



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

Case No. : WP(C)/235/2024

Enam Yangfo and 2 Ors

Son of Shri Karo Yangfo, resident of Yangfo Village, PO and PS Chayangtajo, East Kameng District, Arunachal Pradesh

2: Lama Siji aged about 28 years, S/o Kajab Siji a permanent resident of Village: Tagampu Sullung, PO/PS-Chayang Tajo, District: East Kameng, Arunachal Pradesh.

3: Kasam Veo, Aged about 38 years, S/o Late Tukiang Veo, a permanent resident of village: Veo, P.O-Sawa, P.S. Chayang Tajo, Dist East Kameng, Arunachal Pradesh.

VERSUS

The Union of India and 9 Ors

represented by the Secretary, Ministry of Home Affairs, Govt of India.

2:The Union of India

Age: 0

Occupation : Secretary, Department of Border Management, Government of India.

3:The State of Arunachal Pradesh

Age: 0

Occupation : Secretary (RWD), Government of Arunachal Pradesh.

4:The Deputy Commissioner

Age: 0

Occupation :

Seppa, East Kameng District, Government of Arunachal Pradesh.

5:The Additional Deputy Commissioner

Age: 0

Occupation :

Chayang Tajo, East Kameng District, Government of Arunachal Pradesh.

6:The Chief Engineer

Age: 0

Occupation :

Arunachal Pradesh Rural Road Development Authority (ARRDA), PMGSY, Itanagar,
Govt. of Arunachal Pradesh.

7:The Director (Technical, NRIDA, NORDA)

Age: 0

Occupation :

NBCC Tower, Bhikaji Cama Place, Rama Krishna Puram, New Delhi-110066.

8:The Second-in-Command (Vibrant Village Program -I)

Age: 0

Occupation :

Government of India, Room No. 21, Heritage Building, MDC National Stadium, New
Delhi-110001.

9:The Superintending Engineer

Age: 0

Occupation :

Rural Work Circle, Rupa, West Kameng District, Government of Arunachal Pradesh.

10:The Executive Engineer cum DPIU-II

Age: 0

Occupation

RWD, Chayang Tajo Division, East Kameng, Government of Arunachal Pradesh.

Advocate for the Petitioner : Bedanta Kaushik

Advocate for the Respondent : Marto Kato, DySGI; G. Tarak, S/C RWD;
Ms. K. Wangmu, GA

**BEFORE
HONBLE MR. JUSTICE MANASH RANJAN PATHAK**

ORDER

Date : 17-06-2024

Heard Mr. B. Kaushik, learned counsel for the petitioners and Mr. M. Kato, learned DySGI for the respondent Nos. 1, 2, 7 and 8. Also heard Mr. G. Tarak, learned Standing counsel for the Rural Works Department (RWD) for the respondent Nos. 3, 6, 9 & 10 and Ms. K. Wangmu, learned Government Advocate for the respondent Nos. 4 & 5.

2. The 3 (three) petitioners are from villages Yangfo, Tagampu Sullung and Veo, all under Chayang Tajo Police Station of East Kameng District, Arunachal Pradesh. The Additional Deputy Commissioner (ADC), East Kameng District vide Nos. CTJ/ADC/LAC-36, CTJ/ADC/LAC-43 and CTJ/ADC/LAC-42, all dated 05.06.2023, issued Land Availability Certificate (LAC) for construction of road from (i) Tagampu PMGSY Road to Hara Yangfo, (ii) Sawa-Venia PMGSY Road to Diya Sollung (Mechar Sollung) and (iii) Keyang Tagampu Road to Loto Yangfo via Tarawa Yangfo, stating that those land are Community Land and free from all encumbrances. Aggrieved with issuance of such LAC dated 05.06.2023 by the ADC, East Kameng District, the petitioners have preferred this writ petition stating that the respondent authorities acted arbitrarily and in an unreasonable manner thereby private land of them have been sought to be utilised for implementation on the Vibrant Villages Programme (VVP in short) under the Pradhan Mantri Gram Sadak Yojana (PMGSY in short), without following the relevant provisions and also violating the PMGSY Programme Guidelines published in January 2015 by the Government of India.

3. The petitioners placed the provisions of 6.12, 6.13 and 8.4 of the said PMGSY

Programme Guidelines, which stipulate as follows:

Clause 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.”

Clause 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 shall 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, the JE, Women PRI members and representatives of Women Self Help Group (SHGs) would participate in the transect walk. Forest Department officials would be included where forest land is likely to be involved."

Clause 8.4 —

"While commencing with the preparation of the DPR, the PIU will hold a consultation with the local community through the mechanism of the Gram Panchayat in order to determine the most suitable alignment, sort out issues of land availability (including forest land), moderate any adverse social and environmental impact and elicit necessary community participation in the programme. For this purpose the PIU will organise 'Transect Walk' as follows:-

- The Transect walk shall be organized by the Assistant Engineer in accordance with para-6.13.**
- During the walk, issues relating to alternative alignments, land requirements*

for the road and its impact on landowners, etc. will be discussed with members of the local community present.

- *Environmental impact on vegetation, soil and water etc. shall be identified for resolution.*
- *Digital photographs of the Transect Walk must be taken.*
- *During the walk, due opportunity shall be given to interested persons to put forward their point of view.*
- *At the end of the walk, alignment shall be finalised after recording the issues that arose during the walk and the action taken / proposed to resolve the issues. This shall be reduced to writing signed by the Pradhan/Panch, Secretary of the Gram Panchayat Members present. A copy of these minutes along with digital photographs of 'Transect Walk' must be attached to the finalised DPR."*

4. Petitioners stated that the Government of India in the Ministry of Home Affairs, Department of Border Management, Border Management-II Division on 09.01.2024, communicated with the State Government in its Rural Road Development Authority (ARRDA) regarding approval of project proposals under VVP for 2022-24 for the State of Arunachal Pradesh, where the Central (MHA) Share is of Rs. 1984.6773 crores and that of the State Share is of Rs. 220.599 crores.

5. Petitioners submitted that regarding Acquisition of Road Land Width (ROW) for the Road Projects proposed under VVP, the State Government in the Rural Works Department by its communication dated 19.10.2023 informed all the Deputy Commissioners of the State, including East Kameng District that —

The process for land donation drive requires organising a transect walk by the administration associating departmental engineers, together with the Panchayat Pradhan, Local revenue/land record officers/staffs, and Forest Officials. On completion of the event, a proceeding of the meeting shall be drawn and duly signed by all the stakeholders. Open and transparent communication between the community and local authorities builds trust. Therefore, for ensuing successful drive, it is essential that all stakeholders are well informed about the project's objectives, benefits and potential

impacts on livelihoods.

6. It is contended by the petitioners that the relevant Guidelines contemplate about “Transect Walk” that helps in identifying the exact location through which the road would run and whose land would be affected. It is stated that the respondents while preparing the Detailed Project Report (DPR, in short) did not follow the concerned Guidelines properly and as required, for which, neither the respondent authorities nor the petitioners are sure about the exact route and location of such road to be constructed under VVP in the villages of the petitioners and also the individuals who would be affected while making construction of such roads over their land under the PMGSY Programme.

7. It is submitted by the petitioners that they on 28.05.2024 submitted a representation before the (i) Secretary, Arunachal Pradesh, Rural Road Development Authority (ARRDA) in the RWD, (ii) Chief Engineer, RWD (PMGSY), Itanagar, (iii) Deputy Commissioner, Seppa, East Kameng District, (iv) Additional Deputy Commissioner, Chayang Tajo, East Kameng District and (v) Executive Engineer-cum-District Project Implementation Unit (DPIU) – II, Chayang Tajo Division, RWD, to withhold the tender process till finalisation of the land acquisition process as per the Guidelines of the PMGSY Programme issued by the Ministry of Rural Development for implementation of the road projects under the VVP for 2023-24 and to assess impact on land owners ensuring compliance with the Standard Operating Procedure (SOP) of the PMGSY Scheme as required as been issued by the Ministry of Rural Development so as to ensure the greater good, fairness and equity, stating further that otherwise, there will be no other suitable, equally effective or immediate, alternative and viable remedy for the people of their villages, whose land are going to be taken over for construction of PMGSY road under the VVP.

8. It is stated that the said representation of the petitioners, dated 28.05.2024 is still pending for consideration. Hence, this writ petition by the petitioners for necessary direction to the respondents to comply with the provisions of PMGSY Scheme in constructing the roads in their villages under the Vibrant Villages Programme (VVP) and also to cancel/reject and set aside the Land Availability Certificate (LAC) dated 05.06.2023 issued by the ADC, East Kameng District with regard to the land of the villages mentioned in those LACs.

9. On being enquired, the petitioners could not clarify as to whether the respondents in the RWD in implementing the road projects under VVP in their villages have issued any Notice Inviting Tender (NIT) or not. The respondent authorities also could not clarify in that regard.

10. After hearing the parties and considering the entire aspect of the matter, the Court is of the opinion that instead of keeping this matter pending, it is disposed of at the motion stage itself, directing the petitioners to submit a fresh representation before the (i) Secretary, Arunachal Pradesh, Rural Road Development Authority (ARRDA) in the RWD, (ii) Chief Engineer, RWD (PMGSY), Itanagar, (iii) Deputy Commissioner, Seppa, East Kameng District, (iv) Additional Deputy Commissioner, Chayang Tajo, East Kameng District and (v) Executive Engineer-cum-District Project Implementation Unit (DPIU) – II, Chayang Tajo Division, RWD, along with the certified copy of this order stating their grievances, on or before 08.07.2024, obtaining necessary acknowledgment from them in that regard.

11. In the event of filing such representation by the petitioners, within the time so specified, the respondent authorities will consider the same in accordance with law, clarifying further that in the event of implementing the road projects by the respondent authorities in the villages of the petitioners under the Vibrant Villages

Programme (VVP), it shall follow the relevant Guidelines and the rules & procedure prescribed in that regard as applicable including the Pradhan Mantri Gram Sadak Yojana (PMGSY) Programme Guidelines, as applicable for VVPs.

12. With the above observations and directions, this writ petition stands disposed of.

JUDGE

Comparing Assistant