

GAHC030001772022



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

Case No. : WP(C)/49/2022

Smt. Zatluangi and 2 Ors.
W/o J. Lalramthara(L),
R/o Bungkawn, Aizawl.

2: Smt. Zatluangi

3: Sh. B.Kapthum

VERSUS

Chief Secretary to the Govt. of Mizoram and 2 Ors.
Aizawl

2:Secretary to the Govt. of Mizoram
PHED

3:Engineer-in-Chief
PHE

Advocate for the Petitioner : Mr. Zochhuanmawia

Advocate for the Respondent : Mrs. Linda L Fambawl, G.A., Mizoram for R1 - 3

Linked Case : I.A.(Civil)/55/2023

Smt. Zatluangi
W/o J. Lalramthara(L)
R/o Bungkawn
Aizawl.

VERSUS

State of Mizoram and 2 Ors.
Chief Secretary to the Government of Mizoram
Aizawl

2:Secretary to the Government of Mizoram Public Health Engineering Department
Aizawl
Mizoram

3:Engineer in Chief Public Health Engineering Department
Aizawl
Mizoram

Advocate for the Petitioner : Mr. Zochhuanmawia
Advocate for the Respondent : Addl. AG/GA
Mizoram

Linked Case : I.A.(Civil)/56/2023

Smt Zatluangi
Bungkawn
Aizawl
Mizoram

VERSUS

The State of Mizoram and 2 Ors
Chief Secretary to the Govt of Mizoram
Aizawl
Mizoram

2:Secretary to the Govt of Mizoram
Public Health Engineering Department
Aizawl
Mizoram

3:Engineer in Chief
Public Health Engineering Department
Aizawl
Mizoram

Advocate for the Petitioner : Mr. Zochhuanmawia
Advocate for the Respondent : Addl. AG/GA
Mizoram

**BEFORE
HONOURABLE MRS. JUSTICE MARLI VANKUNG
ORDER**

Date : 11-12-2023

Heard Mr. Samuel VanlalhriataChhangte, learned counsel for the petitioners along with Mr. C. Zoramchhana, learned Additional Advocate General for the State respondents.

2. The case of the petitioners are that they have landed properties located at Lawipu, Aizawl, Mizoram along the Aizawl-Tlawng main road. The Public Health Engineering Department have since 1989 laid their water pipeline for Greater Aizawl Water Supply Scheme Phase-I through the lands of the petitioners and the electric towers for supplying power to the said water supply scheme has also been erected inside the petitioners land till date and despite repeated requests to pay rental compensation made by the petitioner No. 1, no positive steps have been taken till date and hence the instant writ petition.

3. The learned counsel for the petitioners submits that the instant writ appeal may be disposed of with a direction to the State respondents to verify whether the landed properties of the petitioners have been encroached upon and occupied by the Public Health Engineering Department since 1989, by laying their waterpipe for Greater Aizawl Water Supply Scheme Phase-I and if so adequate rental compensation may be paid to the petitioners since the laying of the waterpipe through their lands have greatly diminished the utility and value of the lands by causing considerable damages.

4. The learned counsel also submits that the petitioner No. 1 had submitted a letter dated 16/11/2016 and letter dated 17/1/2017 to the respondent No. 3. The respondent No. 3 in response had sent a reply dated 7/03/2017, stating that the new pipeline for Greater Aizawl Water Supply Scheme Phase-I under AMRUT Scheme will not cross the land of the petitioner No. 1. The learned counsel however, submits that,

the old pipeline remains within the land of the petitioners and have not been shifted out till date and so also are the electric tower and power line within the lands of the petitioners till date.

5. The learned counsel for the petitioners submits that a verification team may be sent to verify the damages done and that compensation and rental charges for the wrongful occupation of the lands of the petitioners may be given. He further submits that if the old pipelines are no longer utilized by the State respondents, steps may also be taken for removing the pipelines from the lands of the petitioners.

6. Mr. C. Zoramchhana, learned Additional Advocate General submits that the State respondents have taken steps to verify whether there is any unauthorized occupation of the petitioners land by the PHE Department which is in compliance of this Court's Order dated 01.06.2023, and the State respondents in his additional affidavit filed on 19th September, 2023 has enclosed the letter dated 22nd October, 2021, addressed to the Executive Engineer, PHED, Aizawl Water Transmission Division, Aizawl, Mizoram by the Sub-Divisional Officer, PHED, A.W.T. Mechanical Sub-Division, Aizawl in which it was stated that *"the spot verification was done based on the complaint and the two LSCs of J. Lalramthara S/o Tlangsala (L) LSC No.AZL-887 of 1985 and Lalchhandami D/o J. Lalramthara LSC No.AZL-1316 of 1985 enclosed. It was observed that based on the demarcations/boundaries mentioned in the LSC of J. Lalramthara, the old unused pumping main of GAWSS Phase-I of size 350mm did pass through the LSC for a length of 35m. It may also be noted that the said pumping main was laid for GAWSS Phase-I which was commissioned in 1988 and was replaced by a new pumping main in 2018 under AMRUT and the new Pumping main did not pass through the said land.*

It may also be noted that based on the boundaries mentioned in the LSC of Lalchhandami, it was observed that the pipeline did not pass through the said land."

7. The learned Additional Advocate General however admits that since the instant

verification report has only mentioned the land of the petitioner No. 1, there is no verification report with regards to the lands of the petitioners Nos. 2 & 3

8. Thus, considering the limited prayer made by the learned counsel for the petitioners, this Court find it fit to dispose of the instant writ petition with a direction that the State respondents shall verify whether the old unused Pumping main of GAWSS Phase-I is also laid within the land of the petitioner Nos. 2 & 3 and whether the same has been replaced by a new pumping main in 2018 under AMRUT and whether the new pumping main passes through the land of the petitioner Nos. 2 & 3.

9. After due verification, if unused and replaced by the new pipeline for Greater Aizawl Water Supply Scheme Phase-I under AMRUT Scheme, the State respondents shall take immediate steps to remove the old Pumping main of GAWSS Phase-I. The State respondents shall also consider the payment of rental compensation for the period the Public Health Engineering Department occupied the landed properties of the petitioners as per the existing norms/law. The whole exercise should be completed within a period of 4 (four) months from the date of receiving a certified true copy of this order.

10. Accordingly, the Writ Petition stands disposed of with the above directions.

JUDGE

Comparing Assistant