

GAHC030003452024



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

Case No. : WP(C)/49/2024

Sh.V. Liankamlova and 133 Ors.
S/o V. Lalthangliana,
R/o Lopu, Siaha District

VERSUS

Union of India r/b Secretary to the Government of India and 6 Ors.
Ministry of Defence, S. Sena, Bhavan, 101A, South Block, New Delhi - 110011

2:The Chief Engineer

3:The Executive Engineer (Civil) Officer Commanding

4:The Secretary to the Government of Mizoram

5:The Engineer-in-Chief

6:The Deputy Commissioner/District Collector

7:The Sr. Revenue Settlement Office

Advocate for the Petitioner : Mr. J H Ramneihmawia

Advocate for the Respondent : Addl. AG/GA, Mizoram for R4-R6

**BEFORE
HONOURABLE MRS. JUSTICE MARLI VANKUNG
ORDER**

Date : 06-12-2024

Heard Mr. JH. Ramneihmawia, learned counsel for the petitioners. Also heard Mr. Samuel Vanlalhriata Chhangte, learned Addl. Advocate General for respondent Nos. 4 to 6 and Ms. Zairemsangpuii, learned CGC for respondent Nos. 1 to 3.

2. The case of the writ petitioners is that they are the owners of the land located within Siaha District which was duly allotted to them by the competent authority. The land of the petitioners fall within the proposed Construction of *TIPA-LAKI-LOPE-LOPU* Road (TLLL Road) and being required for public purpose, their land was acquired by the Border Road Task Force (BRTF) under the Ministry of Defence, Govt. of India for maintenance of National Security along the INDO-MYANMAR international border. A preliminary notification dated 16.10.2019 was issued by the respondent No. 4 u/s 11(1) of the Mizoram (Land Acquisition, Rehabilitation and Resettlement) Act, 2016 (*hereafter referred to as the 2016 Act*). Thereafter, on the issuance of the final notification/declaration u/s 11(1) of the 2016 Act dated 14.01.2022, the respondent No. 6 issued the draft award No. 10 of 2023 (57 – 70kms) dated 25.01.2023 wherein names of the petitioners were reflected in the draft award along with the rate of compensation to be awarded to them as per their land acquired by the respondents. The draft award No. 10/2022 was approved by the Govt. of Mizoram and the same was communicated to respondent No. 6 vide communication letter dated 07.02.2023. The awarded amount was distributed to the petitioners, which was received by the petitioners under protest in the year

2023.

3. Mr. J.H. Ramneihmawia, learned counsel for the petitioners submitted that the whole exercise was done under the 2016 Act, while a Coordinate Bench of this Court in its Judgment and Order dated 15.11.2017 passed in WP(C) No. 20/2014 had clearly held that the 2016 Act was inapplicable and that the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Settlement Act, 2013 (*herein referred to as Act of 2013*) should be made applicable. However, the respondent authorities carried out the acquisition process as per the 2016 Act.

4. It was also the case of the petitioners that the respondents as per the 2016 Act had also deducted cess at the rate of 10% from the value of the landed property of the petitioners, by invoking the provisions of Mara Autonomous District Council (Land and Revenue) Act, 2018. The learned counsel for the petitioners submitted that such deduction of cess is neither provided in the Mizoram (Land Acquisition, Rehabilitation & Resettlement) Act, 2016 Act nor in the 2013 Act. As such the petitioners have been illegally deprived of their right due to them on receiving their share of compensation.

The learned counsel also submitted that the District Collector/respondent No. 6 had determined the market value in the mentioned award No. 10 of 2023 without any application of mind and had under-valued the value of the landed property. Thus, the petitioners are deprived of the correct compensation amount due to them.

5. The learned counsel for the petitioner further submitted that the Division Bench of this Court in the Principal seat had disposed of the appeal against the

said Judgment and Order in WP(C) No. 20 of 2014 and WP(C) No. 30 of 2014 dated 15.11.2017 in Writ Appeal No. 71/2018 & Writ Appeal No.70/2018, by a common Judgment and Order dated 30.10.2024 and upheld the Judgment and Order of the Single Judge dated 15.11.2017, by which it was held that the Act of 2016 shall not be applicable to the State of Mizoram and instead it should be the Act of 2013 which should be applied for acquisition of the land of the petitioners.

6. The learned counsel for the petitioners also submitted that the Coordinate Bench of this Court in WP(C) No. 103/2023 and WP(C) No.60/2023 and in WP(C) No. 125/2021 and WP(C) No. 137/2022 vide its common judgment orders dated 21.11.2024 respectively, had directed the State respondents to undertake the exercise of reassessment of the compensation amount to be received by the land owners for acquisition of the land by applying the provisions of the Act of 2023 and for the refund of the illegal deduction of the cess amount of 10% from their awarded amount. That the instant case is squarely covered by the Judgment orders of the coordinate bench of this court and the learned counsel submits that a similar order may be passed in the present case.

7. Ms. Zairemsangpuii, learned CGC for the State respondent Nos. 1 to 3 and Mr. Samuel Vanlalhriata Chhangte learned Addl. AG for the State respondent Nos. 4 to 6 admit that the instant writ petition is a covered matter in the common Judgment and Orders dated 21.11.2024, passed by a Coordinate Bench of this Court in WP(C) No. 103/2023 and in WP(C) No. 125/2021 and linked case WP(C) No. 137/2022.

8. On considering the submissions made by the learned counsels for both the

parties, this Court finds that the Division Bench in Writ Appeal No. 71/2018 & Writ Appeal No. 70/2018, vide a common Judgment & Order dated 30.10.2024, has upheld the judgment of the Single Judge in WP(C) No. 20 of 2014 and WP(C) No. 30 of 2014 dated 15.11.2017 in confirming that the Mizoram (Land Acquisition, Rehabilitation and Resettlement) Act, 2016 (*also referred to as the 2016 Act*) is not applicable in the state and that the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Settlement Act, 2013 (*also referred to as Act of 2013*) should be applied for acquisition of land. It is therefore, clear that the provisions to be applied for acquisition of land for public purposes in the state of Mizoram are the provisions of the Act of 2013 and not the 2016 Act.

9. It is also seen that, a Coordinate Bench of this Court in WP(C) No. 103/2023 & WP(C) No. 60/2023, vide a common Judgment & Order dated 21.11.2024, had held that there is no provision under the Mara Autonomous District Council (Land & Revenue) Act, 2018 to deduct cess from compensation to be received by the land owners and therefore, any such deduction is illegal and had directed the authorities to refund the amount within a time frame. This court therefore finds that the same should be the case of the petitioners in the present case and find it appropriate to direct the concerned respondent authorities to refund the 10% cess deducted from the awarded amount of the petitioners forthwith.

10. This Court on consideration the facts of the case and the nature of the instant Writ Petition, find that the instant Writ Petition is squarely covered by the Judgment and Order of a Coordinate Bench of this Court in WP(C) No. 103/2023 and WP(C) No. 60/2023 and in WP(C) No. 125/2021 and WP(C) No.

137/2022 vide its common judgment orders dated 21.11.2024 respectively. Thus find it appropriate to pass a similar order by directing that the petitioners shall within a period of 3 weeks, submit their respective applications before the District Collector, Siaha, giving all the details of their land which was acquired for the aforesaid mentioned purpose, while also specifying the amount they had already received in 2023. The petitioners are to indicate why the amount awarded to them is not acceptable by them by giving reasons other than the non application of the Act of 2023.

11. The District Collector on receipt of such applications shall take steps for re-assessment of the compensation amount to be received by the petitioners for the acquisition of their land, by applying the provisions of the Act of 2013, inclusive of the solatium and also any interest entitled to them, if any, for delayed payment, as per the said Act. Any amount already received by the petitioners as compensation for their landed property, shall be deducted from the assessment and compensation so made under the Act of 2013. The exercise to be undertaken under the Collector should be done under as expeditiously as possible within a period of 3 (three) months from the date of application submitted by the petitioners. Thereafter, the Collector after preparing the assessment as per the Act of 2013, shall take all the necessary steps as per Law and forward the same to the respondent Union of India, who upon the receipt of the assessment made by the District Collector as per the Act of 2013, shall immediately make necessary arrangement to make the required fund available and deposit the same before the Collector within a period of 3 months of receipt of the assessment. Thereafter, the amount shall be disbursed to the petitioners concerned as per their entitlement without undue delay.

12. It is also seen that the Coordinate Bench of this Court in its Judgment & Orders dated 21.11.2024, in WP(C) No. 103/2023& WP(C) No. 60/2023 had given a direction to constitute Land Acquisition, Rehabilitation & Settlement Authority and 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.

13. With the above observations and the directions, the Writ Petition No. 49 of 2024 stands disposed of. No cost.

JUDGE

Comparing Assistant