

GAHC040008552024

2026:GAU-AP:126



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

Case No. : WP(C)/271/2024

Lama Tenzin and 2 Ors
Son of Late Namgey, permanent resident of Shocktsen Village, PO Zemithang, PS
Lungla, Tawang District, Arunachal Pradesh

2: Jampal Tashi
Age:
Occupation :
Son of Gentsen Chibber
permanent resident of Shocktsen village
PO Zemithang
PS Lungla
Tawang District
Arunachal Pradesh

3: Tenzin Sonam
Age:
Occupation :
Son of Tenzin Chhombey
permanent resident of Shocktsen village
PO Zemithang
PS Lungla
Tawang District
Arunachal Pradesh

VERSUS

The Union of India and 8 Ors
represented by the Secretary, Ministry of Defence, Sena Bhavan, Govt of India, New
Delhi 110011

2:The Director General Border Roads
Age: 0
Occupation :
Seema Sadak Bhawan

Ring Road
Naraina Delhi Cantt
New Delhi 110010

3:The Chief Engineer (VARTAK)

Age: 0
Occupation :
C/o 99 APO
Tezpur
PO Tezpur
Sonitpur District
Assam 784001

4:The Commander

Age: 0
Occupation :
763 BRTF
Khirmu
Kitpi Circle
C/o 99 APO
Tawang District
Arunachal Pradesh 790104

5:The Officer Commanding

Age: 0
Occupation :
117
Road Construction Coy (GREF)
Zimithang Circle
PO Zimithang
Tawang District
Arunachal Pradesh 790106

6:The State of Arunachal Pradesh

Age: 0
Occupation :
represented by the Commissioner/ Secretary
Land Management
Govt of Arunachal Pradesh
Itanagar 791111

7:The Director

Age: 0
Occupation :
Land Management
Govt of Arunachal Pradesh
Itanagar 791111

8:The Deputy Commisioner
Age: 0
Occupation :
Tawang
Tawang District
PO and PS Tawang
Arunachal Pradesh 790104

9:The Additional Deputy Commisisoner
Age: 0
Occupation :
Lungla (Lumla) District Tawang
Arunachal Pradesh 79010

Advocate for the Petitioner : Binter Picha, Tao Tarin,Jungam Jini

Advocate for the Respondent : Marto Kato, GA (AP),DSGI

:::BEFORE:::

HON'BLE MR. JUSTICE SANJAY KUMAR MEDHI

JUDGMENT & ORDER (CAV)

Dated: 11.02.2026

Three nos. of petitioners have joined together in this petition filed under Article 226 of the Constitution of India, with the following prayer:

"I. A Writ of Certiorari shall not be issued quashing and setting aside the impugned revised estimate cost of compensation prepared for Shungatser to Sulula of Tawang District for the area measuring 3,38,400/- (three lakhs thirty-eight thousand four hundred) Square Meters, amounting to Rs.11,11,98,240/- (Rupees eleven crore eleven lacs ninety-eight thousand two hundred forty).

II. A Writ of Certiorari shall not be of issued quashing and setting aside the impugned letter communication dated 21.03.2022, whereby the

Deputy Commissioner, Tawang District, upon preparation of impugned revised estimate, had sent the same to the Director, LM, Government of Arunachal Pradesh, Itanagar, for necessary action.

III. A Writ of Certiorari shall not be issued quashing and setting aside the impugned minute of meeting dated 14.12.2022 drawn by the respondent authority, wherein the respondent authority had conveyed that the villagers have accepted compensation amount of Rs.11,11,98,240/- (Rupees eleven crore eleven lacs ninety-eight thousand two hundred forty).

IV. A Writ of Certiorari shall not be issued quashing and setting aside the impugned Award dated 14.02.2023, where the respondent authority had awarded land compensation amount of Rs.11,11,98,240 /- (Rupees eleven crore eleven lacs ninety-eight thousand two hundred forty) for the area of land from Shungatser to Sulula of Tawang District, measuring 3,38,400/- (three lakhs thirty-eight thousand four hundred) Square Meters.

V. A Writ of Certiorari shall not be issued quashing and setting aside the impugned reply dated 03.11.2023.

VI. A Writ of Mandamus shall not be issued directing the respondent authorities to pass fresh Award in respect of construction of road from Sungetsar to Sulula of Tawang District, by taking 1.2 as multiplication factor.

VII. A Writ of Mandamus shall not be issued directing the respondent authorities to pay compensation to the villagers for construction of road from Sungetsar to Sulula as per the first estimated cost of land, i.e., by taking 1.2 as multiplication factor, with interest thereof and/or pass any

other consequential relief and/or pass any other order(s) as your lordship may deem fit and proper.”

2. As per the facts projected, there was a land acquisition proceeding for construction of a road from Shungatser to Sulula under the Zemithang Circle of Tawang District. For the said purpose, the respondent authorities had issued a preliminary notification dated 03.11.2021 for acquisition of land measuring 3,38,400 Sq. Mtrs. under the *Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013*, (hereinafter referred to as the Act of 2013). In furtherance of the said objective, a Board of four members was constituted, which took a decision to adopt the multiplication factor for the acquisition as 1.2. Such factor was taken in accordance with the notification dated 05.07.2016 issued by the Government. The estimate was accordingly prepared for compensation of Rs.13,21,79,040/- (Rupee Thirteen Crore Twenty-One Lakh Seventy-Nine Thousand and Forty) only, by taking 1.2 as the multiplication factor. There were other charges also included in the estimate. However, without the knowledge of the petitioners, the new incumbent who had joined as the Deputy Commissioner of the District revised the compensation to Rs.11,11,98,240/- (Rupees Eleven Crore Eleven Lakh Ninety-Eight Thousand Two Hundred and Forty) only. The impugned revised compensation was prepared by taking into account the multiplication factor as 1 instead of 1.2, which according to the petitioners is in complete violation of the earlier decision of the Board taken as per the notification dated 05.07.2016. It also transpires that such action was taken as per the verbal direction of the Secretary (Land Management) Department, Arunachal Pradesh. The petitioners claim that because of the impugned decision, rightful compensation has been denied to them, and accordingly, the instant writ petition has been filed.

3. I have heard Shri B. Picha, learned counsel for the petitioners. I have also heard Shri M. Kato, learned Dy.S.G.I. for the Union of India and Shri R. H. Nabam, learned Additional Advocate General for the State of Arunachal Pradesh.

4. Shri Picha, learned counsel for the petitioner, has referred to the notification dated 05.07.2016, which was issued by the appropriate authority in the State Government. By referring to the Act of 2013, more specifically Section 26(2) thereof, which deals with determination of market value, he has submitted that the said provision of law refers to a Schedule referred as the First Schedule. Under Serial No. 2 of the Schedule, the aspect of multiplication has been laid down depending on the radial distance of the area in question. He has submitted that in terms of the Act and the provisions of law, the notification dated 05.07.2016 was issued by the State Government, as per which the applicable multiplier was 1.2. He has also drawn the attention of this Court to the proceeding of the Board wherein such a multiplier was applied and, accordingly, the estimate was prepared. However, from certain responses to applications made under the RTI in the year 2023, the petitioners could learn that the estimate was illegally revised whereby the multiplication factor was applied as 1 instead of 1.2. Specific attention has been drawn to the communication dated 03.11.2023, as per which such reduction was done as per the verbal order of the Secretary (Land Management) Department. He has also submitted that though there is a reference to a subsequent notification dated 21.03.2022 regarding the reduction in the multiplication factor, such notification would not be applicable inasmuch as the preliminary notification for the land acquisition was issued in the year 2021 itself. The learned counsel submits that the impugned action, apart from being grossly illegal and arbitrary, is also

vitiated by fraud. He has submitted that the estimate forwarded by the Deputy Commissioner to the Director of Land Management dated 21.03.2022 is prior to the second notification dated 06.09.2022 and, therefore, the second notification would not have any application in the assessment of fair compensation.

5. The learned counsel for the petitioners in support of his submission has relied upon the following case laws:

(i) ***M/s Neyveli Lignite Corporation Limited v. Special Tahsildar (Land Acquisition) & Ors.***, reported in ***(1995) 1 SCC 221***;

(ii) ***Vitthal Rama Pawar (Katkari) & Ors. v. State of Maharashtra & Ors.***, reported in ***(2017) 11 SCC 417***;

(iii) ***Young Lal Association (YLA), Lawngtlai-III v. State of Mizoram & Ors.***, reported in ***2017 Supreme (Gau) 1083***; and

(iv) ***Jashiben Lallubhai Patel v. Competent Authority, National Highways Authority of India***, reported in ***2023 0 Supreme (Guj) 669***.

6. In the case of ***M/s Neyveli Lignite Corporation Limited*** (supra), the Hon'ble Supreme Court has laid down that when an award is vitiating by fraud, there is violation of the rights of the land affected person and therefore, such an affected person can approach the Writ Court.

7. The case of ***Vitthal Rama Pawar*** (supra) has been cited to bring home the contention that the multiplication factor is mandatory in nature. In the aforesaid case, a Division Bench of the Hon'ble Bombay High Court has made the following observations:

"12. As can be seen from this schedule, the same is divided into four columns.

Column 2 deals with the component of compensation package in respect of land acquired under the Act and column 3 deals with the manner of determination of value. Entry 1 of the 1st Schedule talks about the market value of the land and stipulates that the same is to be determined as provided under Section 26. Entry 2 of the 1st Schedule, and which is relevant for our purpose, stipulates the factor by which the market value is to be multiplied in the case of rural areas. The manner of determination of value is that the multiplier factor has to be between 1.00 to 2.00, based on the distance of the project from the urban area, as notified by the Appropriate Government. In other words, whilst determining the compensation in case of the rural areas, the appropriate government has to notify the multiplier factor as contemplated under Entry 2 of the 1st Schedule of the 2013 Act. On a plain reading of Section 26 with Section 30 and the 1st Schedule, it is clear that before any Award is passed in relation to any land in rural areas, the aforesaid multiplier factor has to be applied. Passing an Award without applying the multiplier factor would be contrary to the provisions of Sections 26 to 30 of the 2013 Act.”

8. The case of ***Young Lal Association*** (supra) has been cited to bring on the contention that the availability of a remedy in the form of a reference could not be a bar for a Writ Court to entertain a petition. It has been held that when there is failure on the part of the authorities to discharge statutory duties, a Writ Court can be approached.

9. In the case of ***Jashiben Lallubhai Patel*** (supra), a Division Bench of the Hon'ble Gujarat High Court has laid down that an Award can be interfered with on the aspect of use of a wrong multiplication factor.

10. *Per contra*, Shri Nabam, learned Additional Advocate General, Arunachal Pradesh, has opposed the writ petition and has submitted that the impugned action is based on the subsequent notification dated 06.09.2022. He has submitted that the Award is dated 14.02.2022, on which date the said notification was in existence, and therefore, there was no illegality in applying the said notification dated 06.09.2022, as per which the multiplication factor is 1. He has also raised a preliminary objection regarding the maintainability of the writ petition by submitting that Section 64 of the Act of 2013 prescribes an avenue to raise the grievance if an affected party is aggrieved by a land acquisition proceeding or the quantum. He has further submitted that the subsequent notification dated 06.09.2022 has not been challenged and, therefore, no relief can be granted to the petitioners.

11. Shri M. Kato, learned Dy. S.G.I., has endorsed the submissions made on behalf of the State and has reiterated that the writ petition is liable to be dismissed.

12. The rival submissions advanced by the contesting parties have been duly considered, and the materials placed before this Court have been carefully examined.

13. The grievance, as narrated above, is with regard to the reduction of the compensation amount by applying a multiplication factor of 1 instead of 1.2.

14. The requirement of the application of a multiplication factor emanates from the statute itself, namely Section 26(2) of the Act of 2013, read with the First Schedule. As per the said provision, which is in connection with the determination of market value, the First Schedule contains, amongst others, a multiplication factor which has to be between 1 and 2. The appropriate

Government was accordingly required to issue a notification for such multiplication factor. It is not in dispute that, so far as the State of Arunachal Pradesh is concerned, a notification was issued on 05.07.2016 determining the multiplication factor for various areas as per the distance, strictly in accordance with the First Schedule. It also appears that in the Board proceeding for determining and assessing the compensation, the multiplication factor applied was 1.2 and, accordingly, the estimate was made, which was also forwarded to the Director of Land Management on 21.03.2022.

15. It is not in dispute with regard to the area vis-à-vis the use of the multiplication factor. What is, however, disputed is the multiplication factor itself, which was reduced by the impugned action. The defence taken by the State Government is that a subsequent notification was issued on 06.09.2022, whereby the multiplication factor was made 1. The learned State Counsel has submitted that, taking into consideration that the Award is dated 14.02.2023, there was no illegality in adopting the subsequent notification dated 06.09.2022. This Court is, however, of the view that the process of acquisition started with the issuance of the preliminary notification on 03.11.2021, whereafter there was a Board proceeding which had taken into consideration the existing notification dated 05.07.2016 issued in terms of the First Schedule to Section 26(2) of the Act of 2013. The legality or correctness of the earlier notification has not been questioned by the State, and therefore, no fault can be attributed to the Board proceeding which had made an assessment of the compensation. As mentioned above, there is no dispute with regard to the aspect of distance, and the only defence for the impugned action is the new prescription of the multiplication factor as 1.

16. It appears from the materials on record that the impugned decision was

based on the subsequent notification dated 06.09.2022 and also on the verbal order of the Secretary, Land Management Department. Such a course of action, in the opinion of this Court, is not in accordance with law. Any action taken by the State has to be justified by law and the existing notifications. It is a settled principle of law that the notification which existed at the time of initiation of the process is to be applied, which was rightly done by the Board while making the estimate. The response received by the petitioners to their applications under the Right to Information Act also reveals that the assessment was done in terms of the earlier notification dated 05.07.2016, which was later reduced.

17. On the aspect of the maintainability of the writ petition, this Court finds force in the contention of the learned counsel for the petitioners that Section 64 of the Act of 2013 would not be an absolute bar when the challenge is based on an error apparent on the face of the record. In this regard, it would be beneficial to refer to certain observations made by the Division Bench of this Court in the case of ***Young Lal Association*** (supra). For ready reference, the relevant observations made by the Division Bench of this Court are extracted hereinbelow:

“19. Now coming to the next question as to whether such a claim can also be maintained in a writ petition, as already discussed above, claim of interest and solatium is a statutory right of the person interested and non-payment of such interest and solatium would be a failure on the part of the Collector to discharge statutory duty vested on him. If there is such failure on the part of the public authority in the discharge of statutory duty, certainly a writ Court would be well within its jurisdiction to issue a writ of mandamus to compel the public authority to discharge his statutory duty. The fact that alternative remedy is available under Sections 13(A) and 18 of the LA Act, 1894 would not debar the writ Court

from exercising such jurisdiction in an appropriate case.”

18. The learned counsel for the petitioners by relying upon the case of **M/s Neyveli Lignite Corporation Limited** (supra) has also raised an allegation of cheating and has contended that such allegation not being controverted in the affidavit-in-opposition amounts to an admission. This Court is, however, not inclined to go deep into the allegation that the impugned action is vitiated by fraud. However, it cannot be overlooked that the impugned action is also based on the verbal order of the Secretary (Land Management) Department, which would raise a serious doubt regarding the *bona fide* of such action. The Hon'ble Supreme Court, in the case of **Vitthal Rama Pawar** (supra) has laid down, in no uncertain terms that the multiplication factor is mandatory in nature. The Court has already noted that such factor is a prescription of the statute, namely, the Act of 2013.

19. At this stage, it would be necessary to keep in mind that the objective of the Act of 2013 is to provide a better avenue and compensation for the land affected person as acquisition of land is compulsory in nature and the only remedy is to afford an adequate, fair and just compensation. It is in that context that section 26(2) of the Act has been enacted, along with the First Schedule, requiring the application of a multiplication factor. As noted above, the corresponding notification by the State was issued on 50.07.2016 which without any dispute, was in operation when the present process was initiated vide publication of the preliminary notification on 03.11.2021.

20. This Court is unable to accept the contention advanced on behalf of the State that since the Award was of a later date, i.e., 14.02.2023, the subsequent notification dated 06.09.2022 could have been taken into consideration. This Court is of the opinion that prior to the subsequent notification dated

06.09.2022, the Deputy Commissioner, Tawang, vide communication dated 21.03.2022, had forwarded the revised estimate, including the compensation of the land to the Director of Land Management. It is also not in dispute that the estimate was prepared by the Board in accordance with the existing notification dated 05.07.2016.

21. In the conspectus of the above discussion, this Court is of the opinion that the impugned action is unsustainable in law and not in consonance with the objective of the Act of 2013.

22. Accordingly, the writ petition succeeds and the impugned revised estimate as contained in the Award dated 14.02.2023 stands interfered with and is set aside. The Award is accordingly directed to be prepared in accordance with law by taking the multiplication factor as 1.2, whereafter, expeditious steps be taken for release of the amount. The aforesaid exercise be undertaken and completed expeditiously and preferably, within an outer limit of 90 (ninety) days from the date of receipt of a certified copy of this order.

23. No order as to cost(s).

JUDGE

Comparing Assistant