



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

Case No. : WP(C)/171/2024

Tolum Tapam and 90 Ors
Son of Tolum Sopin, Village Pipa, PO and PS Damin, Kurung Kumey District,
Arunachal Pradesh

2: Tarba Tado
Age:
Occupation :
Son of Tarba Marik
Village Pipa
PO and PS Damin
Kurung Kumey District
Arunachal Pradesh

3: Tolum Tapam - II
Age:
Occupation :
Son of Tolum Tasap
Village Pipa
PO and PS Damin
Kurung Kumey District
Arunachal Pradesh

4: Tarba Yapar
Age:
Occupation :
Wife of Bamo Ninyu
Village Pipa
PO and PS Damin
Kurung Kumey District
Arunachal Pradesh

5: Tolum Bai
Age:

Occupation :
Son of Tolum Tasap
Village Pipa
PO and PS Damin
Kurung Kumey District
Arunachal Pradesh

6: Sale Papang
Age:
Occupation :
Son of Sale Nikma
Village Pipa
PO and PS Damin
Kurung Kumey District
Arunachal Pradesh

7: Tolum Roruk
Age:
Occupation :
Son of Shri Tolum Taluk
Village Pipa
PO and PS Damin
Kurung Kumey District
Arunachal Pradesh

8: Sale kaku
Age:
Occupation :
Son of Sale Nikma
Village Pipa
PO and PS Damin
Kurung Kumey District
Arunachal Pradesh

9: Smti Sangha Maya
Age:
Occupation :
Wife of Sangha Poshi
Village Mangio
PO and PS Parsi Parlo
Kurung Kumey District
Arunachal Pradesh

10: Sangha Kiopik
Age:
Occupation :
Son of Sangha Loma
Village Mangio

PO and PS Parsi Parlo
Kurung Kumey District
Arunachal Pradesh

11: Bake Tama

Age:

Occupation :

Son of Shri Bake Talik

Village Mangio

PO and PS Parsi Parlo

Kurung Kumey District

Arunachal Pradesh

12: Bake Talom

Age:

Occupation :

Son of Bake Talik

resident of Village Rasik

PO and PS Koloriang

Kurung Kumey District

Arunachal Pradesh

13: Bake Tayup

Age:

Occupation :

Son of Bake Tanang

resident of Village Rasik

PO and PS Koloriang

Kurung Kumey District

Arunachal Pradesh

14: Dalang Tatup

Age:

Occupation :

Son of Dalang Tanang

resident of Village Dalang Koloriang

Kurung Kumey District

Arunachal Pradesh

15: Shri Longda Tapok

Age:

Occupation :

Son of Langda Tama

resident of Village Tongbia

PO and PS Koloriang

Kurung Kumey District

Arunachal Pradesh

16: Sangha Maya

Age:

Occupation :

Wife of Sangha Poshi

Village Mangio

PO and PS Parsi Parlo

Kurung Kumey District

Arunachal Pradesh

17: Sanghe Kiopik

Age:

Occupation :

Son of Sangha Loma

Village Mangiop

PO and PS Parsi Parlo

Kurung Kumey District

Arunachal Pradesh

18: Bamo Takar

Age:

Occupation :

Son of Shri Bamo Niayu

resident of Village Fuba

PO and PS Koloriang

Kurung Kumey District

Arunachal Pradesh

19: Bamo Tadup

Age:

Occupation :

Son of Bamo kaha

resident of Village Fuba

PO and PS Koloriang

Kurung Kumey District

Arunachal Pradesh

20: Bamo Yana

Age:

Occupation :

wife of Bamo Kaha

resident of Village Fuba

PO and PS Koloriang

Kurung Kumey District

Arunachal Pradesh

21: Smti Bamo Yame

Age:

Occupation :

Wife of Bamo Kaha
resident of Village Fuba
PO and PS Koloriang
Kurung Kumey District
Arunachal Pradesh

22: Bamo Joshep
Age:
Occupation :
Son of Bamo Niayu
resident of Village Fuba
PO and PS Koloriang
Kurung Kumey District
Arunachal Pradesh

23: Smti Bamo Yakio
Age:
Occupation :
Wife of Bamo Niayu
resident of Village Fuba
PO and PS Koloriang
Kurung Kumey District
Arunachal Pradesh

24: Bamo Yaku - 1
Age:
Occupation :
Wife of Bamo Tari
resident of Village Fuba
PO and PS Koloriang
Kurung Kumey District
Arunachal Pradesh

25: Bamo Yaku-2
Age:
Occupation :
Wife of Bamo Tagar
resident of Village Fuba
PO and PS Koloriang
Kurung Kumey District
Arunachal Pradesh

26: Bamo Tada
Age:
Occupation :
Wife of Bamo Tokpe
resident of Village Fuba
PO and PS Koloriang

Kurung Kumey District
Arunachal Pradesh

27: Bamo Tatak

Age:

Occupation :

Son of Bamo Niayu
resident of Village Fuba
PO and PS Koloriang
Kurung Kumey District
Arunachal Pradesh

28: Smti Bamo Nado

Age:

Occupation :

Wife of Bamo Tarak
resident of Village Fuba
PO and PS Koloriang
Kurung Kumey District
Arunachal Pradesh

29: Bamo Tapang

Age:

Occupation :

Son of Bamo Niayu
resident of Village Fuba
PO and PS Koloriang
Kurung Kumey District
Arunachal Pradesh

30: Hinium Taha

Age:

Occupation :

Son of Hinium Tajok
Village Chula
PO Damin
PS Koloriang
Kurung Kumey District
Arunachal Pradesh

31: Hinium Tadap

Age:

Occupation :

Son of Hinium Talar
Village Chula
PO Damin
PS Koloriang
Kurung Kumey District

Arunachal Pradesh

32: Hinium Tapok

Age:

Occupation :

Son of Hinium Taruk

Village Chula

PO Damin

PS Koloriang

Kurung Kumey District

Arunachal Pradesh

33: Hinium Tama

Age:

Occupation :

Son of Hinium Roi

Village Chula

PO Damin

PS Koloriang

Kurung Kumey District

Arunachal Pradesh

34: Hinium Takiang

Age:

Occupation :

Son of Hinium Patum

Village Chula

PO Damin

PS Koloriang

Kurung Kumey District

Arunachal Pradesh

35: Hinium Tariu

Age:

Occupation :

Son of Hinium Tatum

Village Tarba

PO Damin

PS Koloriang

Kurung Kumey District

Arunachal Pradesh

36: Lebong Tage

Age:

Occupation :

Son of Lebong Tasok

Village Tarba

PO Damin

PS Koloriang
Kurung Kumey District
Arunachal Pradesh

37: Smti Lokam Anshu
Age:
Occupation :
Wife of Lokam Sakma
Village Chula
PO Damin
PS Koloriang
Kurung Kumey District
Arunachal Pradesh

38: Koria Tama
Age:
Occupation :
Son of Koria Tania
Village Tarba
PO Damin
PS Koloriang
Kurung Kumey District
Arunachal Pradesh

39: Hinium Tana
Age:
Occupation :
Son of Hinium Putum
Village Chula
PO Damin
PS Koloriang
Kurung Kumey District
Arunachal Pradesh

40: Hinium Yadam
Age:
Occupation :
Wife of Hinium Tatup
Village Chula
PO Damin
PS Koloriang
Kurung Kumey District
Arunachal Pradesh

41: Hinium Tagar
Age:
Occupation :
Son of Hinium Tatup

Village Chula
PO Damin
PS Koloriang
Kurung Kumey District
Arunachal Pradesh

42: Bamang Takar
Age:
Occupation :
Son of Bamang Kachang
Village Nampe
PO Damin
PS Koloriang
Kurung Kumey District
Arunachal Pradesh

43: Yangda Tado
Age:
Occupation :
Son of Yangda Tasuk
Village Nampep
PO Damin
PS Koloriang
Kurung Kumey District
Arunachal Pradesh

44: Dake Yajum
Age:
Occupation :
Son of Dake Mangha
Village Nampep
PO Damin
PS Koloriang
Kurung Kumey District
Arunachal Pradesh

45: Dake Aying
Age:
Occupation :
Son of Dake Taniok
Village Nampep
PO Damin
PS Koloriang
Kurung Kumey District
Arunachal Pradesh

46: Dake Tajit
Age:

Occupation :
Son of Dake Tawang
Village Nampe
PO Damin
PS Koloriang
Kurung Kumey District
Arunachal Pradesh

47: Dake Naji
Age:
Occupation :
Son of Nikja Tasi
Village Nampe
PO Damin
PS Koloriang
Kurung Kumey District
Arunachal Pradesh

48: Nikja Takap
Age:
Occupation :
Son of Lokam Tabing
Village Nampe
PO Damin
PS Koloriang
Kurung Kumey District
Arunachal Pradesh

49: Lokam Pacha
Age:
Occupation :
Son of Lokam Tasuk
Village Nampe
PO Damin
PS Koloriang
Kurung Kumey District
Arunachal Pradesh

50: Lokam Tatu
Age:
Occupation :
Son of Shri Lokam Tasuk
Village Nampe
PO Damin
PS Koloriang
Kurung Kumey District
Arunachal Pradesh

51: Lokam Tariak

Age:

Occupation :

Son of Lokam Tadap

Village Nampe

PO Damin

PS Koloriang

Kurung Kumey District

Arunachal Pradesh

52: Lokam Takar

Age:

Occupation :

Son of Lokam Tabong

Village Nampe

PO Damin

PS Koloriang

Kurung Kumey District

Arunachal Pradesh

53: Lokam Takap

Age:

Occupation :

Son of Lokam Tasuk

Village Nampe

PO Damin

PS Koloriang

Kurung Kumey District

Arunachal Pradesh

54: Ms Lokam Yanu

Age:

Occupation :

D/o of Lokam Tasuk

Village Nampe

PO Damin

PS Koloriang

Kurung Kumey District

Arunachal Pradesh

55: Lokam Kiochak

Age:

Occupation :

Son of Lokam Tasuk

Village Nampe

PO Damin

PS Koloriang

Kurung Kumey District

Arunachal Pradesh

56: Damin Tachung

Age:

Occupation :

Son of Damin Tadap

Village Damin

PO Damin

PS Koloriang

Kurung Kumey District

Arunachal Pradesh

57: Damin Takap

Age:

Occupation :

Son of Damin Tadap

Village Damin

PO Damin

PS Koloriang

Kurung Kumey District

Arunachal Pradesh

58: Damin Tayu

Age:

Occupation :

Son of Damin Tatak

Village Damin

PO Damin

PS Koloriang

Kurung Kumey District

Arunachal Pradesh

59: Damin Sanu

Age:

Occupation :

Son of Damin Tasap

Village Damin

PO Damin

PS Koloriang

Kurung Kumey District

Arunachal Pradesh

60: Huri Tanang

Age:

Occupation :

Son of Huri Tapum

Village Loak

PO Sarli

PS Koloriang
Kurung Kumey District
Arunachal Pradesh

61: Huri Logu
Age:
Occupation :
Son of Huri Tasam
Village Loak
PO Sarli
PS Koloriang
Kurung Kumey District
Arunachal Pradesh

62: Huri Taguk
Age:
Occupation :
Son of Huri Tasam
Village Loak
PO Sarli
PS Koloriang
Kurung Kumey District
Arunachal Pradesh

63: Pisa Langlang
Age:
Occupation :
Son of Pisa Talok
Village Lee
PO Sarli
PS Koloriang
Kurung Kumey District
Arunachal Pradesh

64: Pisa Logi
Age:
Occupation :
Son of Pisa Tasap
Village Chate
PO Sarli
PS Koloriang
Kurung Kumey District
Arunachal Pradesh

65: Lokam Takuk
Age:
Occupation :
Son of Lokam Tari

Village Chiya
PO Sarli
PS Koloriang
Kurung Kumey District
Arunachal Pradesh

66: Damin Chatum
Age:
Occupation :
Son of Damin Tatak
Village Damin
PO Sarli
PS Koloriang
Kurung Kumey District
Arunachal Pradesh

67: Chello Pemis
Age:
Occupation :
Son of Late Chello Sakter
Village Chello
PO and PS Koloriang
Kurung Kumey District
Arunachal Pradesh

68: Chello Tangah
Age:
Occupation :
Son of late Chello Sakter
Village Chello
PO and PS Koloriang
Kurung Kumey District
Arunachal Pradesh

69: Chello Tagar
Age:
Occupation :
Son of Chello Sakter
Village Chello
PO and PS Koloriang
Kurung Kumey District
Arunachal Pradesh

70: Chello Chaying
Age:
Occupation :
Son of Late Chello Tatak
Village Chello

PO and PS Koloriang
Kurung Kumey District
Arunachal Pradesh

71: Chello Tadh

Age:

Occupation :

Son of Late Chello Taka
resident of Village Chello
PO and PS Koloriang
Kurung Kumey District
Arunachal Pradesh

72: Chello Tokbing

Age:

Occupation :

Son of Chello Tasi
resident of Village Chello
PO and PS Koloriang
Kurung Kumey District
Arunachal Pradesh

73: Chello Nikam

Age:

Occupation :

Son of Chello Nikte
resident of Village Chello
PO and PS Koloriang
Kurung Kumey District
Arunachal Pradesh

74: Sariu Mefi

Age:

Occupation :

Son of Late Sariu Tami
resident of Village Tabumha
PO and PS Koloriang
Kurung Kumey District
Arunachal Pradesh

75: Sariu Togru

Age:

Occupation :

Son of Late Sariu Tami
resident of Village Tabumha
PO and PS Koloriang
Kurung Kumey District
Arunachal Pradesh

76: Bengia Takar

Age:

Occupation :

Son of Late Bengia Tabung
resident of Village Tayang
PO and PS Koloriang
Kurung Kumey District
Arunachal Pradesh

77: Sariu Charchang

Age:

Occupation :

Son of Late Sariu Bangni
resident of Village Kachangjane
PO and PS Koloriang
Kurung Kumey District
Arunachal Pradesh

78: Bengia Pande

Age:

Occupation :

Son of Shri Bengia Pumto
resident of Village Tayang
PO and PS Koloriang
Kurung Kumey District
Arunachal Pradesh

79: Bagang Kai

Age:

Occupation :

Son of Late Bagang Sopia
resident of Village Tabumha
PO and PS Koloriang
Kurung Kumey District
Arunachal Pradesh

80: Wahi Takiang

Age:

Occupation :

Son of Late Wahi Kachu
resident of Village Najibibok
PO and PS Koloriang
Kurung Kumey District
Arunachal Pradesh

81: Milli Katap

Age:

Occupation :
Son of Late Milli Lering
resident of Village Milli
PO Sarli
PS Koloriang
Kurung Kumey District
Arunachal Pradesh

82: Sape Mama
Age:
Occupation :
Son of Sape Mupam
resident of Village Sape
PO Sarli
PS Koloriang
Kurung Kumey District
Arunachal Pradesh

83: Sape Kambe
Age:
Occupation :
Son of Sape Tani
resident of Village Sape
PO Sarli
PS Koloriang
Kurung Kumey District
Arunachal Pradesh

84: Sape Tani (G.B)
Age:
Occupation :
Son of Sape Kangeng
resident of Village Sape
PO Sarli
PS Koloriang
Kurung Kumey District
Arunachal Pradesh

85: Milli Dangdang
Age:
Occupation :
Son of Milli Jaku
resident of Village Milli
PO Sarli
PS Koloriang
Kurung Kumey District
Arunachal Pradesh

86: Milli Babing
Age:
Occupation :
Son of Milli Siniong
resident of Village Machane
PO Sarli
PS Koloriang
Kurung Kumey District
Arunachal Pradesh

87: Waru Logu
Age:
Occupation :
Son of Waru Tadek Niania
resident of Village Waru
PO Sarli
PS Koloriang
Kurung Kumey District
Arunachal Pradesh

88: Pisa Nana
Age:
Occupation :
Son of Pisa Kafa
resident of Village Wabia
PO Sarli
PS Koloriang
Kurung Kumey District
Arunachal Pradesh

89: Pisa Kamin
Age:
Occupation :
Son of Late Pisa Taja
resident of Village Wabia
PO Sarli
PS Koloriang
Kurung Kumey District
Arunachal Pradesh

90: Pisa Tagar
Age:
Occupation :
Son of Pisa Along
resident of Village Wabia
PO Sarli
PS Koloriang
Kurung Kumey District

Arunachal Pradesh

91: Tamin Tani

Age:

Occupation :

Son of Tami Tagik

resident of Village Wabia

PO Sarli

PS Koloriang

Kurung Kumey District

Arunachal Pradesh

VERSUS

The State of AP and 14 Ors

represented by the Chief Secretary, Govt of Arunachal Pradesh, Itanagar 2:The Secretary

Age: 0

Occupation :

Rural Works Department

Govt of Arunachal Pradesh

Itanagar

3:The Director

Age: 0

Occupation :

Rural Work Department

Govt of Arunachal Pradesh

Itanagar

4:The Executive Engineer

Age: 0

Occupation :

Rural Work Department

Laaying Yangte Division

Kurung Kumey District

Govt of Arunachal Pradesh

5:M/s Goodwill Suppliers

Age: 0

Occupation :

having its registered office at G Sector

Itanagar

represented by Shri Nangram Pentum Son of Late Nangram Tagung

resident of Senki Park

Itanagar

Po and PS Itanagar

ICR

6:M/s Lokam Yasi Carriage and Construction Associates

Age: 0

Occupation :

having its registered office at D Sector

Naharlagun

ICR represented by the proprietor Shri Lokam Tassar

Son of Late Lokam Gari

Cheya Village

PO and PS Damin

Papumpare District

Arunachal Pradesh

7:M/s Zee Engineering and Construction

Age: 0

Occupation :

having its registered office at B Sector

Naharlagun

ICR represented by Shri Biki Takum

Son of Shri Biki Talang

PO and PS Itanagar

Itanagar Capital Region

8:M/s Buru Enterprises

Age: 0

Occupation :

having its registered office at Yara Tabang Complex

ESS Sector

Itanagar represented by Shri Lokam Tachok

Son of Shri Lokam Takap

Pilpuk Village

PO Damin

PS Koloriang

Kurung Kumey District

Arunachal Pradesh

9:M/s Vivek Enterprises

Age: 0

Occupation :

having its registered office at G Sector

Itanagar

PO and PS Itanagar

ICR represented by Shri Bengia Bado

Son of Shri Bengia Takia

Pakpu village

PO and PS Koloriang

Kurung Kumey District

Arunachal Pradesh

10:M/s B B Enterprises

Age: 0

Occupation :

having its registered office at IG Park
Itanagar

represented by Shri Bengia Nachung

Son of Shri Bengia Bado

Pakpu village

PO and SP Koloriang

Kurung Kumey District

Arunachal Pradesh

11:M/s B T Enterprises

Age: 0

Occupation :

having its registered office at Koloriang main Market
Kurung Kumey District

represented by Shri Sangha Tariong

Son of Late Sangha Tabin

Mangio Village

PO and PS Koloriang

Kurung Kumey District

Arunachal Pradesh

12:M/S Kenge Construction

Age: 0

Occupation :

having its registered office at ESS Sector
PO and PS Itanagar

ICR

Arunachal Pradesh represented by Shri Bamang Sanjay

Son of Shri Bamang Kyoda

resident of Chimpu

Itanagar

PO and PS Itanagar

ICR

13:M/s Capital Enterprise

Age: 0

Occupation :

having its registered office at C Sector
PO and PS Naharlagun

ICR represented by Shri Lokam Sikam

Son of Shi Lokam Mangha

resident of Barapani

Naharlagun

ICR

14:M/s M D Enterprises

Age: 0

Occupation :

having its registered office at Gandhi Market

Daporijo represented by Shri Pisa Sanjay Son of Late Pisa Dewa

PO and PS Koloriang

Kurung Kumey District

Arunachal Pradesh

15:M/s D and L Enterprises

Age: 0

Occupation :

having its registered office at Yuj(Billo) Village

PO and PS Yazali

Keyi Panyor District

represented by Shri Lokam Rakhi

Son of Shri Lokam Kani

Taba Village

PO and PS Koloriang

Kurung Kumey District

Arunachal Pradesh

Advocate for the Petitioner : Nikita Danggen, O. Duggong, H. T. Tara, P. Siga, K. Chotten

Advocate for the Respondent : GA (AP), G. Tarak, S/C RWD; T. T. Tara, G. Bam

Linked Case : WP(C)/178/2024

Riya Toklik and 7 Ors

Age: 40

Occupation :

Address:Son of Riya Tajik

permanent resident of Digging Village

PO and PS Koloriang

Kurung Kumey District

Arunachal Pradesh

2: Riya Buru

Age: 30

Occupation :

Address:Son of Riya Chapo

permanent resident of Digging Village

PO and PS Koloriang

Kurung Kumey District

Arunachal Pradesh

3: Bengia Kagung

Age: 33

Occupation :

Address: Son of Bengia Tabung
permanent resident of Buyang Village
PO and PS Koloriang
Kurung Kumey District
Arunachal Pradesh

4: Bengia Pomkey

Age: 31

Occupation :

Address: Son of Bengia Roi
permanent resident of Buyang Village
PO and PS Koloriang
Kurung Kumey District
Arunachal Pradesh

5: Riya Logu

Age: 35

Occupation :

Address: Son of Riya Amak
permanent resident of Riya Village
PO Sarli
PS Koloriang
Kurung Kumey District
Arunachal Pradesh

6: Riya Tade

Age: 36

Occupation :

Address: Son of Riya Kabwiang
permanent resident of Riya Village
PO Sarli
PS Koloriang
Kurung Kumey District
Arunachal Pradesh

7: Sariu Chadap

Age: 50

Occupation :

Address: Son of Sariu Bale
permanent resident of Solung Taping Village
PO and PS Koloriang
Kurung Kumey District
Arunachal Pradesh

8: Sariu Tapam
Age: 28
Occupation :
Address: Son of Sariu Tapam
permanent resident of Solung Taping Village
PO and PS Koloriang
Kurung Kumey District
Arunachal Pradesh
VERSUS

The State of AP and 3 Ors
Age: 0
Occupation :
Address: represented by the Chief Secretary
Govt of Arunachal Pradesh
Itanagar
2: The Secretary
Age: 0
Occupation :
Address: RWD
Govt of Arunachal Pradesh
Itanagar

3: The Superintending Engineer
Age: 0
Occupation :
Address: Rural Works Circle
Itanagar Rural Works Department
Govt of Arunachal Pradesh
Itanagar

4: The Executive Engineer
Age: 0
Occupation :
Address: Rural Work Department
Laaying Yangte Division
Kurung Kumey District
Govt of Arunachal Pradesh

Advocate for : Nikita Danggen, O. Duggong, H. T. Tara, P. Siga, K. Chotten
Advocate for : GA (AP), G. Tarak, S/C, RWD.

**BEFORE
HONBLE MR. JUSTICE KARDAK ETE**

JUDGMENT & ORDER (Oral)

Date : 14.06.2024

Heard Ms. N. Danggen, learned counsel for the petitioners. Also heard Mr. G. Tarak, learned standing counsel for the Rural Works Department (RWD) appearing for the State respondents and Mr. T. T. Tara, learned counsel appearing for the intervenors in WP(C)171(AP)2024.

2. As the issues involved in these two writ petitions are similar, the writ petitions are taken up together and disposed of by this common order.

3. By instituting these writ petitions, the petitioners have put to challenge the impugned tender, E-Procurement Press Notice, dated 13.03.2024, issued by the Executive Engineer/DPIU, Laaying Yangte Division, ARRDA, RWD, Kurung Kumey District, inviting item rate bids in electronic tendering system for construction of roads under PMGSY including their maintenance for five years from the eligible contractors registered in appropriate class in the District of Kurung Kumey for 26 (twenty six) number of packages, on the ground that the impugned tender has been issued in violation of the PMGSY Scheme and Guidelines.

4. The case of the petitioners, shorn of unnecessary details, is that they are the land owners of different blocks within the District of Kurung Kumey. The lands are their ancestral lands in their respective villages.

5. The Government of India, Ministry of Home Affairs, Department of Border Management, vide letter dated 09.01.2024, has accorded approval and sanctioned the project proposals submitted by the State of Arunachal Pradesh

for an amount of Rs. 2205.19 crores for construction of roads under PMGSY under Vibrant Villages Programme. Out of total 105 road projects for state of Arunachal Pradesh, 27 roads are approved for Kurung Kumey District and the petitioners are concerned about 26 (twenty-six) packages.

6. The Executive Engineer/DPIU, Laaying Yangte Division, ARRDA, RWD, Kurung Kumey District, issued the impugned E-Procurement Press Notice, dated 13.03.2024, inviting item rate bids in electronic tendering system for construction of roads under PMGSY including their maintenance for five years from the eligible contractors registered in appropriate class in the District of Kurung Kumey for 26 (twenty six) number of packages. The petitioners are aggrieved of the impugned Tender as the same has been issued without following the PMGSY Scheme and Guidelines.

7. The grievances raised in the present proceedings is that the respondent authorities have prepared the DPR without adhering to the guidelines and allegedly shown to have obtained the Land donation from some persons which includes the lands of the petitioners. The PMGSY Scheme and Guidelines mandates that it is the responsibility of the State Government and the District Panchayat to ensure that lands are available for taking up the road projects under the Vibrant Villages Programme under PMGSY scheme and a certificate that the land is so available must accompany the proposal for each road work. The transect walk must be conducted. The respondent authorities have failed to follow the requirements before the project of road constructions are taken up. The petitioners have submitted various representations before the authorities. However, same have not been considered.

8. Ms. N. Danggen, learned counsel for the petitioners, while referring to the PMGSY Scheme and Guidelines, particularly, Clause- 6.12 and 6.13, submits that

it is the responsibility of the State Government/District Panchayat to ensure that the lands are available for taking up the proposed road works. A certificate that the land is available must accompany the proposal for each road work. Though the PMGSY does not provide funds for land acquisition, it does not mean that the acquisition cannot be done by the State Government at its own cost. The State Government is also given liberty to lay down guidelines for voluntary donation, exchange or other mechanisms to ensure availability of land. Clause-6.13, amongst others, provides that as a part of PMGSY process, it may include a simple, non-formal "transect walk" to be organised by the Assistant Engineer at the time of preparation of DPRs. The Panchayat members and the Junior Engineer would participate and in case of forest land, the Officials of Forest Department should be involved. She submits that such requirements under the PMGSY Scheme and Guidelines have not been complied and without following the said guidelines, such schemes for the project cannot be implemented under the Vibrant Villages Programme.

9. Ms. Danggen, learned counsel, referring to the documents annexed in the writ petitions as well as affidavit-in-opposition filed on behalf of the State respondents, submits that there are serious discrepancies in the said documents as the land agreement has been executed on 19.02.2024, whereas, the DPR was prepared on 29.08.2023 and the approval was accorded by the authority on 09.01.2024. She submits that as per the Guidelines, the DPRs has to be preceded by land availability certificate, transect walk and other land documents. While referring to the Land Donation Agreement, she submits that either there is no signature of the person who had alleged to have donated the land or many signatures have been forged. Therefore, she submits that not only in not following the guidelines, but the documents which have been forged

cannot be relied on for execution of projects which are beneficial to the common people in the area. The petitioners are the land owners of the said projects and they have been kept on dark which resulted in deprivation of their rights. She further submits that the documents annexed and relied by the State respondents, i.e. dated 19.02.2024, which are anterior to the DPRs and the technical sanctions, as these documents are to be prepared before the DPRs and technical sanction is accorded. Thus, she submits that impugned NIT may be set aside and a direction may be given to the respondent authority to re-do the entire process strictly as per the PMGSY Schemes and Guidelines.

10. On the other hand, Mr. G. Tarak, learned standing counsel for the Rural Works Department, while referring to the documents annexed to the affidavit-in-opposition, submits that as per the Schemes and Guidelines of the PMGSY, transect walks have been conducted on various dates before the DPR was prepared. The DPR accompanied by Transect Walk and other required documents was submitted and thereafter, technical sanction was accorded. He has also relied on the land donation agreement signed by different persons to show that the lands have been donated by the owners of the lands for the road projects in the different locations within the District of Kurung Kumey. He submits that since the required action has been taken in terms of PMGSY Scheme and Guidelines and since the project is of national importance under the programme of Vibrant Villages Programme, the process of impugned tender may be allowed to be completed and implement the project for interest of the public. He further submits that the writ petitions are not maintainable as the issues involved as to whether the lands belong to the petitioners or to the persons who have donated by signing the agreements, is purely a disputed question of facts, which this Court may not embark on to decide as the same is

beyond the scope of writ jurisdiction.

11. Mr. G. Tarak, learned standing counsel has relied on the following judgments in support of his submissions to project that while exercising its extraordinary writ jurisdiction under Article 226 of the constitution of India, the High Court does not adjudicate hotly disputed question of facts. It is not for the High Court to make a comparative assessment of conflicting technical reports and decide which one is acceptable and also to project that in a tender matter normally the High Court should not interfere as it effects the public interest in implementation of the public project.

(i). Subhas Jain vs. Rajeshwari Shivam & Ors., in Civil Appeal No. 2848 of 2021.

(ii). NG Projects Limited vs. Vinod Kumar Jain, in (2022) 6 SCC 127.

12. Mr. T. T. Tara, learned counsel for the intervenors, submits that the writ petition is not maintainable due to non-joinder or misjoinder of necessary parties. He submits that non-joinder or misjoinder of the parties amounts to suppression of material facts. He submits that since the bidders who have submitted their bid pursuant to the impugned tender dated 13.03.2024 have not been impleaded as party respondents in these proceedings and as such, non-impleadment amounts to suppression of material facts. Therefore, he submits that the writ petitions may be dismissed on the ground of non-joinder and misjoinder of necessary parties as well as suppression of materials facts.

13. Anxious consideration has been extended to the submissions of the learned counsels for the parties and perused the materials on record.

14. As noted above, the Government of India, Ministry of Home Affairs, Department of Border Management, vide dated 09.01.2024, has accorded

approval and sanctioned the project proposals submitted by the State of Arunachal Pradesh for an amount of Rs. 2205.19 crores for construction of roads under PMGSY under Vibrant Villages Programme. Out of total 105 road projects for State of Arunachal Pradesh, 27 (twenty-seven) roads are approved for Kurung Kumey District and the petitioners are concerned about 26 (twenty-six) packages. The approval/sanction has been accorded subject to the fulfilment of following conditions:

- (i). Latest SOP related to PMGSY issued by MoRD shall be followed while implementing the Road projects, including any amendment(s) in the SOP issued from time to time.
- (ii). Approval of Competent Technical Authority for technical feasibility of the project.
- (iii). Reasonability of rates of the items/ projects proposed shall be ensured.
- (iv). For each work/project, design, specifications and cost will be as per the norms approved by the Competent Authority.
- (v). Assets created under VVP shall be created only on land fully owned by the State/ Central Government.
- (vi). Necessary statutory clearances such as, forest, environment etc. as applicable shall be taken by the State.
- (vii). There shall be no overlapping of works/projects approved under the VVP with any other works/projects (on-going/proposed) under any Central/ State Government schemes. Further, it shall be ensured that amounts sanctioned shall be utilized only for the purpose for which it has been sanctioned.

(viii). Assets created under VVP shall be maintained by State/Local government, as per the requirement and entire operating expenditure for maintenance of such assets shall be borne by the State government.

(ix). State must ensure that the payment to Cement Concrete roads is made only after verification of target strength achieved after 28 days based on cores taken from the pavement as per MoRD specifications.

(x). State shall ensure installation of GPS system in key machinery and equipment engaged during execution of road works under VVP, in terms of instruction issued by NRIDA vide letter dated 31st January, 2022. These works will not commence before the machineries are installed with GPSVTS.

(xi). State shall also ensure verification of quality control register and uploading of the same on OMMAS in terms of instructions dated 13th January 2022 of NRIDA.

(xii). State should ensure Quality of materials as per IRC guidelines for both Frost as well as non frost areas.

(xiii). Bitumen should be purchased from IOC/HPCL/BPCL.

(xiv). No escalation of cost will be permitted at any point.

(xv). Compliance with GFR-2017, MoF's orders, MHA's and CVC's guidelines issued from time to time."

15. On careful consideration and perusal of the records goes to show that the requirement under the PMGSY schemes and Guidelines appears to have not been followed properly. It is revealed from the record that the DPR was prepared on 29.08.2023 and the approval and sanction was accorded on

09.01.2024, whereas the land Donation Agreements and MOUs have been executed on 19.02.2024.

16. The learned counsel for the petitioners has brought on record the discrepancies of the documents relied on by the State respondents. Though the State respondents have attempted to show that the Transect Walks as well as other requirements like Land Donation Agreement have been complied with by following the PMGSY Schemes and the Guidelines. On Perusal of the said documents, it reveals the contrary, with that of the requirements provided under the PMGSY Scheme and Guidelines.

17. It is noticed that one amongst all, the conditions of sanctioning the project proposals under Vibrant Village Programmes is that the latest SOP related to PMGSY issued by MoRD shall be followed while implementing the road project including any amendments in the SOP issued from time to time.

18. Clause 6.12 and 6.13 of the PMGSY Scheme and Guidelines provides which is reproduced hereinunder:

“...6.12. It will be the responsibility of the State Government / District Panchayat to ensure that lands are available for taking up the proposed road works. A certificate that Land is available must accompany the proposal for each road work. It must be noted that the PMGSY does not provide funds for Land Acquisition. This does not however mean that acquisition cannot be done by the State Government at its own cost. The State Government may also lay down guidelines for voluntary donation, exchange or other mechanisms to ensure availability of land. The process of making land available for the road works should sub-serve the common good and also be just and equitable. The details of land made available should be reflected in the local land records to avoid dispute.

6.13. It may be that road works are sometimes held up because at the time of preparation of DPR actual availability of land was not investigated or because local Panchayat was not taken into confidence about the proposed alignment and disputes subsequently arose. As part of the PMGSY process, all States may include a simple, non-formal "transect walk" to be organized by the Assistant Engineer at the time of preparation

of DPRs. The Panchayat Pradhan, local patwari and the JE would participate. Forest Department officials would be included where forest land is likely to be involved.”

19. Bare reading of the above 2 (two) clauses, which regulates the present project under the Vibrant Villages Programme, goes to show that a certificate that a land is available must accompany the proposal for each road work. The State may lay down guidelines for voluntary donation exchange or other mechanism to ensure availability of land. It also provides for, amongst others, Transect Walk to be organised by the Assistant Engineer at the time of preparation of the DPR.

20. In the present case, though the learned State counsel has attempted to show that Transect Walks were conducted much before the DPR was finally prepared, it does not reveal exactly on which date the Transect Walks were conducted and whether it was as per the requirement of scheme is not clear, except mere mentioning in the affidavit.

21. This Court would profitably refer to the settled proposition of law that if statute provides for a particular act to be done in a particular manner, it has to be done in that manner alone and none other. In other words, if a statute has conferred a power to do an act and has laid down the method in which that power has to be exercised, it necessarily prohibits the doing of the act in any other manner than that which has been prescribed. (**Taylor vrs. Taylor**: First adopted by Judicial Committee **Nazir Ahmed vrs. King Emperor**, followed by the Hon'ble Supreme Court and reiterated in **Dipal Barbaria'** case reported in **(2014) 3 SCC 502**).

22. Admittedly, the project was approved/sanctioned on 09.01.2024 based on the DPRs prepared by the Department and submitted by the Government of Arunachal Pradesh and the Land Donation Agreements have been made on

19.02.2024. The scheme and the guidelines require that the Transect Walk, land donations and other requirements have to be preceded to DPRs. However, in the instant case, except to claim that the Transect Walk was conducted prior to the DPR, no other such requirement as provided in the guideline is shown to have been followed.

23. Having regard to the maintainability of the writ petitions, on the ground of non-joinder or misjoinder of necessary parties and suppression of material facts, this Court is of the view that since the issue raised by the petitioners would not cause prejudice to the intervenors, who claims to have participated in the tender process, they seem to be not a necessary party. In the facts of the case, the petitioners would not know who are the bidders unless the tender is completed or for that matter, unless the petitioners they themselves are the bidders. The issue involved in these present proceedings is as to whether authorities have followed the scheme and guidelines of PMGSY before preparation and the sanction of the project under the Vibrant Villages Programme, to which this Court has already answered above. Thus, there is no question of suppression of any material facts and as such, submission of the learned counsel for the intervenors is considered for rejection.

24. So far as submission of learned State Counsel on disputed question of facts that this Court would not enter into such issue, there is no question of entering into the disputed question of facts. This Court is not entering into the alleged disputed question of facts, which sought to be projected. It is true that whether the petitioners are owners of the land or the persons who have donated the land for the project are the owners, would not be an issue to be deliberated under the writ jurisdiction. For the sake of repetition, the issue involved in these present proceedings is as to whether authorities have followed

the scheme and guidelines of PMGSY before preparation of DPR and the sanction of the project under the Vibrant Villages Programme which this court has answered, hereinabove. Thus, disputed question of facts, if any, are not been gone into and would not go into by this Court and as such, the case of **Subhas Jain** (Supra) relied on by learned Standing Counsel is not applicable. In view of the above submissions, raising the maintainability on the ground of non-joinder and misjoinder of parties as well as suppression of materials facts and also the disputed questions of facts are rejected.

25. The case of **NG Projects Limited** (Supra), relied on by learned Standing Counsel, is also not applicable as the Hon'ble Supreme Court has held that that in a tender matter normally the High Court should not interfere as it effects the public interest in implementation of the public project and there is no absolute bar in exercising writ jurisdiction in tender matter. It all depends on facts and circumstances of each case.

26. The allegation of forgery fervently urged by the learned counsel for the petitioners is also equally cannot be gone into in the present proceedings as the petitioners have the remedy under the law if there is any forgery committed with regard to any documents.

27. As noted above, this Court finds that the mandates under the scheme and guidelines of PMGSY for implementation of the project have not been followed in its letter and spirit.

28. Having considered that the State respondents have failed to follow the required conditions under the PMGSY schemes and guidelines for implementation of the project under Vibrant Villages Programme, I am of the considered view that the respondent authorities deserve to be directed to consider the grievance raised by the petitioners and to follow the mandate of

the scheme and guidelines of the PMGSY.

29. In view of the discussions made hereinabove, I am of the considered view that the present writ petitions can be disposed of with a direction to the petitioners to file a fresh representation by placing their grievances before the appropriate authority and the respondent authorities needs to consider appropriately. Accordingly, the petitioners are directed to file representation before the Secretary, RWD, Government of Arunachal Pradesh, within a period of 15 (fifteen) days from today. On receipt of the representation, the Secretary, RWD, shall consider and dispose of the representation, taking into consideration the mandates provided under the PMGSY Scheme and Guidelines. The exercise directed to be carried out, shall be completed not later than a month from the date of receipt of the representation. It is provided that till the disposal of the representation, the impugned Tender, e-Procurement Press Notice, dated 13.03.2024, issued by the Executive Engineer/DPIU, Laaying Yangte Division, ARRDA, RWD, Kurung Kumey District, shall remained stayed.

30. The writ petition stands disposed of in terms above, accordingly. No order as to costs.

JUDGE

Comparing Assistant