

GAHC030003592023



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

Case No. : WP(C)/83/2023

Sh. Vanlalnghaka and 2 Ors.
Tuipui D,Hnahthial, Mizoram 2: Sh. J. Vanlaltholeha

3: Sh. Lalduhkim

VERSUS

Union of India and 6 Ors.
New Delhi 2:Chief Engineer
BRTF
Project Pushpak GREF

3:Executive Engineer (Civil)
Officer Commanding
GREF (BRO)

4:Secretary
Land Revenue and Settlement Department
Govt. of Mizoram

5:Engineer-in-Chief
Public Works Department
Govt. of Mizoram

6:Deputy Commissioner/District Collector
Hnahthial District

7:Settlement Officer

Land Revenue and Settlement Department
Lunglei Distric

Advocate for the Petitioner : Mr A.R. Malhotra

Advocate for the Respondent : Ms. H. Lalmalsawmi, Govt. Advocate for the State
: Ms Zairemsangpuii, CGC for R1 to R3

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

25.11.2024

Heard Mr. A.R. Malhora, learned counsel for the petitioners, Ms. H. Lalmalsawmi, learned Govt. Advocate for the State respondents and Ms. Zairemsangpuii, learned CGC appearing for the respondent Union of India. By filing this writ petition, the petitioners have challenged the acquisition of their land for construction of approach road from Chhimtuipui Bridge (Tuipui 'D') within Hnahthial District for maintenance of National Security along with Border Indo-Myanmar International Border road measuring about 520 meters approximately in length under Draft Award No. 1/2022 by applying the provisions of the Mizoram (Land Acquisition, Rehabilitation & Resettlement) Act, 2016 (Act of 2016).

[2.] It is the case of the petitioner that their land should be acquired under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013 (Act of 2013) instead since the Act of 2016 has been held to be inapplicable by a coordinate Bench of this Court vide common Judgment &

Order dated 15.11.2017 passed in WP(C) Nos. 20 & 30/2014.

[3.] It is the case of the State respondents on the other hand that the common Judgment & Order dated 15.11.2017 passed in WP(C) Nos. 20 & 30/2014 has been challenged in W.A Nos. 70 & 71/2018 and pending disposal of the Writ Appeals, the Act of 2016 has been applied for the acquisition.

[4.] It is stated at the bar that the two (2) Writ Appeals i.e., W.A Nos. 70 & 71/2018 has since been heard by the Division Bench of this Court and disposed of vide common Judgment & Order dated 30.10.2024 by dismissing the Writ Appeals while maintaining the Judgment & Order of the learned Single Judge. It is further brought to the notice of this Court that in a bunch of writ petitions wherein, WP(C) No. 125/2021 was one of the writ petition, this Court vide Judgment & Order dated 21.11.2024 had disposed of the writ petitions by common Judgment & Order by directing the respondent authorities to make an assessment under the Act of 2013 and thereafter to take necessary steps so that the petitioners can get the compensation on terms of the relevant provisions and the Act of 2013. The learned counsel for the petitioners submits that the present writ petition being a squarely covered case, the same may be disposed of any similar lines. The learned counsels appearing for the opposite parties also submit that the present writ petition is covered by the common Judgment & Order dated 21.11.2024 passed in WP(C) No. 125/2021 and other similar writ petitions.

[6.] In view of above, the instant writ petition is disposed of in terms of the common Judgment & Order dated 21.11.2024 passed in WP(C) No. 125/2021 and other similar writ petitions. It is however made clear that the refund of cess which has been deducted from the compensation to be received by the petitioners is left open to be considered in appropriate proceedings. The directions in other aspects shall be covered by the aforesaid common Judgment & Order dated 21.11.2024.

[7.] The petitioners shall submit a certified copy of the common Judgment & Order dated 21.11.2024 passed in WP(C) No. 125/2021 and other similar writ petitions along with this Order before the respondent authorities concerned for necessary action.

JUDGE

Comparing Assistant