

GAHC010098472023



2024:GAU-AS:11017-DB

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

Case No. : WA/151/2023

LAITLUANGPUI AND 21 ORS.
S/O LAIBUANGA

2: S. LALTHLAMUANA
S/O RONGHAKA

3: ZAMANI
W/O (L) KAPLINGA

4: LAIBUANGA
S/O (L) KAPLINGA

5: R. ROTLUANGA
S/O (L) AWITHANGA

6: K. ROTLUANGA
S/O (L) THANCHHUNGA

7: ZATHANGPUII
W/O (L) LAIVELA

8: C.ZARZOLIANA
S/O (L) THANZIKA

9: ZABILHKAIA
S/O (L) HLAWNHMUNGA

10: LALDINPUIA
S/O LALVUANA

11: T KAPKIMA
S/O (L) ROHMANA

12: HRANGCHHUANA
F/O LALRAMNGHETA

13: C. KAPHNUNA
F/O DAWNGLIANA

14: ENGLIANA
S/O (L) RUALKHUMA

15: LALVUANA
S/O (L) THANKHUMA

16: KAPNGURA
S/O (L) ALLUAIA

17: HUALCHHUNGA
S/O (L) VANSANGA

18: LAIKUNGA
S/O (L) THANKHUMA

19: VANHLIRA
S/O (L) LIANKHUMA

20: LALZARZOVA SAILO @ LALZARA SAILO
S/O LALSANGA

21: SAIRUMA
F/O (L) SAIDINGA

22: LALBUKA
S/O (L) AWITHANGA
ALL PETITIONERS ARE FROM KHANKAWN VILL
AND REPRESENTED BY APPELLANT NO. 1

VERSUS

UNION OF INDIA AND 5 ORS.
THROUGH THE SECRETARY, MINISTRY OF SURFACE TRANSPORT AND
COMMUNICATION, NEW DELHI.

2:THE COMMANDER OF GREF SELLING MIZORAM

3:THE O.C. GREF 74 RCC ZOTLANG CHAMPHAI

4:THE STATE OF MIZORAM THROUGH THE SECRETARY
LAND REVENUE AND SETTLEMENT DEPARTMENT AND DISTRICT LOCAL
ADMINISTRATION OFFICER

5:THE DISTRICT LOCAL ADMINISTRATIVE OFFICER
GOVT. OF MIZORAM AIZAWL

6:THE DISTRICT COLLECTOR CHAMPHAI
CHAMPHAI DISTRICT MIZORAM

Advocate for the Petitioner : MR. J MANGSUANHAU, MR. S S S RAHMAN,MR. M R
SODIAL,MS S Z HAYAT,MS B H SHIRIN

Advocate for the Respondent : C.G.C., MR. R K D CHOUDHURY, DY. S.G.I.(R 1,2 &3),GA,
MIZORAM

Linked Case : WA/152/2023

R. B. LALNGAILIANA AND 13 ORS.
S/O (L) BIAKTLUANGA

2: THLANTHANGA
S/O (L) LIANTAIA

3: KEITAWNA
S/O (L) MANGBANGA

4: BIAKHLUII
C/O C.ZOLIANA

5: LALZUALA
S/O (L) ZANAWNA

6: THANTLINTLUANGA
S/O (L) THANTLINLIANA

7: BAWIHCHHUMA
S/O (L) KHAWTINKULHA

8: LALTHANGPUIA
S/O (L) THANCHHUMA
9: LALRONGURA
S/O (L) HRANGSAILOVA

10: LALDUHA
C/O M.C. ZANEIHCHUNGA

11: ERIC LALDINGPUIA
S/O (L) RAMCHUII

12: L.C. LALRAMMENGGA
C/O NAWLSANGA

13: MSK LUNGHNEMA
S/O (L) HLAWNMANGA

14: B. LALRAMLIANA
S/O (L) NGUNSANGI

VERSUS

UNION OF INDIA AND 6 ORS.
THROUGH THE SECRETARY
MINISTRY OF SURFACE TRANSPORT AND COMMUNICATION. NEW DELHI.

2:THE COMMANDER OF GREF SELLING MIZORAM

3:THE O.C. GREF 74 RCC ZOTLANG CHAMPHAI

4:THE STATE OF MIZORAMTHROUGH THE SECRETARY
LAND REVENUE AND SETTLEMENT DEPARTMENT AND DISTRICT

5:THE DISTRICT COLLECTOR CHAMPHAI
CHAMPHAI DISTRICT MIZORAM

6:THE SECRETARY TO THE GOVT. OF MIZORAM
P.H.E. DEPARTMENT AIZAWL

7:THE EXECUTIVE ENGINEERPHE DEPARTMENT
CHAMPAI (WATSAN DIVISION) CHAMPAI

Advocate for : MR. J MANGSUANHAU
Advocate for : C.G.C. appearing for UNION OF INDIA AND 6 ORS.

Linked Case : WA/154/2023

NAWLSANGA R/B R.B LALNGAILIANA
S.O. HLAWNMANGA(L)
FARKWAN VILLAGE
REPRESENTED BY R.B LALNGAILIANA ATTORNEY

VERSUS

THE UNION OF INDIA AND 6 ORS
THROUGH THE SECRETARY
MINISTRY OF SURFACE TRANSPORT AND COMMUNICATION
NEW DELHI

2:THE DISTRICT COLLECTOR
CHAMPHAI CHAMPHAI DISTRICT MIZORAM

3:THE O.C. GREF 74 RCC AT ZOTLANG
CHAMPHAI

4:THE COMMANDER OF GREF AT SELING MIZORAM

5:THE STATE OF MIZORAM THROUGH THE SECRETARY
LAND REVENUE AND SETTLEMENT DEPARTMENT AND DISTRICT LOCAL
ADMINISTRATION OFFICER

6:THE SECRETARY EXECUTIVE ENGINEER (PHD DEPT.)
GOVT. OF MIZORAM

7:THE EXECUTIVE ENGINEER (PHD DEPT. CHAMPHAI)
GOVT. OF MIZORAM

Advocate for : MR. J MANGSUANHAU

Advocate for : C.G.C. appearing for THE UNION OF INDIA AND 6 ORS

**BEFORE
HONOURABLE THE CHIEF JUSTICE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

Date of hearing : 05.11.2024

Date of Judgment & Order : 12.11.2024

JUDGMENT & ORDER (CAV)
(N. Unni Krishnan Nair, J.)

Heard Mr. J. Mangsuanhua, learned counsel, appearing on behalf of all the appellants in these 3(three) writ appeals. Also heard Mr. A. Barua, learned Government Advocate, Mizoram; and Ms. L. Devi, learned counsel, appearing on behalf of Mr. R. K. D. Choudhury, learned Dy. SGI, representing their respective respondents.

2. The above-noted writ appeals have been preferred by the appellants, herein, presenting a challenge to the common Judgment & Order, dated 20.06.2022, passed by the learned Single Judge in WP(c)140/2019, WP(c)91/2014, and WP(c)49/2015.

3. WRIT APPEAL NO. 151/2023:

The appellants, herein, had initially approached the writ Court by way of filing a writ petition being WP(c)98/2014 which was dismissed by this Court vide order, dated 01.07.2015. A writ appeal being WA No. 01/2016 assailing the said order, dated 01.07.2015, was disposed of by a Division Bench of this Court vide order, dated 30.07.2018, requiring the appellants to approach the jurisdictional Deputy Commissioner with their claim for compensation. The said order, dated 30.07.2018, was assailed before the Hon'ble Supreme Court by the appellants by way of filing a Special Leave to Appeal(C) No. 28196 & 28197 of 2018. The Hon'ble Supreme Court vide order, dated 02.11.2018, disposed of the said applications by granting liberty to the appellants, herein, to approach and pursue their representations before the jurisdictional Deputy Commissioner.

The appellants, thereafter, submitted representation before the jurisdictional Deputy Commissioner on 17.12.2018, which, however, came to be rejected by the said authority vide order, dated 23.09.2019. Aggrieved; the appellants, herein, had instituted WP(c)140/2019, challenging the order of the jurisdictional Deputy Commissioner, dated 23.09.2019, and further praying for initiation of fresh acquisition proceedings under the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Settlement Act, 2013, for grant of adequate compensation in respect of the lands under their possession.

4. WRIT APPEAL NO. 152/2023:

The appellants, herein, who were possessing lands by virtue of land settlement certificates and mining passes issued to them by the authorities, being aggrieved by the acquisition of their respective plots of land made in the year 2010 and inadequate compensation granted to them, had instituted the aforesaid WP(c)91/2014, inter alia, praying for quashing of the earlier process of acquisition of their respective plots of land in the year 2010 and for re-assessment of the compensation receivable by them under the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Settlement Act, 2013.

5. WRIT APPEAL NO. 154/2023:

The appellant, herein, by contending that issuance of land settlement certificate in respect of the land under his possession, was under process, had prayed for an interference with the earlier acquisition of his land made during the year 2010 and for re-assessment of the compensation due to him under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Settlement Act, 2013.

6. The above-noted facts would go to reveal that the appellants in WA No. 151/2023 and the appellant in WA No. 154/2023, at the time of acquisition of their respective plots of land in the year 2010, did not possess any land settlement certificates and/or any pass in one form or the other for the plots of land under their possession. The appellants in WA No. 152/2023, however, possessed the land settlement certificates and/or mining passes in respect of the plots of land under their respective possession.

7. The respondent authorities on the acquisition of the lands under the possession of the appellants, herein, had sanctioned the compensation amount so computed in respect of each of the appellants involved in the above-noted writ appeals and the same were disbursed to them. The appellants, had, thereafter, on coming into force of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Settlement Act, 2013; claiming for a re-assessment of the compensation due to them under the provisions of the said Act of 2013, instituted the above-noted writ petitions.

8. The learned Single Judge on considering the issues arising in the above-noted writ petitions i.e. WP(c)140/ 2019, WP(c)91/2014, and WP(c)49/2015; proceeded to dispose of the said writ petitions vide the common judgment & order, dated 20.06.2022. The learned Single Judge on appreciating the materials coming on record and upon hearing the learned counsel appearing for the parties; drew conclusions and passed directions, as under:

“.....The facts in the present case are different. The petitioners do not have any document whatsoever to show that they are the legal owners of the land they claim to be theirs. Despite this, an assessment was done with the cooperation of all concerned involving the petitioners themselves and the amount that was assessed has been paid to them. Therefore, the petitioners in WP(C) Nos. 140/2019 are not found to be entitled to any further compensation.

21. In respect of the petitioners in WP(C) No. 91/2014, it may be seen that the cost assessment for acquisition of the land and buildings was done in a similar manner and all the petitioners have been given their respective share of compensation as admitted by the petitioners themselves. Apart from a sum of Rs. 1,33,79,929/- deposited by the BRTF as compensation, 30% of the said amount which is Rs. 40,13,979/- has been deposited by the BRTF towards solatium as computed by the Deputy Commissioner, Champhai. Instead of disbursing this amount to the land owners, the same was diverted to the Public Health Engineering Department (PHED) of the State, Champhai Watsan Division, which is to the tune of Rs. 34,65,000/- for dismantling and repairing the water pipe lines including construction of water tank, which was demolished during the construction/improvement of Farkawn to Thekte road. Out of the solatium amount

deposited by the BRTF, another amount of Rs. 5,48,979/- was also disbursed to the District Local Administration Officer (DLAO) for the construction of retaining wall and side drain. These two facts have been clearly stated and admitted by the State respondent Nos. 4 & 5 in their common affidavit filed on 12.02.2021 in WP(C) No. 91/2014. After noticing this, this Court had also directed the PHED (respondent Nos. 6 & 7) to file an affidavit regarding disbursement of the aforesaid amount to the Department. The respondent Nos. 6 & 7 have filed their affidavit accordingly on 28.09.2021 and 18.09.2021 respectively, admitting that the amount has been received by the Department. It is noticed that in the compilation of cost assessment for acquisition of land and buildings for the work "improvement of Farkawn to Thekte Road (0.00 kmp 11.42 kmp)," in respect of Farkawn village, an estimate/assessment for Rs. 1,14,925/- was made for Power & Electricity Department Transformer at Theirekaw. In fact, similar assessment could have been made for PHED pipelines that was likely to be damaged but surprisingly, the same was not done.

22. As already stated herein above, an amount of Rs. 40,13,979/- was sanctioned and deposited before the Collector concerned as the solatium payable to the land owners concerned having their respective land passes and therefore, the same could not have been diverted for some other purpose for which it was not sanctioned. Therefore, while declining not to entertain the writ petition towards the claim for initiating a fresh proceeding for acquisition of their land, the amount that was diverted will have to be refunded for payment to the land owners concerned. Accordingly, the State respondents in the PHED and the Local Administration Department are directed to refund the solatium amount which was disbursed to them by depositing the same before the District Collector, Champhai within a period of 3 (three) months from the date of receipt of a certified copy of this order failing to which, the amount shall carry interest at the rate of 6% per annum from the date of this order till it is fully paid. The amount deposited shall be disbursed to the land owners concerned without delay.

23. As for WP(C) No. 49/2015, as already stated herein above, the petitioner does not possess any sort of pass for his claim over the land in question and therefore, the findings arrived at in WP(C) No. 140/2019 will also cover this case. In other words, his claim for further compensation or for initiating acquisition proceedings afresh for the reasons already assigned in the foregoing paragraphs is rejected."

9. We have perused the conclusions and directions as passed by the learned Single Judge vide the common judgment & order, dated 20.06.2022, in WP(c)140/2019, WP(c)91/2014, and WP(c)49/2015, and are of the considered view that the conclusions so drawn by the learned Single Judge, are not erroneous and is supported by the materials available on record.

10. The acquisition proceedings in the matter having concluded in the year 2010 with release to each of the appellants, the amount of compensation so computed and which were accepted by each of them without any objection; the appellants, herein, could not have re-agitated the same by instituting the above-noted writ petitions. The learned Single Judge upon noticing the fact that the appellants in WA No. 151/2023 and WA No. 154/2023, were not possessing any document to show that they were the legal land owners of the plots of land which they claim to be theirs and they having already been compensated for the crops or vegetation and built-up structures, as available in the respective plots of land occupied by them; had held that the said appellants were not entitled to claim for further compensation and/or for a direction for initiation of acquisition proceedings, afresh. The said conclusions of the learned Single Judge, would not, in the facts and circumstances of the matter, call for any interference.

11. Insofar as the appellants in WA No. 152/2023 are concerned; the learned Single Judge on noticing that the solatium as computed in their respective cases, having already been deposited by the BRTF authorities and the same having not been disbursed; had directed the concerned authority to release the same to the appellants along with an interest at the rate of 6% per annum from the date of the order till it is fully paid. The said directions as passed by the learned Single Judge in respect of WA No. 152/2023, vide the common judgment & order, dated 20.06.2022; in our considered view, redresses the grievance of the appellants, therein, and they, in the facts and circumstances of the matter, would also not be entitled to claim that a re-assessment of the compensation due to them for acquisition of their respective plots of land, is required to be done in terms

of the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Settlement Act, 2013.

12. In view of the above conclusions; we are of the considered view that the common judgment & order, dated 20.06.2022, passed by the learned Single Judge in WP(c)140/2019, WP(c)91/2014, and WP(c)49/2015; would not call for any interference and accordingly, the instant writ appeals are held to be devoid of any merit and consequently, stand dismissed. However, there shall be no order as to costs.

JUDGE

CHIEF JUSTICE

Comparing Assistant