

GAHC030003352022



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

Case No. : WP(C)/81/2022

Rochhunga and 20 Ors.

S/o Lalsanga (L)

R/o Lunglawn, Lunglei. 2: H.S. Lalhmingliana

3: H. Zoramsanga (L) r/b his wife Lalhmingkimi

4: C. Zomuanzuala

5: TC Thangngura

6: C. Hlunkunga

7: Lalramhluna

8: Lalthanhlui

9: PC Lalmuanzuali

10: Biakluaia

11: Chhuanzikpuii

12: Territorial Commander Salvation Army r/b K Lalrinpuia

13: Lalhmangaihthanga

14: K. Ngunhluna

15: K. Lalnunthanga

16: PC Lalhmngaihzuala

17: T. Laltawka

18: A. Zaduna

19: F. Thankama

20: F. Zohmingthanga

21: Zachawl

VERSUS

State of Mizoram and 4 Ors.
Aizawl, Mizoram. 2:The Secretary
Land Revenue and Settlement Department

3:The District Collector/Deputy Commissioner

4:National Highway and Infrastructure Development Corporation ltd.

5:Branch Manager
Indusind Bank
Aizawl Branc

Advocate for the Petitioner : Mr Lalfakawma

Advocate for the Respondent : Mrs. Linda L Fambawl, G.A. for R1

Linked Case : I.A.(Civil)/30/2023

Sh.Rochhunga and 20 Ors.
S/o Lalsanga(L)
R/o Lunglawn
Lunglei

2: Sh.H.S. Lalhminglana
S/o Kapthuama(L)
R/o Serkawn
Lunglei

3: Sh.Zoramsanga r/b his wife Smt. Lalhmingkimi
R/o Thingfal

Lunglei District

4: Sh.C.Zomuanzuala
S/o C.Sangkhuma(L)
R/o Thingfal

Lunglei District.

5: Sh. TC Thangngura
S/o Manghulha(L)
R/o Thingfal

Lunglei District.

6: Sh. C. Hlunkunga
S/o C.Lalrawna
R/o Thingfal

Lunglei District

7: Sh.Lalramhluna
S/o K. Zamuana
R/o Thingfal

Lunglei District.

8: Smt Lalthanhlui
D/o F Ronghinglova
R/o Thingfal

Lunglei District.

9: Smt P.C. Lalmuanzuali
D/o PC lalmangaihzuala
R/o Thingfal

Lunglei District.

10: Sh Biakluaia
S/o Lengbilha(L)
R/o Thingfal

Lunglei District.

11: Smt Chhuanzikpuii
D/o PC Lalthanga(L)
R/o Thingfal

Lunglei District.

12: Territorial Commander
Salvation Army r/b Sh.K Lalrinpuia
R/o Thingfal

Lunglei District.

13: Sh Lalmangaihthanga
S/o Hrangkhuma(L)
R/o Thingfal

Lunglei District.

14: Sh K Ngunhluna
S/o Lalruanga(L)
R/o Thingfal

Lunglei District.

15: Sh H Lalnunthanga
S/o Ramzauva (L)
R/o Thingfal

Lunglei District.

16: Sh PC Lalmangaihzuala
S/o PC Lalthanga(L)
R/o Thingfal

Lunglei District.

17: Sh Laltawka
S/o Thanhaia(L)
R/o Thingfal

Lunglei District.

18: Sh A.Zaduna
S/o Thanianga(L)
R/o Thingfal

Lunglei District.

19: Sh F Thankama
S/o F Lalsela(L)
R/o Thingfal

Lunglei District.

20: Sh F Zohmingthanga
S/o F.Ronghinglova
R/o Thingfal

Lunglei District.

21: Sh Zachawla
S/o Hranglinga(L)
R/o Thingfal

Lunglei District.
VERSUS

The State of Mizoram represented by the Chief Secretary to the Govt. of Mizoram and
3 Ors.
Aizawl

2:The Secretary
Land Revenue and Settlement Deptt.
Govt. of Mizoram
Aizawl

3:The District Collector/Deputy Commissioner
Lunglei District
Lunglei
Lunglei

4:National Highways and Infrastructure Development Corporation Ltd.(NHIDCL) r/b
the Executive Manager
Regional Office

3rd Floor
T-86
Tuikhuahtlang
Aizawl.

Advocate for the Petitioner : Mr Lalfakawma
Advocate for the Respondent :

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

24.04.2023

-

Heard Mr. Lalfakawma, learned counsel for the petitioners and Mrs. Linda L. Fambawl, learned Government Advocate for the respondent Nos. 1 to 3. Mr. Samuel Vanlalhriata Chhangte, learned counsel appears for the respondent No. 4. No one appears for the respondent No. 5.

2. This writ petition has been filed by 21 writ petitioners for issuing a direction to the State respondents to refund /release the 15% cess, which was deducted by the State respondents from the compensation to be received by the petitioners, for acquisition of their lands for development of National Highway No. 54 between Aizawl to Tuipang, in the stretch of land from Km 250 to Km 298.

3. During the pendency of the case, the State respondents have returned the cess amount taken by the State Government to the petitioner Nos. 1, 2, 3, 4, 6, 8, 11, 12, 15, 18 and 21, through the respondent No. 5.

4. Mrs. Linda L. Fambawl, learned Government Advocate submits that the repayment of the 15% cess amount of Rs. 17,87,494/- in respect of the 21 petitioners had been released to

the Branch Manager, IndusInd Bank Ltd., Aizawl Branch through Cheque No. 274301 dated 20.10.2022, for transfer to the petitioner's Bank Accounts, whose numbers/details were furnished by the petitioners/beneficiaries themselves. She submits that failure of payment made to the petitioners by the respondent No. 5 should have been communicated immediately to the respondent No. 3. However, no such communication was made by the respondent No. 5 to the respondent No. 3, stating that there had been any failure in payment of the deducted cess, in respect of petitioner Nos. 5, 7, 9, 10, 13, 14, 16, 17, 19 and 20. Hence it was presumed that disbursement of the 15% cess, that had been deducted earlier, had been credited to the petitioner's Accounts. She also submits that requests had been made by the office of the respondent No. 3 to the respondent No. 5, for submission of a report and to provide a list of failed payments against any of the petitioners, vide letters dated 05.08.2022 and 13.02.2023. However, no reply has been forthcoming from the respondent No. 5 to the respondent No. 3.

5. I have heard the learned counsels for the parties.

6. Though notice was deemed to have been served upon the respondent No. 5 through Dasti service, they have not appeared in this Court. The admitted facts is that the lands of the 21 petitioners had been acquired under the National Highways Act, 1956. The State respondents had deducted 15% of the compensation amount payable to the petitioners, in terms of Rule 47(4) of the Mizoram (Land Revenue) Rules, 2013, as Government cess. This Court, in its Judgment and Order dated 08.09.2021 in WP(C) No. 36/2021 and Judgment and Order dated 14.02.2022 in WP(C) No. 7/2022, held that the deduction of cess from the compensation amount payable to the landowners, was unauthorized and illegal. The State respondents were accordingly directed to return the cess amount that had been deducted by the State respondents from the compensation amount payable to the landowners whose lands had been acquired.

7. As can be seen from the affidavit filed by the State respondent Nos. 1 to 3, the deducted cess amount of Rs. 17,87,494/-, which was to be paid to the 21 petitioners, had been released to the respondent No. 5. Though the respondent No. 5 had released the cess amount to the petitioner Nos. 1, 2, 3, 4, 6, 8, 11, 12, 15, 18 and 21, the respondent No. 5

has not released the cess amount payable to the petitioner Nos. 5, 7, 9, 10, 13, 14, 16, 17, 19 and 20. Though the State respondent No. 3 have issued two letters to the respondent No. 5 on 05.08.2022 and 13.02.2023, requesting the respondent No. 5 to furnish a list of failed payments made with respect to the 15% cess amount which had been deposited vide Cheque No. 274301 dated 20.10.2022, the respondent No. 5 has kept completely silent about the same.

8. In view of the reasons stated above, the action of the respondent No. 5 in not releasing the 15% cess amount to some of the petitioners is highly arbitrary. As there can be no justification for not releasing the 15% cess to the petitioners, when the State Government has deposited the same with the Bank, the respondent No. 5 is directed to release the 15% cess amount payable to the petitioner Nos. 5, 7, 9, 10, 13, 14, 16, 17, 19 and 20, within a period of two weeks from the date of receipt of a copy of this order.

The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant