

GAHC030002742019



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

**Case No. : WP(C)/74/2019**

Dr. Baittia and 960 Ors.  
New Sachan, Lunglei District.

VERSUS

State of Mizoram r/b the Chief Secretary to the Govt.of Mizoram and 4 Ors.  
Aizawl

**Advocate for the Petitioner** : Mr Anil Rinliana Malhotra

**Advocate for the Respondent** : Mr. T Lalnunsiamia for R5

**BEFORE  
HONOURABLE MR. JUSTICE RAJESH MAZUMDAR**

**JUDGEMENT & ORDER (ORAL)**

**Date** : 23-09-2025

Heard Mr. C. Lalramzauva, learned Sr. Counsel assisted by Mr. Stephen Lalbuatsaiha, learned Counsel for the petitioners. Also heard Ms. Lalnunhlui, learned Government Advocate for the respondent No.1 to 3, Ms. Zairemsangpui, learned CGC for the respondent No. 4 as well as Mr. T. Lalnunsiamia, learned Counsel for the respondent No.5.

**2.** The grievance of the petitioners in this writ petition under Article 226 of the

Constitution of India lies in a very narrow compass. The petitioners claim to be permanent residents of Mizoram and to belong to the Chakma community. The Secretary to the Government of Mizoram in the Revenue department issued a notification on 6.11.2006 under the provisions of Section 4 of the Land Acquisition Act, 1894 declaring that the land belonging to the petitioners located at New Sachan, Terabonia and Marpara 'S' were likely to be needed for public purposes of construction of the Indo- Bangla border Road cum fencing. Since the land of the petitioners fell within the notified area, the petitioners had submitted their claims and objections and after joint verification of the claims made by the petitioners, their claims were found to be genuine. The Deputy Commissioner and District Collector of Lunglei District prepared the draft award number 5/2007 and the same was duly approved by the competent authority. The Union of India in the Ministry of Home (A), Border Affairs Management Division 1 and the National Building Construction Corporation Limited took possession of the land and the compensation awarded was disbursed to the petitioners.

It is the case of the petitioners that at the time of the award, solatium and interest was not awarded in favour of the petitioners even though it was a statutory requirement under Section 23(1A) and (2) of the Land Acquisition Act 1894. It is further stated in the petition that one Rupayan Chakma had fraudulently submitted a reference petition under Section 18 of the Land Acquisition Act 1894 on 17/7/14 claiming that he had been authorized by the land owners through power of attorney and that the reference was submitted on behalf of the petitioners. The reference came to be registered as LA case number 1/2014 in the Court of the District and Sessions Judge, Lunglei Judicial District, Lunglei. On coming to know about the false claim made by the said

Rupayan Chakma regarding his authority under the power of attorney, the landowners, through the Presidents of the Village Councils, submitted their objections. However, by order dated 18/9/2014, the learned District and Session Judge dismissed the reference petition as time barred.

**3.** The petitioners, aggrieved by the non-payment of solatium and interest in accordance with the provision of section-23(1A) & (2) of the Land Acquisition Act, 1894 had earlier approached this Court by filing W.P.(C) No. 149/2016. The said writ petition was closed by the order dated 28.03.2017 on withdrawal with liberty to file afresh. The petitioners have now preferred this writ petition claiming award of solatium and interest in accordance with the provision of Land Acquisition Act, 1894.

**4.** Mr. C. Lalramzauva, learned Sr. Counsel has submitted on behalf of the petitioners that there can be no two opinions that payment of solatium and interest, which is the statutory duty of the Collector, confers a legal right upon the landowners whose land had been acquired by the State. The learned Sr. Counsel for the petitioners has submitted that although the award with regard to the land acquired had been then satisfied by payment of compensation, the respondents had acted beyond the law when they denied payment of solatium and interest under the provision of law as already referred to hereinabove.

The learned Sr. Counsel for the petitioners thereafter submitted that the issue as to whether a claim for interest and solatium under the Land Acquisition Act, 1894 can be made in a writ petition in the absence of any reference been made to the Court in terms of section-18 of the Act, when the petitioners had already accepted the awarded compensation, is no longer *res integra* and has been settled by the Division Bench of this Court in Reference Case No. 1/2017.

The attention of this Court has been drawn to the judgment delivered by this Court on 24.04.2017 in Reference Case No. 1/2017 to assert that in the event of the failure on the part of the Collector in the discharge of statutory duty as per mandates of the Land Acquisition Act, 1894, an aggrieved person may approach the Collector concerned under section-13(A) of the Land Acquisition Act, 1894 for correction of clerical or arithmetical mistake. However, it was also settled law that if there is an omission on the part to grant interest and solatium while making the award, it would be a mistake or an error apparent on the face of the record and such error can also be corrected by the Collector himself. He submitted that on the failure of the Collector to carry out the statutory duty as per mandate Act of the Land Acquisition Act, 1894, the same can also be assailed by invoking the extra ordinary powers conferred upon this Court under Article 226 of the Constitution of India. He submitted that invocation of such jurisdiction by the petitioner is within the parameters laid down by the Court when it held that writ petitions claiming interest and solatium under the provision of Land Acquisition Act, 1894 even in the absence of any reference under section-18 of the said Act would be maintainable.

The learned Sr. Counsel has further submitted that this Court in several earlier litigations has upheld the entitlement of solatium and interest in case of the landowners who lose their rights due to the acquisition and he therefore submits that the respondent authorities are liable to be directed to award the solatium and interest to the petitioners in addition to the compensation already awarded to them. The learned Sr. Counsel for the petitioners has stated that under circumstances similar to the present case, this Court had passed directions in W.P.(C) No. 156/2017 granting relief to the petitioners therein. The said judgment was carried to the Apex Court by the respondents by preferring

SLP(C) Dairy No(s). 43460/2019, which was dismissed. He has also referred to the order dated 06.02.2025 passed by this Court in W.P.(C) No. 75/2019 wherein this Court had granted relief as prayed for by the petitioners therein. He has also referred to the judgment & order dated 17.02.2025 passed by the Division Bench of this Court in W.A No. 11/2024 wherein under similar circumstances, this Court had directed the respondents to also pay interest in terms of the section-34 of the Land Acquisition Act, 1894 to the petitioners therein within a fixed time frame. He submitted that in that case, the petitioners were not even paid the compensation and therefore, the order for payment of interest under section-34 of the Act was also passed.

The learned Sr. Counsel has thereafter referred to the order dated 28.10.2024 passed by the Division Bench of this Court in W.A No. 5/2023 wherein he submitted that this Court was looking into a similar claim made by the appellants therein. It had been rejected and the Special Leave Petition were also dismissed and thereafter a review petition before the Apex Court was also dismissed.

**5.** Mr. T. Lalnunsiamia, learned Counsel for the respondent No.5 has submitted that there are anomalies in the writ petition, inasmuch as, the description of the landowners who are beneficiaries of the Draft Award No. 5/2007 does not match with the description of the writ petitioners in this present writ petition who claim relief under the said award. The learned Counsel for the respondent No.5 has further submitted that the claim made by the petitioner in this writ petition is time barred, more so in view of the fact that the Reference Case No. 1/2017 was made on behalf of the petitioners has already been dismissed by the competent Court of law as it being time barred.

- 6.** Ms. Zairemsangpuii, learned Counsel appearing for the respondent No.4 has adopted the submission made by the learned counsel appearing for the respondent No.5 and has stated that when the petitioners have not given any explanation for the delay in approaching the Court under Article 226 of the Constitution of India, the writ petition deserved to be dismissed on that ground. She has further stated that there is no scope of calculating solatium and interest on the basis of the Award no. 5/2006 since the said award did not categorize the compensation in terms of market value etc.
- 7.** Ms. Lalnunhlui, learned Government Advocate appearing for the respondent No.1 to 3 has referred to the affidavit-in-opposition filed by the Under Secretary to the Government of Mizoram in the Land Revenue & Settlement department to submit that the total amount of the Award No.5/2006 was sanctioned to the respondent No.5 and the said amount has been disbursed to the affected families.
- 8.** The facts involved in the writ petition have already been discussed hereinabove. There is no qualm at the bar that the petitioners would be entitled for payment of solatium and interest as provided under section-23(1) & (2) of the Land Acquisition Act, 1894 when their land had been acquired for the public purpose. The only bone of contention between the parties is regarding the delay in approaching the Court to assert their right under the Land Acquisition Act, 1894.
- 9.** It is noticed that a reference case had been preferred before the learned District & Sessions Judge, Lunglei Division in reference to the Award No. 5/2007, which was dismissed as time barred. This Court has noticed that the petitioner has taken a specific stand that the person who had moved the said reference case had committed fraud upon the Court. The petitioners have taken a specific

stand that false statements had been made therein and that he had no authority from the petitioners to prefer the said revision case. The record of the petition contain documents showing that the petitioners had taken appropriate steps in initiating criminal proceedings against the said fraudulent act. The respondents have not countered the said assertion of the petitioners.

**10.** On the issue of their belated approach to this Court for asserting rights accrued to the petitioners under the Land Acquisition Act, 1894, Learned Senior Counsel has relied upon the case of **Vidya Devi -vs- State of Himachal Pradesh & Others**, reported in **(2020) 2 SCC 569** where the Hon'ble Apex Court has held that when a citizen is divested of the right to property without being paid compensation, the cause of action is a continuing one. The Apex Court has observed that the demand for justice in such cases is so compelling that the delay, if any, in approaching the Court should not act as a bar for the citizen, more so when the State admitted that the land had been taken over without following the due procedure established by law and norms. This Court finds force in his submissions.

**11.** This Court has on several occasions allowed the prayer made by the petitioners to direct the respondents to make an assessment of the solatium and interest entitled to each of the petitioners for acquisition of their land and thereafter to have a consolidated award on the entitlement of the petitioners with regard to the land.

**12.** No other grounds have been argued before this Court by the respondents to resist the writ petition or the claim of the petitioners for directions to the respondents to grant the petitioners the appropriate solatium and interest as provided for in the Land Acquisition Act, 1894.

**13.** In view of what has been discussed above, the writ petition is disposed

with a direction to the District Collector (respondent No.3) to make an assessment of the solatium and interest to which each of the petitioners would be entitled to for acquisition of their land which was covered by the Award No. 5/2007 and to thereafter pass a concise and consolidated award on the entitlements of the petitioners. The respondents will be at liberty to verify the identity of the petitioner's vis-à-vis the beneficiaries of the Award No.5/2007. The entire exercise should be done as expeditiously as possible, in any case, within the outer limit of 3(three) months from the date of the receipt of the certified copy of this order. On determination and pronouncement of the entitlement of the petitioners by the District Collector as directed hereinabove, the respondents No. 4 & 5 shall process and deposit the awarded amount within a period of 3(three) months from the date of receipt of the Award from the Collector. On receipt of the award, the concerned authority shall take timely steps for disbursal of the amount within a period of 1(one) month.

**14.** Writ petition stands disposed. No cost.

**JUDGE**

**Comparing Assistant**