clause 2.3 of the said policy, all acquisition of private lands was to be carried out under the LA Act. In compliance of Clause 7.8 of the policy, the constituted Special Committee for Lunglei town area including Pukpui area took a decision in the form of a resolution that land value for agricultural land falling under the said area should be fixed at Rs. 0.50/- per sq.ft. Initially, the assistance payable to the respondent therein was calculated at Rs. 19,012/- but on the objection raised by the respondent, the amount was reassessed and calculated at Rs. 1,00,048/-. Although the amount was received by the respondent, but still being aggrieved, he submitted a representation before the Special Land Acquisition Officer for assessing the land value as Rs. 50/- per sq.ft. Since his prayer could not be accepted, a reference was made to the Deputy Commissioner concerned under Section 18 of the LA Act and accordingly,

LA Case No. 1/2007 was registered. The Reference Court ultimately vide Judgment & Order dated 17.09.2010 held that the respondent was entitled to Rs. 40/- per sq.ft for his acquired land. It is against the said judgment that a Regular First Appeal was preferred before this Court. This Court accordingly vide Judgment & Order dated 18.11.2011 held that as the respondent was holding a Periodic Patta since 1976 continuously till the acquisition of his land and therefore, the contention of the State that a Periodic Patta holder is not entitled to any compensation was without any substance and accordingly rejected the said contention.

[6.] What can be seen is that the Special Committee formed under the Resettlement & Rehabilitation Policy had themselves decided to adopt Rs. 0.50/- per sq.ft as compensation with regard to agricultural land and this according to the respondent not being acceptable was contested by way of an objection/representation and later on, by way of a reference application under Section 18 of the LA Act. However, in the present case, as already stated herein above, the petitioners after receiving their respective compensation through Award No. 6/2010 dated 02.07.2010 did not avail for any such remedy except for filing a representation on 04.09.2019, after almost about a period of 9 years. Thereafter, they have filed the instant writ petition on 01.02.2021, which is again more than 10 years after the passing of the Award No. 6/2010. The Judgment & Order in *State of Mizoram & Ors. -Vs- C. Lalbiakthanga* (Supra) was rendered on 18.11.2011 but the present petitioners have not relied upon the same since then until the filing of the present writ petition. At any rate, facts involved are

not similar and that the petitioners cannot be granted relief as prayed for by them at this belated stage. Moreover, accepting the prayer of the petitioners at this stage will also lead to opening of floodgate. It may also be referred herein that Section 18(2) (a)&(b) of the LA Act provides for the time limit for filing a reference application by a person who does not accept the award of the Collector. As such, upon due consideration, I do not find any merit in the writ petition and the same is accordingly dismissed. No cost.

JUDGE

Comparing Assistant