

GAHC030001372023



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

Case No. : WP(C)/29/2023

Sh. B Lalchhanhima
S/o B Lalchawivela
R/o Tuikhuahtlang, Aizawl, Mizoram

VERSUS

Special Secretary, Land Revenue and Settlement Deptt. and 2 Ors.
Aizawl2:General Manager
Project
NHIDCL

3:The Deputy Commissioner/ Collector
Aizawl Distric

Advocate for the Petitioner : Mr Vanlalnghaka

Advocate for the Respondent :

ORDER

Date : 23-03-2023

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

Mr. Vanlalnghaka, learned counsel for the petitioner submits that the petitioner is the owner of land covered by Periodic Patta No. 285/2004. When a road was constructed over the land of the petitioner by the NHIDCL, the petitioner was not included among the land owners in the Notification S.O.

3646(E) dated 25.07.2018 issued by the Ministry of Road Transport and Highways, who were identified to be given compensation under the National Highways Act, 1956 for acquisition of their lands.

2. The omission of the petitioner's name had apparently been done due to the fact that the assessment of the compensation payable for the petitioner's land, had been made in favour of one Mr. Lalchhanchhuaha, who was the owner of land covered by Village Council (VC) Pass No. 22/2006, which overlapped the petitioner's land. The name of Mr. Lalchhanchhuaha was also included in the list of land owners, who were to be given compensation under the National Highways Act, 1956, vide the above Notification dated 25.07.2018 issued by the Deputy Secretary to the Government of India, Ministry of Road Transport & Highways.

3. The petitioner filed a representation dated 01.04.2019, with regard to his grievance to the respondent No. 3. Thereafter, the land of the petitioner was verified by Surveyors.

4. Consequent to the above, the Deputy Commissioner, Aizawl District issued Order dated 28.05.2020, to the effect that the compensation amount of Rs. 1,14,752/-, which had been assessed for payment to Mr. Lalchhanchhuaha should actually be paid to the petitioner.

5. The petitioner's counsel submits that though he does not have any issue with the finding of the Deputy Commissioner, Aizawl in the Order dated 28.05.2020, with regard to the petitioner being found the correct person to be awarded compensation, for acquisition of his land in place of Mr.

Lalchhanchhuaha, he is aggrieved with the amount of compensation that is to be paid to him. He submits that while Rs. 1,14,752/- had been assessed for payment of compensation against the VC Pass No. 22/2006, which was in the name of Mr. Lalchhanchhuaha, the petitioner's land is covered by Periodic Patta No. 285/2004. As the competent authority has taken a decision to the effect that the petitioner has to be given compensation for acquisition of land covered by Periodic Patta No. 285/2004, the compensation assessment has to be made on the basis of the land value, solatium, crop damage, interest etc. as per law, as the petitioner's land is covered by a Periodic Patta and not a VC Pass.

6. Mr. Samuel Vanlalhriata Chhange, learned counsel for the respondent No. 2 submits that as there is an alternative remedy available to the petitioner, in terms of Section 3 G(5) of the National Highways Act, 1956, the petitioner would have to approach the Central Government with an application with regard to his grievance, for appointment of an Arbitrator appointed by the Central Government, to decide the grievance of the petitioner.

7. Mrs. H. Lalmalsawmi, learned Government Advocate appearing for the respondent Nos. 1 to 3 submits that Arbitrators have been appointed under the National Highways Act, 1956 in pursuance to other writ petitions, wherein land owners had challenged the amount of compensation determined by the competent authority.

8. On considering the submissions made by the learned counsels for the parties, this Court is of the view that as there is an alternative remedy available to the petitioner, he should approach the Central Government for appointment of an Arbitrator, who will take a decision on his grievance, in terms of Section 3

G(5) of the National Highways Act, 1956. Accordingly, the petitioner is given the liberty to submit an application to the Secretary to the Government of India, Ministry of Road Transport & Highways, with an application for appointment of an Arbitrator.

9. The Secretary to the Government of India, Ministry of Road Transport & Highways is directed to appoint an Arbitrator, within a period of 1 (one) month from the date of receipt of the application made by the petitioner's counsel for appointment of an Arbitrator, who shall thereafter initiate proceedings between the parties and take a decision with regard to the petitioner's grievance.

10. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant