



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

Case No. : WP(C)/272/2024

Enam Yangfo and 2 Ors Son of Shri Karo Yangfo,
a permanent resident of village Yangfo,
PO and PS Chayangtajo, East Kameng District, Arunachal Pradesh

2: Lama Siji

Age:

Occupation :

Son of Kajab Siji a permanent resident of village Tagampu Sullung
PO and PS Chayangtajo East Kameng District Arunachal Pradesh

3: Kasam Veo

Age:

Occupation :

Son of Late Tukiang Veo a permanent resident of village Veo
PO Sawa PS Chayangtajo East Kameng District Arunachal Pradesh

VERSUS

The Union of India and 9 Ors

represented by its Secretary, Ministry of Home Affairs, Govt of India

2:The Union of India

Age: 0

Occupation :

represented by its Secretary Department of Border Management Govt of India

3:The State of Arunachal Pradesh

Age: 0

Occupation :

represented by Secretary (RWD) Govt of Arunachal Pradesh

4:The Deputy Commissioner

Age: 0
Occupation :
Seppa East Kameng District Govt of Arunachal Pradesh

5:The Additional Deputy Commisner
Age: 0
Occupation :
Chayang Tajo East Kameng District Govt of Arunachal Pradesh

6:The Chief Engineer
Age: 0
Occupation :
Arunachal Pradesh Rural Road Development Authority PMGSY Itanagar Govt of Arunachal Pradesh

7:The Direcotr
Age: 0
Occupation :
(Technical NRIDA NORDA) NBCC Tower Bhikaji Cama Place Rama Krishna Puram New Delhi 110066

8:The Second in Command (Vibrant Village Program-I)
Age: 0
Occupation :
Govt 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 Govt of Arunachal Pradesh

10:The Executive Engineer cum DPIU-II
Age: 0
Occupation :
RWD Chayang Tajo Division East Kameng District Govt of Arunachal Prades

Advocate for the Petitioner : Bedanta Kaushik

Advocate for the Respondent : Marto Kato, DySGI; G. Tarak, S/C RWD; T. Wangmo, GA

**BEFORE
HONBLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

ORDER

Date : 18-07-2024

Heard Mr. B. Kaushik, learned counsel for the petitioners. Also heard Mr. G. Tarak, learned Standing counsel for the Rural Works Department, representing the respondent Nos. 3, 9 & 10. Also heard Ms. T. Wangmo, learned Government Advocate for the respondent Nos. 4 & 5.

2. None has appeared for the other respondents.
3. As consented to by the learned counsels for the parties, the present writ petition is taken up for final consideration and disposal.
4. The petitioners, by way of instituting the present writ petition has raised a grievance with regard to the manner in which the respondent authorities are proceeding to execute the works relating to construction of roads under the 'Vibrant Villages Programme' scheme in the area wherein the land of the petitioners is situated. The petitioners being aggrieved, had approached this Court by way of instituting the writ petition No. 235/2024 assailing the manner in which the said 'Vibrant Villages Programme' scheme was being implemented. This Court, on consideration of the issues involved in the writ petition, proceeded to dispose of the same, vide an order dated 17.06.2024, directing the petitioners to submit a fresh representation before the authorities mentioned in the order along with the certified copy of the order and the respondent authorities so mentioned, were directed to consider the same in accordance

with law. This Court, further clarified that in the event of implementing the road projects by the respondent authorities in the villages of the petitioners under the said 'Vibrant Villages Programme' scheme, the same shall be so implemented following the relevant guidelines and Rules and procedure prescribed in that regard as applicable, including the 'Pradhan Mantri Gram Sadak Yojana' (PMGSY) Programme Guidelines, as applicable for the 'Vibrant Villages Programme' schemes.

5. It is contended by the petitioners that in terms of the directions passed by this Court, the petitioners have submitted a representation on 25.06.2024. The same, however, is pending disposal. In spite of the directions passed by this Court, it is contended by the petitioners that the respondent authorities had proceeded to issue Notice Inviting Tenders (NIT) on 05.07.2024 inviting bids for constructions of roads under the said 'Vibrant Villages Programme' scheme and for their maintenance. Being aggrieved, the petitioners have instituted the present proceedings.

6. The learned counsel for the petitioners by drawing the attention to the materials available on record has contended that the guidelines as applicable for implementation of the said 'Vibrant Villages Programme' scheme requires the respondent authorities to ensure that the lands are available for taking up the proposed road works under the scheme and the certificate that land is so available must accompany the proposal for each road work. It was further highlighted that the said scheme also stipulates that no fund is provided for land acquisition and the land required is to be arranged by the State Government either by way of acquisition at its own cost or procured from the land owners by

way of voluntary donations. By referring to the Land Availability Certificates brought on record, issued by the authorities of the District Administration, it was contended that the same were issued on 05.06.2023 and it was certified therein that land is available for construction of a road in the area. It was further contended in the said certificate that the land as procured are community land and free of all encumbrances. The contention as made in the said Land Availability Certificates are however disputed by the petitioners.

7. The learned counsel for the petitioners has further submitted that the approval of the project proposal under the said 'Vibrant Villages Programme' scheme for 2023-24 was granted by the Central Government on 09.01.2024. However, even before the said concurrence was given, the District Administration of East Kameng District had issued the Land Availability Certificates. The learned counsel for the petitioners has further drawn the attention of this Court to a reply furnished to a legal notice issued by the petitioners, wherein the District Administration of East Kameng District had submitted that 8 (eight) Land Availability Certificates were issued at the request of the Executive Engineer, Rural Works Department, Chayangtajo Division and the same was so issue in anticipation of agreement by the land owners and also done in good faith.

8. By highlighting the above position, the learned counsel for the petitioners has submitted that the petitioners herein have not donated their lands voluntarily and/or their lands were not acquired by the State respondents by way of initiating a process of acquisition in the matter. It is further highlighted by the learned counsel for the petitioners that the Chief Engineer (PMGSY),

RWD, Itanagar, vide a communication dated 28.03.2024 had required his subordinates involved in the matter to withhold the tendering process till the land acquisition process for constructions of roads under the 'Vibrant Villages Programme' scheme for the year 2023-24, is finalised. It is the contention of the learned counsel for the petitioners that in spite of the said position, the respondent authorities have proceeded with the process of issuance of tenders and accordingly, in the event, the said process is concluded and the land of the petitioners is utilised for construction of the roads in question, their rights would be prejudicially affected.

9. Mr. Tarak, learned Standing counsel, RWD, on instructions received, has submitted that the Secretary, RWD, Government of Arunachal Pradesh, Itanagar in view of the grievances expressed in the matter by various persons, had vide communication dated 16.07.2024, required the Chief Engineer (PMGSY), RWD, to hold the tender process till the representation/petition as filed in the matter by various persons raising grievances as regards the construction of roads under the 'Vibrant Villages Programme' scheme is undertaken. Mr. Tarak has submitted that the respondent authorities would now first consider the grievances raised in the matter by various persons and thereafter, only proceed with the works pertaining to the construction of roads under the said scheme.

10. In view of the said position, this Court is of the considered view that the authorities having undertaken to consider the grievances of persons, including the petitioners herein, pertaining to the construction of roads under the 'Vibrant Village Programme', a consideration on merits of the issues as arising in the present proceedings is not called for in the present proceedings.

11. The Secretary to the Government of Arunachal Pradesh, Rural Works Department, is directed to take on record the representation as submitted by the petitioners on 25.06.2024 and thereafter, to consider the same on merits.

12. At this stage, the learned counsel for the petitioners has submitted that the issue pertaining to issuance of Land Availability Certificate as well as the fact that the land of the petitioners was not donated by them and/or acquired by the State Government, was not raised in the said representation dated 25.06.2024 and accordingly, prays that the petitioners may be permitted to file an additional representation in the matter highlighting the said position for consideration by the Secretary, concerned. The prayer is accepted. Accordingly, the petitioners herein, are permitted to bring on record, the further representation in the matter by 29.07.2024.

13. In the event, such further representation is filed by the petitioners, the Secretary to the Government of Arunachal Pradesh, Rural Works Department shall take into consideration the same along with the representation dated 25.06.2024 and thereafter, on considering the grievances as raised in the matter, strictly in the light of the Guidelines pertaining to the 'Vibrant Villages Programme' scheme and of the connected schemes, SOP etc., proceed to dispose of the same by issuance of a speaking order.

14. The Secretary to the Government of Arunachal Pradesh, Rural Works Department, while proceeding to dispose of the representations as submitted in the matter in terms of the direction hereinabove, by the petitioners, shall also consider the validity of the Land Availability Certificate as issued in the matter

by the authorities of the District Administration of East Kameng District.

15. The Secretary, Rural Works Department shall initiate the exercise as required of him in terms of the directions as passed hereinabove and conclude the same, with the issuance of a speaking order within a period of 15 (fifteen) days from the date of receipt of a fresh representation from the petitioners herein, along with the certified copy of this order.

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

JUDGE

Comparing Assistant