

GAHC040007722022



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

Case No. : WP(C)/231/2022

Sonam Gyatso
S/o Lt. Leiki Drakpa Merakpa,
Permanent Resident of Dirang Village, PO/PS Dirang, District West Kameng,
Arunachal Pradesh.
Ph 8414993371

VERSUS

1:THE UNION OF INDIA and 5 Ors. Represented by the Secretary, Ministry of
Defence, Sena Bhavan, Govt. of India, New Delhi 110011

2:The Commander : 42 Border Task Force (BRTF) C/o 99APO Headquarter
Arunachal Pradesh 930042

3:THE STATE OF AP : Represented by the Commissioner/Secretary Land
Management Govt. of Arunachal Pradesh Itanagar 791111

4:The Deputy Commissioner : Bomdila District West Kameng PO/PS Bomdila
Arunachal Pradesh 790001

5:The Additional Deputy Commissioner : Dirang District West Kameng PO/PS
Dirang Arunachal Pradesh 790101.

6:The Board/Committee : constituted vide Order dated 18/09/2020 for examination of
claim of the petitioner regarding payment of solatium represented by its Chairman the
Additional Deputy Commissioner Dirang District West Kameng PO/PS Dirang
Arunachal Pradesh

Advocate for the Petitioner : Binter Picha

Advocate for the Respondent : Marto Kato

Linked Case : WP(C)/309/2020

Sonam Gyatso

Age: 29

Occupation :

Address:S/O Lt. Keiki Drakpa Merakpa

aged about 29 nYears

permanent residentof Dirang village

PO/PS Dirang

west Kameng District

AP

VERSUS

1:THE UNION OF INDIA AND 5 ORS.

represented by the Secretary

Ministry of Defence

Sena Bhavan

Govt. of India

New Delhi-110011

2:The Commander

Address:42 Border Roads Task Force (BRTF)

C/o 99 APO

Headquarter

AP

3:The State of Arunachal Pradesh

represented by the Commissioner/Secretary

Land Management

Govt. of AP

Itanagar

4:The Deputy Commissioner

Address:Bomdila

District west Kameng

PO/PS Bomdila

AP

5:The Additional Deputy Commissioner
Address:Dirang
District west Kameng District
PO/PS Dirang
AP

6:The Board/Committee
Address:Constituted vide order dated 18.09.2020
for examination of claim of the petitioner regarding payment of solatium
represented by its chairman
the Additional Deputy Commissioner
Dirang
AP

Advocate for the Petitioner : Binter Picha

Advocate for the Respondent : Marto Kato

BEFORE
HONBLE MR. JUSTICE N. UNNI KRISHNAN NAIR

Judgment & Order (Oral)

Date : 24-07-2024

Heard Mr. B. Picha, learned counsel for the petitioner. Also heard Mr. S. Tapin, learned Senior Government Advocate for the respondents.

2. The petitioner by instituting the above writ petitions assails a report submitted by a Committee as constituted by the Deputy Commissioner, West Kameng District in pursuance to the direction passed by this Court vide order dated 29.05.2020, in Writ Petition No.107 (AP)/2020. The petitioner has also assailed an order dated

30.09.2020 issued by the jurisdictional Deputy Commissioner in pursuance to the observation as made by the said Committee. The petitioner have also in WP(C) No.231 (AP)/2022, prayed for a direction upon the respondent authorities for assessment of value of the land of the petitioner purportedly acquired by the respondent authorities along with payment of solatium therein, in terms of the provision of Land Acquisition Act of 1894.

3. The petitioner being aggrieved by the manner, in which, compensation was so determined in his case had approached this Court by way of instituting a writ petition being WP(C) 107 (AP)/2020. This Court vide order dated 29.05.2020, on considering the issue so arising was pleased to dispose of the same with a direction to jurisdictional Deputy Commissioner to consider and dispose of the representation dated 04.10.2018, as submitted by the petitioner herein.

4. On receipt of the said direction of this Court, the Deputy Commissioner constituted a committee for examining the grievance of the petitioner. The said Committee on considering the grievance of the petitioner, proceeded vide its report dated 24.09.2020, to hold that the petitioner's house having only been demolished and no land being acquired from the petitioner, and solatium being only applicable for the land value involved under the provision of the

Land Acquisition Act, 1894, the claim of the petitioner for being authorized 30% solatium on the land value would not be called for.

5. The Deputy Commissioner, West Kameng District vide order dated 30.09.2020, endorsed the report of the said committee and proceeded to accept the said findings and dispose of the claim of the petitioner.

6. The learned counsel for the petitioner has submitted that the respondent authorities while disposing of the representation of the petitioner in the matter had not touched upon the issue as to whether any land of the petitioner was acquired or not.

7. Mr. S. Tapin, learned Senior Government Advocate submits that the petitioner's land in the present proceeding has not been acquired and the compensation only being paid for the demolishing of his house, it is clear that the land for which the said house of the petitioner stood did not belong to him.

8. In view of the above position, this Court is of the considered view that the Deputy Commissioner is required to bring on record a categorical finding to the affect as to whether any land of the petitioner was so acquired. It is only, in the event, the land is so acquired, that the petitioner would be entitled to the solitium of 30% as provided for in the provision of Land Acquisition Act, 1894.

9. In view of the above position, this Court without interfering with the report of Committee dated 24.09.2020, as well as the Order dated 30.09.2020, directs the jurisdictional Deputy Commissioner to determine as to whether any land of the petitioner was so acquired and/or only his house was demolished, for which, he was duly compensated. Basing on the conclusion that would be now reached by the Deputy Commissioner, further proceedings in the matter be initiated. If it is found that the land of the petitioner was actually acquired, the petitioner would be entitled compensation for the same (if not already paid) along with solatium in the manner as provided for in the provision of Land Acquisition Act, 1894. The Deputy Commissioner, while proceeding to determine the said question shall also provide an opportunity of hearing to the petitioner in the matter.

10. The exercise as now required to be carried out in the matter by the jurisdictional Deputy Commissioner be so initiated and concluded within a period of 3(three) months from the date of receipt of a certified copy of this order.

11. With the above observations and directions, both the writ petitions being WP(C) No.231 (AP)/2022 and WP(C) No.309 (AP)/2020, stands disposed of.

JUDGE

Comparing Assistant