

GAHC030004572021



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

Case No. : WP(C)/44/2023

Sh M. Hniazo and Anr.
S/o M. Vehu
R/o Zyhno
Siaha District

2: Sh. S. Pawla
S/o Lailei (L)
R/o Tipa
Siaha District.
VERSUS

The Union of India and 6 Ors.
R/b the Secretary to the Govt. of India.
Ministry of Defence
S. Sena

Bhavan
101A
South Block
New Delhi - 110011

2:The Chief Engineer
Border Road Task Force (BRTF)
Project Pushpak GREF
C/O 99 APO Thuampui

Aizawl - 796017.

3:The Executive Engineer (Civil) Officer Commanding
71 Road Constructions COY
(GREF) - 930071 C/O 99 APO.

4:The Secretary to the Govt. of Mizoram
Land Revenue and Settlement Dept.

Govt. of Mizoram
Aizawl - 796001

5:The Engineer-in-Chief
Public Works Dept.
Govt. of Mizoram
Aizawl - 796001.

6:The Deputy Commissioner/District Collector
Siaha District
Siaha Mizoram - 796901.

7:The Sr. Revenue and Settlement Officer
Land Revenue and Settlement Dept.
Mara Autonomous District Council

Siaha
Mizoram - 796901

Advocate for the Petitioner : Mr Haulianthanga
Advocate for the Respondent : Ms Zairemsangpuii
CGC for R1 - 3

B E F O R E
THE HON'BLE MR. JUSTICE NELSON SAILO
JUDGMENT & ORDER (Oral)

21.11.2024

Heard Mr. Haulianlianthanga, learned counsel for the petitioner, Mr. Saurabh Pradhan, learned counsel for the respondent No. 7, Ms. Zairemsangpuii, learned CGC appearing for the respondent Union of India and Mr. Samuel Vanlalhriata Chhangte, learned Addl. Advocate General for the State respondents.

[2.] The learned counsel for the petitioners submits that the land of the

petitioners have been acquired for construction of Tuisih Bridge on Zawngling - Mawhre - Chape Road (7.98 km) in Siaha District, Mizoram. The learned counsel submits that however, the acquisition was done under the Mizoram (Land Acquisition, Rehabilitation & Resettlement) Act, 2016 (Act of 2016) in view of the fact that there was an appeal filed by the State Government against the common Judgment & Order dated 15.11.2017 passed by a coordinate Bench in WP(C) Nos. 20 & 30/2014 namely, WA No. 70/2018. As per the said Judgment, the Act of 2016 was held to be inapplicable in the State of Mizoram and that instead the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act of 2013) should be applied. Therefore, the assessment of the compensation was done as per the Act of 2016 but by providing a caveat in Clause 8 of the preliminary notification dated 05.11.2019 that the petitioners will have a right to claim compensation under the Act of 2013 depending upon the outcome of WA No. 70/2018. The learned counsel submits that the writ appeal has been disposed of by the Writ Appellate Court along with WA No. 71/2018 vide common Judgment & Order dated 30.10.2024 by dismissing the two (2) writ appeals. That the Judgment & Order of the learned Single Judge having been upheld, the respondents should be directed to make a fresh assessment as per the Act of 2013 for payment of compensation to the petitioners.

[3.] The learned counsel also submits that the case of the present petitioners is

squarely covered by the common Judgment & Order dated 21.11.2024 passed by this Court in WP(C) No. 125/2021 and other similar writ petitions. The only difference is that the purpose of the acquisition in the instant case is for construction of bridge and that the Award has been prepared under Draft Award No. 8/2021.

[4.] In view of above, the writ petition is disposed of with the following directions:-

- 1) The petitioners shall within a period of three (3) weeks submit their applications before the District Collector, Siaha, giving all the details of their land which was acquired for the aforementioned purpose while also specifying the amount that they have already received. The petitioners may also indicate why the amount awarded is not acceptable to them by giving reasons other than non-application of the Act of 2013.
- 2) The District Collector upon receipt of such applications shall undertake the exercise of re-assessment of the compensation amount to be received by each of the land owners for acquisition of their land by applying the provisions of the Act of 2013, inclusive of the solatium and interest and also interest for delayed payment entitled to each of

the land owners. The amount already received by the petitioners as compensation shall be deducted from the assessment and compensation so made. Such an exercise shall be undertaken by the Collector as expeditiously as possible and at any rate, within the outer limit of three (3) months from the date of receipt of the applications to be submitted by the petitioners.

3) The Collector after preparing the assessment as per the Act of 2013 shall then obtain the approval of the competent authority in the State Government, if required and thereafter, forward the same to the respondent Union of India represented by the Secretary to the Govt. of India, Ministry of Defence, Sena Bhavan 101A, South Block, New Delhi-110011, the Chief Engineer Border Road Task Force (BRTF), Project Pushpak GREF, C/o 99 APO, Thuampui, Aizawl-796017 and The Executive Engineer (Civil) Officer Commanding, 71 Road Construction Coy (GREF)-930071 C/o 99 APO who upon receipt of the assessment made by the District Collector shall made necessary arrangement of the fund required and deposit the same before the Collector within three (3) months of receipt of the assessment. The amount shall then be disbursed to the land owners concerned as per

the entitlement without delay.

4) Since a direction has already been given by this Court vide common Judgment and Order dated 21.11.2024 in WP(C) Nos. 103 and 60 of 2023 to constitute land Acquisition, Rehabilitation and Resettlement Authority, the application submitted by the petitioners before the District Collector shall be treated as an application for reference and the Collector shall forward the same before the Authority concerned as and when the same is established. The applications shall then be considered by the Authority in accordance with law.

[5.] With the above observations and directions, the writ petition stands disposed of. No cost.

JUDGE

Comparing Assistant