

GAHC030002072024



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

Case No. : WP(C)/21/2024

Sh. H.K Remliana and 21 Ors.
S/o Dokunga (L)
R/o Ngopa, Saitual District

VERSUS

State of Mizoram and 4 Ors.
R/b Chief Secretary to the Govt. of Mizoram, Aizawl-796001 2:The Secretary to
the Govt. of Mizoram
Land Revenue and Settlement Department
Aizawl-796001

3:The Deputy Commissioner
Saitual District
Mizoram-796261

4:Union of India r/b the Secretary to the Ministry of Road Transport and Highways
New Delhi-110001

5:The National Highways and Infrastructure Development Corp. Ltd (NHIDCL) r/b
Executive Director (P)
Regional Office-Tuikhuahtlang
Aizawl-79600

Advocate for the Petitioner : Mr Lalchhanliana Khiangte

Advocate for the Respondent : Addl. AG/GA, Mizoram for R1-3

ORDER
BEFORE
HONOURABLE MR. JUSTICE NELSON SAILO

26.03.2024

Heard Mr. Lalchhanliana Khiangte, learned counsel for the petitioners and Mrs. Mary L. Khiangte, learned Govt. Advocate for the State respondents. Also heard Mr. Samuel Vanlalhriata Chhangte, learned counsel for the NHIDCL. Considering the nature of grievance projected by the petitioners, the writ petition is taken up for disposal at the motion stage itself.

[2.] The case of the petitioners is that they are land owners of their respective land covered by Periodic Patta issued by the competent authority within the Ngopa Village Council area in the District of Saitual. For construction of National Highway-102B (Km 0 - Km 122) (From Keifang - Tuivai), three (3) Notifications were issued by the Ministry of Road Transport & Highways under Section 3A(1), 3C(2) and 3D(2) of the National Highways Act, 1956 vide Notifications dated 25.02.2021, 23.07.2021 and 15.11.2021 respectively. Thereafter, the final 3G Award was published by the Competent Authority for Land Acquisition (CALA) (respondent No. 3) on 17.02.2023 wherein, the names of the 22 petitioners also find place amongst those to receive compensation. However, against Column No. 23, the amount to be

deducted towards Government Revenue Cess @ 15% has been calculated and reflected. According to the petitioners, they have received their respective share of compensation which was deposited in their Bank Accounts sometime in the month of November, 2023. However, 15% of the awarded amount was deducted towards Cess and the same has not been given to them.

[3.] Mr. Lalchhanliana Khiangte, learned counsel submits that this Court vide Order dated 08.09.2021 in WP(C) No. 36/2021 (N. Vanlalnghaka & 10 Ors. -Vs- State of Mizoram & 4 Ors.) has held that if the acquisition proceeding is drawn as per the Central enactment, no Cess will be liable to be deducted in view of the amendment in Rule 47(4) of the Mizoram (Land Revenue) Rules, 2013 by the Mizoram (Land Revenue) (Amendment) Rules, 2019. The learned counsel further submits that the Order dated 08.09.2021 has attained finality in view of the fact that no challenge has been made to the same before a higher forum by way of an appeal or otherwise. Therefore, the amount of Cess deducted by the respondent authority concerned not being permissible in law, the same should be directed to be refunded to the petitioners. The learned counsel also submits that the instant case is squarely covered by the Order dated 18.01.2024 passed in WP(C) No. 1/2024 (C. Lalengzuava & 12 Ors. -Vs- State of Mizoram & 5 Ors.).

[4.] Mrs. Mary L. Khiangte, learned Govt. Advocate submits that she may be given some time to obtain instructions in the matter. Mr. Samuel Vanlalhriata Chhange,

learned counsel for the NHIDCL submits that the entire amount which was assessed by the CALA has been deposited by the NHIDCL before the said authority and therefore the NHIDCL no longer has any role to play in the matter.

[5.] Upon hearing the learned counsels for the parties and perusal of the materials available on record, this Court finds the instant case to be a covered case. It may be seen that the Mizoram (Land Revenue) (Amendment) Rules, 2019 came into force with effect from 21.05.2019 and the instant acquisition notifications are of the 2021. Therefore, deduction towards cess will not be permissible. It is surprising to see that despite various orders of this Court holding that deduction of Cess amount will not be permissible if the acquisition has been done as per the Central enactment, the authorities concerned continue to make deductions towards Cess from the compensation so assessed. The respondent authorities concerned should take the note of the fact that deduction of Cess under the circumstance as already stated herein above is not permissible in view of the decision rendered by this Court in a number of cases and which holds the field as on date.

[6.] Thus, the deduction made by the respondent authority concerned towards Cess is found to be unsustainable and accordingly, the respondent authorities concerned, more particularly the respondent Nos. 1, 2 & 3 are directed to refund the Cess amount deducted from the petitioners as per their respective shares indicated in the Award within a period of three (3) months from the date of receipt

of a certified copy of this Order.

[7.] Further, in order to avoid multiplicity of proceedings, other similarly situated land owners covered by the same 3G Award dated 17.02.2023 need not approach this Court separately by filing a separate writ petition. It is therefore directed that the amount of Cess deducted from their share of compensation be also refunded to them within a period of three (3) months from the date on which a copy of this Order is served upon the respondent Nos. 1, 2 & 3 by the land owner concerned.

[8.] With the above observations and directions, the writ petition stands disposed of.

JUDGE

Comparing Assistant