

GAHC030000012024



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

Case No. : WP(C)/1/2024

Sh. C. Lalengzauva and 12 Ors.
S/o Salkailiana (L)
R/o Rulchawm, Saitual District 2: Sh. K. Rinnghinglova

3: Sh. B. Rosanga

4: Sh. K. Lalawmpuia

5: Sh. K. Lalremruata

6: Sh. C. Lalrinzuala

7: Sh. Kapliana

8: Sh. PC Lianchungnunga

9: Sh. H. Malsawma

10: Sh. HL Rinmawia

11: Smt. Vanlalchhungi

12: Sh. K. Lallawmsanga

13: Sh. K. Lalmangaih

VERSUS

The State of Mizoram and 5 Ors.

R/b the Chief Secretary to the Govt. of Mizoram, MINECO, Khatla, Aizawl - 796001

2:The Secretary to the Govt. of Mizoram

Land Revenue and Settlement

3:The Competent Authority for Land Acquisition (CALA)/ Additional Deputy
Commissioner

Saitual Dist.

4:The Union of India

R/b the Secretary to the Ministry of Road Transport and Highways

5:The National Highways and Infrastructure Development Corporation Limited
(NHIDCL)

6:The General Manager (LA and Admin)

NHIDC

Advocate for the Petitioner : Ms Valentina Laldinpuii

Advocate for the Respondent : Addl. AG/GA, Mizoram for R1 & 2

ORDER

Date : 18-01-2024

BEFORE

HONOURABLE MR. JUSTICE NELSON SAILO

Heard Ms. Valentina Laldinpuii, learned counsel for the petitioners, Ms. Mary L Khiangte, learned Government Advocate for the respondent Nos. 1 & 2, Ms. Baby Laldinzuali, learned counsel for the respondent No. 4 and Mr. Samuel Vanlalhriata Chhangte, learned counsel for respondent Nos. 5 & 6.

Having regard to the nature of the controversy projected in this case, the writ petition is disposed of at the motion stage.

[2.] It is the case of the petitioners who are 13 in numbers that they are owners of their respective lands located in Saitual District and that their lands were acquired for widening of NH-102B along the stretch of land from Km 0 to Km 122 by the respondent authorities concerned. A 3G estimate dated 21.11.2022 was prepared by the respondent No. 3 and the petitioners were awarded compensation for their respective lands. However, while making such assessment, the respondent No. 3, at column No. 23 of the assessment, has made 15% deduction from the assessed amount towards cess, purportedly in terms of Rule 47(4) of the Mizoram (Land Revenue) Rules, 2013 (Rules of 2013). Therefore, the petitioners were paid their share of the compensation sometime in the month of May, November and December of the year 2023, after deducting 15% of the compensation amount towards cess. The learned counsel for the petitioners submits that the case of the petitioners is squarely covered by the decision of this Court, rendered on 23.06.2022 in WP(C) No. 66/2022 (Annexure-7) and that the said decision holds the field as on date.

[3.] I have perused the contents of the writ petition and also the said Order dated 23.06.2022. No doubt, Rule 47(4) of the Rules of 2013 provides for such deduction towards cess but, however, the said provision has been amended by the Mizoram (Land Revenue) Rules, 2019 by which, the words and figures "*Land Acquisition Act, 1894*" was substituted by the words "*any land acquisition law or policy of the Government of Mizoram for the time being in force*". Admittedly, the land of the petitioners have been acquired under the provisions of the National Highways Act, 1956 and therefore, it will not be permissible to deduct cess from the compensation they are to receive.

[4.] In view of above, I find force in the submissions made by the learned counsel for the petitioners that the case of the petitioners is squarely covered by the order passed in WP(C) No. 66/2022. Accordingly, the writ petition is disposed of with a direction to the respondent authorities concerned i.e., respondent Nos. 1, 2 & 3 to refund the cess amount deducted from the compensation amount to be received by the petitioners, within a period of 6 (six) weeks from the date of receipt of a certified copy of this order. In order to facilitate refund of the deducted amount, the amount deducted is provided hereunder in the form of a chart:-

“Table I:

*3G of NH 102B, Package III, Part II
(SAICHAL & RULCHAWM) as on 21.11.2022*

<i>Sl. No.</i>	<i>Sl. No. in 3G dated 21.11.2022</i>	<i>Name of petitioner</i>	<i>Amount deducted as 15% Revenue Cess</i>
1	1	Zomuana/PC Lianchhunga	2,86,343/-
2	3	Kaplana	2,74,466/-
3	4	K. Rinngninglova	2,85,483/-
4	5	C. Lalenauva	9,02,010/-
5	7	C. Lalrinzuala	7,06,079/-
6	8	B. Rosanga	7,09,357/-
7	9	K. Lalawmpuia	3,57,151/-
8	10	K. Lalremruata	5,49,565/-
9	11	H. Malsawma	5,64,837/-

Table II:

3G of NH-102B, Package-II (PAWLRANG) as on 17.02.2023

<i>Sl. No.</i>	<i>Sl. No. in 3G dated 21.11.2022</i>	<i>Name of petitioner</i>	<i>Amount deducted as 15% Revenue Cess</i>
1	1	H.L. Rinnawia	4,20,045/-
2	19	Vanlalchungi/Vanlalchhungi	16,04,728/-
3	33	K. Hmangaiha	1,08,968/-
4	60	K. Lallawmsanga/Suakthuama	1,59,103/-
5	222	H.L Rinmawia	4,44,767/-

[5.] The writ petition accordingly stands disposed of.

JUDGE

Comparing Assistant