

GAHC030003682022



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

Case No. : WP(C)/90/2022

Sh. Remnunsanga and Anr.
Mamit 2: Sh. H.Thanmawia(L) r/b His son Ramengmawi

VERSUS

The State of Mizoram r/b the Chief Secretary to the Govt. of Mizoram and 7 Ors.
Aizawl2:The Secetary to the Govt. of Mizoram
Environment Forests And Climate Change Deptt.

3:The Secretary to the Govt. of Mizoram
Land Revenue and Settlement Deptt.

4:The Secretary/Commissioner
Finance Deptt.

5:The Deputy Commissioner cum District Collector
Mamit District

6:The Director
Environment
Forests and Climate Change Deptt.

7:The Director
Land Revenue and Settlement Deptt.

8:Zahmingthang

Advocate for the Petitioner : Mr. Johny L Tochhawng

Advocate for the Respondent : Addl. AG/GA, Mizoram for R1 to R7

Linked Case : I.A.(Civil)/8/2024

Sh. Remnunsanga and Anr.
S/o Lalkhama (L)
R/o Mamit
Mizoram

2: Sh. H. Thanmawia (L) r/b his son Ramengmawia
R/o Upper Republic
Aizawl
Mizoram
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Mizoram

Advocate for the Petitioner : Mr. Johny L Tochhawng
Advocate for the Respondent : Addl. AG/GA
Mizoram for R1 - 7

BEFORE
HON'BLE MRS. JUSTICE MARLI VANKUNG
JUDGMENT

Date of hearing : 24.02.2025

Date of judgment : 24.02.2025

JUDGMENT & ORDER (Oral)

Heard Mr. Johny L. Tochhawng, learned counsel for the petitioners. Also heard Ms. Lalnunhlui, learned Government Advocate for the State respondent Nos. 1 to 7 and Mr. H. Zodinsanga, learned Legal Aid Counsel for respondent No. 8.

2. The instant writ petition is filed seeking a direction to the respondents to pay adequate compensation to the petitioners as per the norms of the Format for Preparation of Village Relocation Plan From Core/Critical Tiger Habitats under National Tiger Conservation Authority Ministry of Environment & Forests, Government of Mizoram.

3. The learned counsel for the petitioner submits that the petitioners are having their landed property within the notified Dampa Tiger Reserve (Dampa Wildlife Sanctuary) when the Governor of Mizoram had notified its intention to extend the existing core area of Dampa Tiger Reserve (Dampa Wildlife Sanctuary) by inclusion of the areas of Serhmun Village Council in Dampa Wildlife Sanctuary vide Preliminary Notification dated 24.07.2017. Thereafter, a voluntary Village relocation was carried out in the said Serhmun Village wherein compensation was paid by the respondents to the families whose names are included in the household list prepared by the respondents along with the Village Council President, Serhmun and President, Serhmun Branch Y.M.A on 18.03.2016 and 19.03.2016. However, the petitioners' names were not included in the list on the grounds that the petitioners were not residing at Serhmun village at the time of conducting joint household survey.

4. The learned counsel submits that the petitioner No. 1 is the owner of the House Site Pass No. 139 of 2004 which is located at Serhmun Village, Mamit District and the petitioner No. 2 is also having House Site Pass No. 62 of 2004, located at Serhmun Village, Mamit District. Both the petitioners had constructed residential building within the said House Site Passes and used to live in the house along with their family.

5. The learned counsel further submits that the petitioner No. 1 though not presently residing at Serhmun Village is having his House Pass and entitled to be given the compensation. The learned counsel also submits that with regards to petitioner No. 2, the compensation amount was wrongly paid to his relatives and therefore, he has not received the said compensation amount of Rs. 8 lakhs.

6. Ms. Lalnunhlui, learned Government Advocate submits that this matter is a covered matter since a Coordinate Bench of this Court in WP(C) No. 54/2021 dated 21.09.2022 had disposed of a similar matter on the grounds that under the National Rehabilitation & Resettlement Policy, 2007, herein referred to as the "2007 Policy" at clause 8.3.1 and 8.3.2, the policy provides that any affected person, if aggrieved, may move an appropriate petition for redressal of his or her grievances to the Ombudsman.

7. The learned Government Advocate submits that in the present case, if the petitioners are aggrieved for non-payment of compensation under the "2007 Policy" this matter may be disposed of by passing a similar order by referring to an Ombudsman.

8. Mr. H. Zodinsanga, learned counsel for the respondent No. 8 submits that as per the verification done by the Village Council, the petitioners are having landed properties within the notified Serhmun village.

9. Having heard the submissions made by the learned counsels for the parties, this Court has perused the judgment passed by a Coordinate Bench of this Court in WP(C) No. 54/2021 dated 21.09.2022, wherein this Court has observed as follows:-

"11. Clause 8.3.2 of the 2007 Policy provides that any affected person, if aggrieved, for not being offered the admissible rehabilitation resettlement benefits, may move an appropriate petition for redressal of his or her grievances to the Ombudsman, who is to be appointed by the appropriate Government, in terms of Clause 8.3.1 of the 2007 Policy. Clause 8.3.1 and 8.3.2 of the 2007 Policy is reproduced below as follows:-

“8.3.1. An Ombudsman shall be appointed by the appropriate Government, in the manner as may be prescribed, for time-bound disposal of the grievances arising out of the matters covered by this policy.

8.3.2. Any affected person, if aggrieved, for not being offered the admissible rehabilitation and resettlement benefits as provided under this policy, may move an appropriate petition for redressal of his or her grievances to the Ombudsman concerned.”

12. As there is an alternative remedy available to the petitioners to approach the Ombudsman, who is to be appointed by the appropriate Government, this Court is of the view that this present writ petition should not be entertained any further. Accordingly, the petitioners are given the liberty to approach the State Government with their grievance and in which case, the State Government shall refer the grievance of the petitioners to an Ombudsman to be appointed in terms of Clause 8.3.1 and 8.3.2 of the 2007 Policy.”

10. This Court finds that the present case is squarely covered by the Judgment in WP(C) No. 54/2021 and accordingly, since an alternative remedy is available to the petitioners under Clause 8.3.1 and Clause 8.3.2 of the National Rehabilitation & Resettlement Policy, 2007, the instant petitioners are given the liberty to approach the State Government to address their grievance and the State Government shall thereafter refer the grievances of the petitioners to an Ombudsman to be appointed in terms of Clause 8.3.1 and 8.3.2 of the 2007 Policy.

It is also submitted by the learned counsel for the petitioners that a representation was previously submitted to the State Government, however no steps was taken by the State Government.

11. In view of the above, the petitioners are to submit a fresh representation

with regards to the grievances within a period of 1 (one) month from the date of receipt of a certified copy of this order. Subsequently, the State Government shall take steps for appointment of the Ombudsman within a period of 1 (one) month and the Ombudsman thereafter shall endeavor to dispose of the representation of the petitioners expeditiously, preferably within a period of 2 (two) months from the date of the appointment.

12. Accordingly, WP(C) No. 90/2022 stands disposed of as above.

JUDGE

Comparing Assistant