

**NDOH: 24.09.2021**

**BEFORE THE NATIONAL GREEN TRIBUNAL**

**PRINCIPAL BRANCH, NEW DELHI**

**O.A. NO. 179 OF 2017 (EZ)**

**IN THE MATTER OF:**

CENTER FOR ENVIRONMENT PROTECTION (CEP)

...APPLICANT

VERSUS

UNION OF INDIA & ORS.

...RESPONDENT

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Date: 23.09.2021  
New Delhi

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH, KOLKATA**

**O.A. NO. 179 OF 2017 (EZ)**

**IN THE MATTER OF:**

CENTER FOR ENVIRONMENT PROTECTION (CEP) ... APPLICANT

VERSUS

UNION OF INDIA & ORS ... RESPONDENT(S)

**REPORT ON BEHALF OF RESPONDENT- STATE**

**OF MIZORAM**

I, Shri Amjad Tak, S/o Shri Hasan Khan, aged 42 years, presently working as Resident Commissioner, Government of Mizoram, Mizoram House, Chanakyapuri, do solemnly state and affirm as follows

1. That I am the Authorized Representative of the Respondent- State of Mizoram and I am competent to swear, affirm and file the instant compliance affidavit based on my knowledge as derived from the official records maintained by the State and made available to me and believed by me to be true and correct.
  
2. That vide Order dated 06.07.2021 this Hon'ble Court was pleased to issue fresh notice in the present matter and vide Order dated 16.09.2021, this Hon'ble Tribunal was further pleased to grant a weeks' time to the answering Respondents to file a Counter Affidavit. That the present Short

Affidavit is being filed in the most respectful compliance to this Hon'ble Tribunal's direction.

3. At the outset, it is most humbly submitted that the allegations in the present Application originate from the Notification bearing No. D.C. XIV- (A)-3/65 published in the Assam Gazette on 19.05.1965 (hereinafter referred to as the “**1965 Notification**”) *vide* which half a mile of land on either side of river *Tlawng* among 15 rivers was constituted as Reserved Riverine Forest Land. By way of the said Notification passed by the erstwhile Mizo District Council in exercise of the power conferred under Section 14 read with Section 21 of the Mizo District (Forest) Act, 1955 a total of sixteen (16) Reserved Riverine Forests were notified. That even as per *the Report of the Expert Committee on the Identification of Forest Areas, Degraded, Denuded Forests and Plantation Areas in Mizoram* (referred to in the Application at Pages 55-64), prepared by the Expert Committee constituted in compliance of the directives of the Hon'ble Supreme Court, in the Order passed on 12.12.1996 in WP (C) No. 202 of 1995, the only notification constituting the reserved riverine forests in Mizoram is the 1965 Notification. A copy of the Notification bearing No. D.C. XIV- (A)-3/65 published in the Assam Gazette on 19.05.1965 is attached herewith and marked as **ANNEXURE A.**
4. In regard with the aforesaid, it is most respectfully submitted that the aforementioned 1965 Notification has been set aside and quashed by the final Judgment and Order dated 27.01.2021 passed by the Hon'ble High Court of Assam, Arunachal Pradesh, Nagaland, Mizoram, Aizawl Bench, Aizawl in WP(C) No. 45/2017 wherein the legality and validity of the said Notification was under challenge. A true copy of the final Judgment and Order dated 27.01.2021, passed by the Hon'ble High Court of Assam,

Arunachal Pradesh, Nagaland, Mizoram, Aizawl Bench, Aizawl in WP(C) No. 45/2017 and connected matters is attached herewith and marked as **ANNEXURE B.**

5. It is further submitted that the Final Order and Judgment dated 27.01.2021 was challenged by the present Applicant before the Hon'ble Supreme Court vide SLP (C) Diary No. 13444/2021. The Hon'ble Supreme Court vide Final Order dated 02.08.2021 was pleased to dismiss the said Petition as withdrawn with liberty to avail remedy of intra court appeal before the Hon'ble Gauhati High Court. That to the best knowledge of the Respondents herein, the concerned Departments have not received any Notice from the Hon'ble High Court with respect to the intra-court Appeal and therefore, the position as it stands today is that the 1965 Notification notifying the Tlawng as Reserved Riverine Forest Land stands set aside as invalid. A copy of the Order of the Hon'ble Supreme Court dated 02.08.2021 in SLP (C) No. Diary No(s). 13444/2021 is attached herewith and marked as **ANNEXURE C.**

6. That vide the present Application the following reliefs are being sought:
  - a. To admit this memorandum as graciously prayed by the applicant.
  - b. To direct the implementing agency of the said construction to pay environmental cost in the form of the Environmental Compensation.
  - c. Direct the competent authorities to take immediate and stringent action against the Respondent No. 1 & 2 regarding the illegal construction and deforestation for the non- forestry purposes within the Riverine Reserved Forest.

- d. Direct the competent authorities to clarify the area and boundary of the Tlwang Riverine Reserved Forest.
7. It is most humbly submitted that the above reliefs sought by way of the present Application primarily arise out of the 1965 Notification which as of date, stands quashed by the Hon'ble High Court of Guahati at Aizawl in WP(C) No. 45 of 2017 vide order dated 27.01.2021.
8. It is further most humbly submitted that in OA No. 68/2019/EZ titled *Center for Environment Protection (CEP) v Union of India & Ors.* the issue under consideration before this Hon'ble Tribunal, is the cancellation of Pattas and Land Permits issued for the lands covered under the 1965 Notification. That in view of the fact that the 1965 Notification stands quashed vide Final Order dated 27.01.2021 by the Hon'ble High Court this Hon'ble Tribunal vide Order dated 22.07.2021 was pleased to adjourn the matter *sine die* also while taking note of the Special Leave Petition which was filed before the Hon'ble Supreme Court against the said Final Order. A copy of the Order dated 22.07.2021 passed by this Hon'ble Tribunal in OA No. 68/2019/EZ is attached herewith and marked as **ANNEXURE D.**
9. That without prejudice to the aforesaid, it is most humbly submitted that post the publication of the 1965 Notification, a number of land permits were issued to individuals in the nature of Land Settlement Certificates and VC Passes giving rise to a number of private land holdings both agricultural and non – agricultural within the Tlawng Riverine Reserved Forests which continue till today.

10. That in regard with the present construction under challenge, it may be further pertinent to note that at the time when a land free from encumbrance was required for establishment of National Institute of Technology within the State of Mizoram (“**NIT Mizoram**”), the then Village Council of Lengpui offered the land within their jurisdiction. That consequently the offered land measuring an area of 66.05 Ha located at Kawntengek ram, Lengpui Mizoram, was issued in favor of the Secretary to the Government of Mizoram, Higher & Technical Education Department vide DLL No 58 of 2012. That subsequently, in supersession of DLL No 58 of 2012 a new land lease certificate No. DLL.01/1023/05/07 /08 of 2015 with an area measuring 77.03 Ha was issued in the name of Secretary, Higher & Technical Education, for the purpose of establishment of National Institute of Technology. That it is most respectfully submitted that at the time when the demarcation was done for the issuance of the DLL No 58 of 2012 in the year 2012, it was not known that the offered land was located within Tlawng Riverine Reserved Area.
11. That it was only for the beneficial purpose of constructing an educational institution within the State of Mizoram that the said offered land granted to the Government of Mizoram, Higher & Technical Education Department. It is pertinent to mention that as of date the said offered land has been re-demarcated to measure 64.25 ha and in lieu of the said land diverted for the NIT, Mizoram Campus, the Land Revenue and Settlement Department of Government of Mizoram has by way of Notification dated 20.09.2021 bearing No. No. K. 15OL/L26/2OLO-REV mutated a specified land located in Pa Ngena Mual, North Serzawl. **A copy of the** Notification dated 20.09.2021 bearing No. No. K. 15OL/L26/2OLO-REV is attached herewith and marked as **ANNEXURE E.**

12. It is most respectfully submitted that this short counter affidavit is being filed in the humblest compliance of the Order dated 06.07.2021 passed by this Hon'ble Tribunal. The answering Respondents crave leave of this Hon'ble Tribunal to add, alter, amend and / or modify any of the averments made herein-above along with the liberty to file a detailed Affidavit for the kind convenience of this Hon'ble Tribunal if the situation so warrants or if this Hon'ble Tribunal so desires.
13. It is stated that no part of this Affidavit is false and nothing material is concealed there from.

**VERIFICATION**

I, the Deponent named hereinabove, do hereby solemnly affirm that the contents of the Affidavit are true and correct to the best of my knowledge. No part of it is false and nothing material has been concealed there from. Verified at New Delhi on this the 23rd day of September, 2021.

  
DEPONENT  
**AMJAD TAK**  
Resident Commissioner  
Govt. of Mizoram  
New Delhi

  
DEPONENT  
**AMJAD TAK**  
Resident Commissioner  
Govt. of Mizoram  
New Delhi

Registered No.A -12

**AUTONOMOUS DISTRICT COUNCILS  
SUPPLEMENT  
TO**

The Assam



Gazette

**PUBLISHED BY AUTHORITY**

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No.8                      Shillong,                      Wednesday,                      May 19, 1965,                      29th Vaisakha  
1887 S.E.

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*Separate paging is given to this part in order that it may be filed as a separate compilation*

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The 8th April 1965

No. DC. XIV- (A)- 3/65.-Pursuant to Rule (18) of the United Khasi-Jaintia Hills Autonomous District (Management and Control of Forests Rates of Royalty) Rules, 1949, it is hereby notified for general information that for the year ending 31st March 1966, the royalty on all minor forest produces shall be charged as specified hereunder.

The rate is charged per quintal, a 'quintal' is equal to 100 Kilograms or, 2 mounds 27 seers in the old system of measurement.

Minor Forest produces	Rates of royalty in full	
	Rs.	P.
1. Honey (Ngap) -	52.00	per quintal
2. Tezpatta (Sla Tyrpad) -	4.50	-do-
3. Wild Pepper (Sohmrit Khlaw)	42.50	-do-
4. Chalmukgra (Sohlab)	13.00	-do-
5. Lac (Laha)	6.00	-do-
6. Pine Fire-wood (Kseh)	1.00	-do-
7. Cassia Bark (Sesia)	18.00	-do-
8. Charcoal (Rnga)	1.66	-do-
9. Bee Wax (Bthing)	88.25	-do-
10. Rauwalfia Serpentina (Sarpanch)	65.00	-do-
11. Tupchini	8.00	-do-
12. Elephant Tusk (Bmat Hati)	642 .00	-do-

13.	Cinnamamum Pauciflorum Bark ( Snep Latyrdop)	4.42	-do-
14.	Sukund Matara	6.69	-do-
15.	Broom Stick	0.75	per 100 bundles. Each bundle of 6 to 9 inches circumference.
16.	Skin of Sambhar (Snieh Sier)	1.25	Each.
17.	Skin of Barking Deer (Snieh Skei)	0.31	"
18.	Tiger skin (Snieh Khla)	37.50	"
19.	Leopart Skin (Snieh Labasa)	18.65	"
20.	Horn of Sambar (Reng Sier No.1)	3.50	"
21.	" " (Reng Sier No.2)	2.25	"
22.	" " Barking Deer (Reng Skei No.1)	1.37	"
23.	" " " " (Reng Skei No.2)	1.31	"
24.	Fodder Grass (Phlang bam jingri)	0.15	per head load. Each head load to be of 6 feet in circumference.

Any other minor forest produce will be charged at such rates as will be fixed in consideration of the prevailing market rates.

B. SWER,  
for Secretary, Executive Committee  
United K - J Hills District Council,  
Shillong.

The 28th January 1965.

In exercise of the powers conferred by Section 14 read with section 21 of the Mizo District (Forest) Act, 1955, the Mizo District Council is pleased to continue the following areas at the disposal of Mizo District Council as Council Reserved Forest with effect from the date of notification issued on 16th April 1956 and 16th September 1957.

**A. D. C. SUPPLEMENT. TO THE ASSAM GAZETTE, MAY 19, 1965**

- (i) Forests within half a mile on either side of the following rivers. ?
- (a) Tlawng, (Doleswari)
  - (b) Tut, (Gutur).
  - (c) Teirei, (Pakwa)
  - (d) Langkaih, (Longai).
  - (e) Chemlui
  - (f) Serlui
  - (g) Tuivai
  - (h) Tuivawl
  - (i) Tuirini
  - (j) Tuirial
  - (k) Tuiruang
  - (l) Khawthlangtuipui (Karnaphuli)
  - (m) Tuichawng
  - (n) Kau
  - (o) De
  - (p) Phairuang
- (ii) Forests within half a mile on either side of the following roads, but excluding the land within 100 feet or 30 metres on both sides of Government roads.
- (1) Aijal - Silchar Road Via Sairang.

Chief Executive Member,  
Mizo District Council.

//TRUE COPY//

## ANNEXURE/B

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

**AIZAWL BENCH : AIZAWL**

**1. W.P.(C) No. 130 OF 2013**

Malsawma and 228 Ors.  
Mauchar, Mizoram

*-Versus-*

State of Mizoram and 4 Ors.  
Aizawl.

Advocate for the Petitioner : Mr. Lalfakawmqa  
Advocate for the Respondent : Mr C Zoramchhana

**2. WP(C) 118 OF 2015**

Manglianthanga and 39 Ors  
N Hlimen  
Mizoram

*-Versus-*

State of Mizoram and 4 Ors.  
Aizawl.

Advocate for the Petitioner : Mr Lalchhanliana Khiangte  
Advocate for the Respondent : Mr C Zoramchhana

**3. WP(C) 117 OF 2015**

Mitinpawla and 14 Ors.  
N. Serzawl  
Mizoram

*-Versus-*

State of Mizoram and 4 Ors.  
Aizawl

Advocate for the Petitioner : Mr Lalchhanliana Khiangte  
Advocate for the Respondent : Mr C Zoramchhana

**4. WP(C) 16 OF 2014**

Lalremkunga and 19 Ors.  
Saipum  
Mizoram

*-Versus-*

State of Mizoram and 5 Ors.  
Aizawl

Advocate for the Petitioner : Mr C Lalramzauva  
Advocate for the Respondent : Mr C Zoramchhana

**5. WP(C) 45 OF 2017**

Ngurthanmawia and 33 Ors.  
Khatla  
Aizawl

*-Versus-*

State of Mizoram and 5 Ors.  
Aizawl

Advocate for the Petitioner : Mr C Lalramzauva  
Advocate for the Respondent : Mr C Zoramchhana

**6. WP(C) 132 OF 2013**

Darkunga and 164 Ors  
Zohmun  
Mizoram

*-Versus-*

State of Mizoram and 4 Ors.  
Aizawl

Advocate for the Petitioner : Mr. Lalfakawma  
Advocate for the Respondent : Mr C Zoramchhana

**7. WP(C) 131 OF 2013**

Vanlalliana and 69 Ors.  
Saipum Mizoram

*-Versus-*

State of Mizoram and 4 Ors.  
Aizawl

Advocate for the Petitioner : MR LALFAKAWMA  
Advocate for the Respondent : Mr C Zoramchhana

**8. WP(C) 135 OF 2013**

Lalthamanga and 52 Ors  
Sakawrdai  
Mizoram

*-Versus-*

State of Mizoram and 4 Ors.  
Aizawl

Advocate for the Petitioner : Mr. Lalfakawma  
Advocate for the Respondent : Mr C Zoramchhana

**9. WP(C) 51 OF 2017**

R Lalhminganga and 10 Ors  
N Serzawl  
Mizoram

*-Versus-*

State of Mizoram and 5 Ors.  
Aizawl

Advocate for the Petitioner : Mr C Lalramzauva  
Advocate for the Respondent : Mr C Zoramchhana

**10. WP(C) 116 OF 2015**

C Zarmawia and 43 Ors  
N Hlimen  
Mizoram

*-Versus-*

State of Mizoram and 4 Ors.  
Aizawl

Advocate for the Petitioner : Mr Lalchhanliana Khiangte  
Advocate for the Respondent : Mr C Zoramchhana

**::: B E F O R E :::**

**THE HON'BLE MR. JUSTICE AJIT BORTHAKUR**

Date of conclusion of Hearing and Judgment : **27.01.2021.**

**J U D G M E N T & O R D E R (O R A L)**

Since the issues involved in all the above ten (10) writ petitions are arising out of land acquisition Awards mentioned below in respect of Tuirial Hydro Electric Project, Mizoram under the Land Acquisition Act, 1894 they are taken up together and disposed of by this common Judgment and Order.

**[2.]** Heard Mr. A.R. Malhotra, the learned counsel appearing for the petitioners in WP(C) Nos. 45 of 2017; 51 of 2017 and 16 of 2014; Mr. Lalfakawma, the learned counsel appearing for the petitioners in WP(C) Nos. 130 of 2013; 131 of 2013; 132 of 2013 and 135 of 2013. Also heard Mr. Lalchhanliana Khiangte, the learned counsel for the petitioners in WP(C) Nos. 116 of 2015; 117 of 2015 and 118 of 2015. Further, heard Mr. C. Zoramchhana, the learned Addl. Advocate General for the respondent Nos. 1, 2 and 3; Ms. Zairemsangpuii, the learned CGC appearing for the respondent No. 4 as well as Mr. V.K. Jindal, the learned Senior Advocate assisted by Mr. Roshan Subedi, the learned counsel appearing for the respondent No. 5/NEEPCO.

**[3.]** The aforesaid ten writ petitions are preferred being not executed the following Awards are not executed relating to acquisition of lands of the petitioners for construction of the Tuirial Hydro Electric Project, Mizoram.

**(A)** Award No. 4/2002 dated 18/6/2002

[WP(C) No. 130/2013;

WP(C) No. 16/2014 &

WP(C) No. 118/2015]

**(B)** Award No. 5/2003 dated 16/7/2003 & Supplementary Award No. 6/2003 dated 27.01.2006.

[WP(C) No. 132/2013;

WP(C) No. 135/2013;

WP(C) No. 116/2015]

**(C)** Award No. 5/2002 dated 26/8/2002

[WP(C) No.131/2013]

**(D)** Award No. 6/2003 & Supplementary Award No.6/2003

[WP(C) No.45/2017

WP(C) No. 51/2017

WP(C) No. 117/2015]

Now let us see the reliefs prayed by the petitioners Award wise and writ petition wise relevant thereto:

**(A)** **AWARD No. 4/2002:**

The Award No. 4 was made and published by the District Collector on 18/06/2002 for an amount of Rs. 8,04,90,627.00 towards payment of compensation to 352 awardees for trees, crops, plants etc., in respect of 9310 bighas of land to be acquired for submergence area (Phase-I). It may pertinently be mentioned that the NEEPCO in pursuance to MoU dated 12/08/2003 paid 50% of the awarded amount to the land holders, was subsequently objected by the State Government and Government of India.

The following writ petitions are related to claim for execution of the aforesaid award and for making a supplementary award.

(i) **W.P(C) No.130/2013:**

The aforesaid Writ Petition is filed by 229 number of Awardees with a common prayer to direct the Respondents to pay the balance compensation amount to the Petitioners under the above Award No. 4/2002 and also to make a Supplementary Award to the said Award No. 4 of 2002 and further to pay interest @ 6% p.a due to delay in payment.

(ii) **W.P(C) No.16/2014:**

This Writ Petition is filed by 20 number of Awardees of Award No. 4/2002 with similar prayers as made in W.P(C) No. 130/2013.

**(iii) W.P(C) No.118/2015:**

This Writ Petition is filed by 32 number of Awardees of Award No. 4/2002 with similar prayers as that of W.P(C) No. 130/2013.

**(B) AWARD NO. 5/2003:**

The Award No. 5/2003 dated 16/7/2003 was passed by the Collector for Rs. 5,58,60,928.00 for payment to 348 number of Awardees as compensation for trees, crops, plants etc., in respect of 16468.77 bighas of land acquired for submergence area Phase – II of the Tuirial Hydro Electric Project.

**(i) W.P(C) No. 132/2013:**

This Writ Petition is filed by 165 number of Awardees of Award No. 5/2003 with a prayer to direct the Respondents to pay the compensation amount to the Petitioners as per Award No. 5/2003 and also to make a Supplementary Award to the Award No. 5/2003.

**(ii) W.P (C) No. 135/2013:**

This Writ Petition is filed by 53 number of Awardees of Award No. 5/2003 with similar prayers as that of W.P(C) No.132/2013.

**(iii) W.P (C) No.116/2015:**

This Writ Petition is filed by 44 number of Awardees of Award No.5/2003 with similar prayers as that of W.P (C) No. 132/2013.

**(C) AWARD NO. 5/2002:**

Award No. 5/2002 dated 26/8/2002 is for Rs.68,52,716.00 for payment to 74 petitioners as compensation for standing crops, trees etc., for construction of borrow area and saddle dam area in respect of 857.84 bighas of land was passed by the Collector.

The following Writ Petition is related to the execution of the aforesaid award and for making Supplementary Award to Award No.5/2002.

**(i) W.P (C) No. 131/2013:**

The instant Writ Petition is filed by 70 number of Petitioners/ awardees for execution of the said award and for making a Supplementary Award to the Award No. 5.

**(D) AWARD NO. 6/2003:**

Award No. 6/2003 is for Rs.8,85,50,461.00 for payment to 196 petitioners who are Land Settlement Certificate holders as compensation for standing crops etc., in respect of 9189.94 bighas of land (Phase –III) was passed by the Collector.

The following Writ Petitions are related to the Execution of the aforesaid award and for making Supplementary Award to Award No.6/2003:-

**(i) W.P (C) No. 117/2015:**

This Writ Petition is filed by 15 number of Awardees of Award No. 6/2003 for execution of the Award No. 6/2003 and to make a Supplementary Award to Award No. 6/2003.

**(ii) W.P(C) No. 51/2017 & W.P(C) No.45/2017:**

Consequent upon the order dated 02.07.2012 passed in CRP No.02/2011, the Government of Mizoram issued the impugned order dated 05.08.2016 to cancel all the LSCs of the land owners and to cancel the Award No.6/2003 and supplementary award No. 6/2003. The Writ Petitioners in both the writ petitions have assailed the said impugned order of the Government of Mizoram dated 05.08.2016.

**[4.]** Petitioners of WP(C) Nos. 130/2013; 16/2014 and 118/2015 are the awardees of the Award No. 4/2002 dated 18.06.2002, petitioners of WP(C) No. 131/2013 are the awardees of the Award No. 5/2002 dated 22.08.2002, petitioners of WP(C) No. 132/2013, 135/2013 and 116/2015 are the awardees of the Award No. 5/2003 dated 14.07.2003 and the

petitioners of WP(C) No. 117/2015 are the awardees of the Award No. 6/2003 dated 14.07.2003.

**[5.]** All those awards were made by the Deputy Commissioner-cum-Collector, Aizawl. Land of those 4 (four) Awards are on either side or both of the banks of the river Tuirial and those lands were acquired under the provisions of the Land Acquisition Act, 1894 as amended for the public purpose, i.e., for construction of 60 Mega Watt - Tuirial Hydro Electric Project in Aizawl District. Description of those 4 (four) Awards are as follows:-

**Award No. 4/2002**

Land at Village Council area of Mauchar, Saipum and North Hlimen.

Notification dated 20.08.2001

Declaration dated 11.04.2002

Total land acquired - 9310.39 Bighas

Temporary private land holdings – 352 in nos. over 5508.00 Bighas

Government free land - 3802.39 Bighas

**Award No. 5/2002**

Land at Village Council area of Saipum and Mauchar

Notification dated 18.01.2002

Declaration dated 10.07.2002

Total Land measuring - 857.84 Bighas

Temporary private land holdings - 74 in nos. over 635 Bighas Government free land - 222.84 Bighas

**Award No. 5/2003**

Land at Village Council area of Mauchar, Zohmun, Palsang, North Hlimen, North Khawdungsei.

Notification dated 20.08.2001

Declaration dated 18.11.2002

Total Land measuring - 16468.77 Bighas

Temporary private land holdings - 366 in nos. over 5535.5 Bighas Government free land - 10933.27 Bighas

**Award No. 6/2003**

Land at Village Council area of North Serzawl, Ratu, Sunhluchhip, North Hlimen and Bukpui.

Notification dated 20.08.2001

Declaration dated 09.05.2003

Total Land measuring - 9189 Bighas

Temporary private land holdings - 196 in nos. over 3636.43 Bighas Government free land - 5553.51 Bighas

**[6.]** WP(C) Nos. 130/2013; 131/2013; 132/2013; 135/2013; 16/2014; 116/2015; 117/2015 and 118/2015 relate to prayers for (i) payment of balance amount / non- payment of compensation for crops and other jirats

standing over the land of the petitioners acquired for construction of Tuirial Hydro Electric Project, (ii) for payment of solatium and interest to them by making Supplementary Awards and also (iii) to pay them interest for delayed payment. Aforementioned Awards of the District Collector, Aizawl were approved vide letter dated 05.01.2006.

**[7.]** Be it mentioned that the land holdings of the petitioners and other persons covered by those Awards are under temporary permits like Village Council Pass, Periodic Patta etc. and the Awards were made only for standing crops, trees, WRCs, fishery etc., and as there was no claim for land value, no Awards in that regard was made.

**[8.]** As the awardees/LSC holders of the land involved in the Award No. 4/2002 did not receive any awarded amount of compensation, they by way of agitation did not allow the NEEPCO to start the construction work of said Tuirial Hydro Electrical Project. As such, after a joint decision of the agitators/awardees, the Pass holders, LSC holders and the Government officials, the NEEPCO, which is the requiring authority paid 50% of the awarded amount to the awardees of the said Award No. 4/2002, enabling them to construct the said Hydro Electric Project. Excepting the same, no payments towards compensation in the aforementioned Awards have been made till date. However, NEEPCO has paid the requisite amount of Rs. 24.46 Crores to the Forest Department of the State as compensatory

afforestation cost since deforestation of forest land was carried out for construction of the said project.

**[9.]** While the State of Mizoram as Lushai Hills District Council was a part of the State of Assam, the Government of Assam on 28.01.1965 issued an Order under Section 14 r/w Section 21 of the Mizo District (Forest) Act, 1955 notifying that the Forest within half a mile on either side of 16 (sixteen) rivers, including the river 'Tuirial' as Reserved Forest under the Mizo District Council w.e.f. the date of notifications issued on 16.04.1956 and 16.09.1957 respectively. The said Order dated 28.01.1965 of the Government of Assam was published in the Assam Gazette in its issue dated 19.05.1965. The erstwhile Lushai Hills District Council on being formed as Union Territory of India and then State of Mizoram, it adapted the said decision of the Government of Assam and accordingly, half a mile on either side of the river 'Tuirial' continued to be a Reserved Forest land. It is already noted above that the lands involved in these cases under the Award Nos. 4/2002, 5/2002, 5/2003 and 6/2003 of the Deputy Commissioner, Aizawl are located on either or both the banks of the said river Tuirial and were required for public purpose of construction of Tuirial Hydro Electric Project.

**[10.]** It is noticed from several communications dated 16.07.1993, 15.10.1993, 26.03.1999, 05.11.1999, 16.03.2000 between the Ministry of Environment & Forest, Government of India and the Forest Department,

Government of Mizoram, that the lands of the said Tuirial Hydro Electric Project and the submerged areas fell under the Riverine Forest Land of the river Tuirial. In spite of such knowledge, the Revenue Department of the State approved the aforesaid Awards of the Deputy Commissioner-cum-Collector, Aizawl regarding compensation for crop damages and jirats payable to its awardees/ petitioners/private individuals without ascertaining as to whether the lands occupied by them fell under the Reserve Forest Land or not.

**[11.]** It needs to be mentioned that awardees of Award No. 6/2003 filed Execution Case No. 13/2010 in the Court of the learned Addl. District Judge, Aizawl for execution of the said Award, including the Supplementary Award. The learned Addl. District Judge-I, Aizawl by her Order dated 10.12.2010 held *inter-alia* that the State has the legal obligation to make payment of the Awarded amount with interest by procuring the same from NEEPCO and directed to deposit the awarded amount in the Executing Court within three (3) months.

**[12.]** Aggrieved by the aforesaid direction of the Executing Court, the respondent NEEPCO preferred a revision petition being CRP No. 2/2011 before this Court challenging the propriety and correctness of the said Order of the learned Executing Court dated 10.12.2010. While disposing the Revision Petition vide Judgment & Order dated 02.07.2012 this Court observed in no uncertain terms that as the State Government acquired the

lands for the said project, as such, it is liable to pay compensation to the respective land owners. The Court further observed that whether the State Government should recover the amount due to the awardee petitioners from NEEPCO or whether the NEEPCO should pay the amount to the State Government is a matter which no way concerns the land owners and accordingly, the State Government is under an obligation to satisfy the Awards by depositing the same with the Executing Court. However, in view of the CBI investigation regarding the alleged illegal issuance of the Passes, LSCs, Periodic Pattas etc. over such Government forest lands and the stand taken by the Forest Department, Government of Mizoram that the lands involved in the case fall under the Reserved Forest Land, by the said Order dated 02.07.2012, passed in CRP No. 2/2011, the Court opined that the Chief Secretary of the State may look into the matter and take a conscious decision keeping in mind the involvement of public interest, observing that it is not for the Court to suggest as to what course of action should be adopted and accordingly, refrained from saying any further.

**[13.]** In PIL No. 15/2008, considering the fact that the land area involved in the Tuirial Hydro Electric Project being Forest Land and persons who without any right, title and interest, lodged their claims for compensation had been considered for payment of such compensation by the State Government on the basis of the Awards passed by the Collector, Aizawl and subsequently, the awarded amounts were being enhanced by

the Reference Court, a Division Bench of this Court by an Order dated 21.04.2010 directed the CBI for investigation into the matter. Accordingly, the CBI registered a case being CBI (ACB) Case No. RC6(A) 2010-IMPH and after completion of investigation, laid a charge-sheet in May, 2012 against nine (9) persons, who are not petitioners in the Writ Petitions.

**[14.]** Considering the Order dated 02.07.2012 passed in CRP No. 2/2011 and the report of the CBI filed in May 2012, the Chief Secretary to the Government of Mizoram by his Order dated 05.08.2016 cancelled the LSCs falling within the Riverine Forest Land of Tuirial river with regard to the petitioners/awardees of the Awards aforementioned. Therefore, the petitioners have challenged the said order of the Government by filing the Writ Petitions under consideration stating that the same is illegal *par-se*. The petitioners have also challenged the legality and validity of the order dated 28.01.1965 passed under Section 14 r/w Section 21 of the Mizo District (Forest) Act, 1955 that was earlier passed by the then Chief Executive Member, Mizo District Council notifying that the Forest area falling within half a mile on either side of the river 'Tuirial' as Reserve Forest Land.

**[15.]** The petitioners have contended that the Awards No. 4/2002 dated 18.06.2002, Awards No. 5/2002 dated 22.08.2002, Awards No. 5/2003 dated 14.07.2003 and Award No. 6/2003 dated 14.07.2003, passed by the Deputy Commissioner-cum-Collector, Aizawl that are approved by the

Revenue Department of the State with regard to compensation for acquisition of land for the said Tuirial Hydro Electric Project and its submerged areas are still in force and those Awards are not under challenge in any of the proceedings.

**[16.]** While making assessment for compensation, the Deputy Commissioner-cum- Collector, Aizawl assessed the market value of lands under possession of the petitioner LSC holders based on the following considerations.

(i) The Council of Ministers, Government of Mizoram in their meeting on 25.05.1999 decided that compensation may be paid for standing crops where the land is to be acquired not as a matter of recognizing the validity of the Passes issued by the Village Councils. Such being the case, there is no valid ground for ignoring the rightful claims of the private land owners whose lands are covered by the District Council Passes and which were found to have been allotted way back in 1950s. Moreover, most of the Passes in question were issued even before the promulgation of the Forest Conservation Act, 1980 and a number of land holdings in question are situated outside the so-called Riverine Forest Reserved, which covers only the river bank at the radius 805 meters from Tuirial river.

(ii) The Verification Reports indicate that the Environment & Forest Department has not physically looked after the said Riverine Forest and there had been every opportunity for private land owners to develop the

land in question in such a situation. Moreover, no natural vegetations like wild bamboos, trees etc., which are claimed to be of the Forest Reserve are not counted for awarding compensation. As such, the compensation assessment under the present acquisition should not be treated to have similarities with those of the Compensatory Afforestation.

(iii) With regard to payment for compensation for damages, if NEEPCO Ltd. takes the stand that they are not in a position to consider payment of compensation after they have paid substantial amount for Compensatory Afforestation to the Forest Department, the Government of Mizoram needs to decide the question as to whether or not compensation will be paid to the private land/garden owners.

**[17.]** The Deputy Commissioner-cum- Collector, Aizawl clearly stated that the land involved in the area is situated on both the banks/sides of the river Tuirial. But, in none of those Awards, the Deputy Commissioner-cum-District Collector, Aizawl mentioned or specified regarding the parcel of land which fall within the Riverine Forest Land of river Tuirial and which are outside of such area.

**[18.]** The NEEPCO took the stand that as they have already paid Compensatory Afforestation cost of Rs. 24.46 Crores to the Forest Department of the State, they would not pay any further amount towards payment of compensation against the Awards. Likewise, the Forest Department of the State also took the stand that as the land holdings

involved in the awards fall under Tuirial Riverine Reserve Forest area, any Pass, LSCs etc., issued to any person(s)/private individual(s) for any such forest land is illegal and admitted that it has already received Compensatory Afforestation cost of Rs. 24.46 Crores from the NEEPCO to do the needful in this regard.

**[19.]** Mr. A.R. Malhotra, learned counsel appearing for the petitioners, submits that all the above referred Awards had attained finality after the same received due approval of the State Government vide the letter dated 05.01.2006. Mr. A.R. Malhotra emphatically submits that those Awards were duly passed by the Collector, Aizawl strictly following the prescribed procedure in the Land Acquisition Act, 1894 and hearing the objections, counter objections and on the spot verification of the ownership claims of the petitioners over their respective land holdings so acquired as well. However, the respondent No. 2 having misread the observation made in the judgment and order dated 02.07.2012 passed in CRP No. 02/2011 by order dated 05.08.2016, the Chief Secretary to the Government of Mizoram has illegally come to the conclusion that the LSCs issued to the petitioners for their land holdings were all illegal as the same are within the Riverine Forest area as declared and constituted by the erstwhile Mizo District Council way back in the year 1965 without affording the petitioners any opportunity of being heard.

[20.] Mr. A.R. Malhotra, learned counsel for the petitioners contends that the Government of Mizoram including the Forest Department had supported the claims of the petitioners in all the earlier Writ Petitions, but now the aforesaid contradictory/inconsistent new illegal stand has been taken in the instant Writ Petitions. According to Mr. A.R. Malhotra, as the land was acquired by the State Government, it is liable to pay compensation as per the Awards to the petitioners, who were duly accepted to be the rightful owners of the same. Mr. A.R. Malhotra, relevantly referred to para No. 35 of the Judgment and Order, dated 08.05.2015 passed in Contempt Case No. 09/2014, wherein it was observed that by Order dated 02.07.2012, passed in the said CRP No. 2/2011, this Court neither made any specific direction to the Chief Secretary nor specified any time limit for compliance of any such direction and only made an observation which is evident from the word "may" that appears in 'para 34' of the aforesaid Order dated 02.07.2012. Therefore, Mr. A.R. Malhotra contends that the impugned Order dated 05.08.2016 declaring the LSCs, Passes etc. of the petitioners is invalid or *non-est* in law as before making the final notification as contemplated under Section 21 of the Mizo District (Forest) Act, 1955 no preliminary notification under Section 15 of the said Act was published in the ZORAM HRIATTIRNA, which was the official bulletin of the Mizo District Council.

**[21.]** Mr. C. Zoramchhana, the learned Addl. Advocate General appearing for the State respondents, submits that the relevant records pertaining to declaration of the riverine area of Tuirial river as forest area under the Mizo District (Forest) Act, 1955, which is now renamed as the Mizoram (Forest) Act, 1995 are not traceable to ascertain whether the requirements of Sections 15, 16, 17 & 18 of the said Act were fulfilled or not. However, Mr. C. Zoramchhana submits that the Notification dated 16.04.1956 declaring certain river areas as Council Reserved Forest is presumed to have been issued only after fulfilling the requirements of the said Act of 1955.

**[22.]** Mr. C. Zoramchhana further submits that the final Notification issued in the Assam Gazette dated 28.01.1965 would have not been issued had all the requirements of the said Act not been fulfilled, that is, a presumption may be taken that all claims of land holders which might have arisen with respect to the areas within Tuirial Riverine Forest were settled way back in 1950s.

**[23.]** Mr. C. Zoramchhana submits that since the petitioners were allotted LSCs in 1993 and 1994, after 38 years of the impugned Notification, dated 28.01.1965, they are not supposed to know whether the requirements of the said Act were fulfilled or not. Mr. C. Zoramchhana vehemently submits that the case of the petitioners in regard to issuance of LSCs in their favor were not endorsed to the Directorate of Land Revenue & Settlement Department for decision and approval in view of the Order

dated 13.05.1983 which stated that those proposed LSCs which are complicated in nature should be referred to the said Department for consideration and approval and as such, the LSCs issued by the Assistant Settlement Officer to the petitioners were void *ab-initio*.

**[24.]** Mr. C. Zoramchhana, learned Addl. Advocate General contends that the Government has the prerogative to cancel all LSCs of the petitioners as per the provisions of the relevant Revenue Rules and added further that as per Section 3 (a) of the Mizo District (Agricultural Land) Act, 1963, no land can be allotted under the said Act and that Section 2 of the Forest (Conservation) Act, 1980 prohibits using of the reserved forest area for any non-forest purpose without approval of the Central Government.

**[25.]** Mr. C. Zoramchhana further contends that when a process for acquisition of land was initiated, the Conservator of Forests, Mizoram reported vide his Letter dated 10.08.1990 that the entire proposed land area for acquisition for construction of the Tuirial Hydro Electric Project falls under the Riverine Reserved Forest. However, it is submitted that as per Section 2 of the Forest (Conservation) Act, 1980 and Section 3 (a) of the Mizo District (Agricultural Land) Act, 1963 the issue of LSCs to the petitioners during the period 1993-1994 within the Riverine Reserved Forest Area after 28 years from the date of the said Notification published in the Assam Gazette in its issue dated 19.05.1965 was illegal and as such, the LSCs issued to the petitioners were void *ab initio*.

**[26].** Mr. V.K. Jindal, the learned Senior counsel appearing for the NEEPCO, submits that the writ petitions having contained the common prayer to execute the related Awards and to make Supplementary Award by awarding solatium and interest is not sustainable as there exists alternate legal remedy for execution thereof and provision for reference to the Court under Section 18 of the Land Acquisition Act, 1894 for the purpose and in case of being aggrieved by any order passed by the executing Court, there is remedy for filing Civil Revision. Mr. V.K. Jindal further submits that some of the petitioners have approached to the Reference Court and the Executing Court for award of the additional benefits and for executing the related Awards and accordingly got appropriate reliefs.

**[27.]** Mr. V.K. Jindal submits with reference to the Order dated 04.12.2007 passed in WP(C) No. 77/2006 filed by 34 number of awardees of Award No. 6/2003 that this Court had declined to pass any order for execution of the award and directed the land owners to approach the appropriate forum. Mr. V.K. Jindal, the learned Senior Counsel, submits that similarly by Order dated 10.12.2010 passed by the Executing Court in Execution Case No. 13/2010 filed by some of the awardees of Award No. 6/2003 and the Supplementary Award directed the State Government to make the payment after procuring the same from the NEEPCO. Thus, the aforesaid Order clearly demonstrates that some of the petitioners have already availed the alternate remedy through the Reference Court for grant

of solatium etc. and as such, the prayer to execute the Award by way of filing Writ Petitions was declined.

**[28.]** According to Mr. V.K. Jindal, the land in question is a reserved forest land and was converted to non-forest purpose on payment of deforestation compensation of Rs. 24.46 crores as assessed by the State Forest Department with due permission of the Central Government and as such, the land in question being a forest land no individual can acquire any right whatsoever over the same. Mr. V.K. Jindal relevantly expressed ignorance about the utilization of the said amount of Rs. 24.46 crores paid by the NEEPCO to the Government on account of deforestation compensation due to acquisition of the land for the Hydro Electric Project.

**[29.]** Mr. V.K. Jindal vehemently submits that the petitioners had managed to procure LSCs through the Village Panchayats and the District Administration without the knowledge and consent of the State Government and as such, the fraudulently obtained Awards being void *ab initio* cannot be put into execution, and so the said Awards are not required to be challenged by any party. Mr. V.K. Jindal, however, submits that none of the above Awards was passed against NEEPCO and therefore, it is not a necessary party to the decision in the said Writ Petitions. The question of payment of the awarded amount is an issue between the petitioners and the State Government which acquired the land.

**[30.]** A perusal of the impugned Order dated 05.08.2016 reveals that the Chief Secretary to the Government of Mizoram had relied on the purported direction contained in the Judgment and Order dated 02.07.2012 in CRP No. 2/2011 and the Joint Verification Reports as well while issuing the directions as under (relevant portion)-

*"..... From all the facts and documents available specifically the Joint Verification Reports and as the Hon'ble Gauhati Court also recognized the fact that the concerned land hereof lies under the Riverine Reserved Forest of Tuirial River and accepts the payment made by NEEPCO to Environment & Forest Department for compensatory afforestation as correct in Judgment & Order dated 02.07.2012 in CRP No. 2/2011 thereby rendering illegal the issuance of LSCs within such Riverine Reserved Forest Area and as all the LSCs of the landowners covered by Award No. 6 of 2003/ Supplementary Award No. 6/2003 were also found to be illegally directly issued by the then Assistant Settlement Officer without approval of the Government, the Chief Secretary, Govt. of Mizoram has thereby arrived at a decision, as obligated by the said Judgment & Order of the Hon'ble Gauhati Court, that necessary action be immediately taken as follows:*

- 1. Revenue Department shall formally cancel all the LSCs of the landowners concerned hereof.*

2. *The District Collector concerned shall take appropriate steps for cancellation of the Award No. 6 of 2003 and Supplementary Award No. 6 of 2003.*

3. *The Government Advocate concerned in Execution Case No. 13/2010 and Review Case No. 12 of 2015 shall also immediately take necessary action to seek the Hon'ble Court's judicious decision to vacate all the orders passed in the said Execution/ Review Case on account of this new development as each and every proceeding arising in the Court of Law based on Award No. 6/2003 or Supplementary Award No. 6/2003 i.e. LA Case No. 1 of 2004 and even the said Execution Case No. 13/2010 and Review Case No. 12/2015 is thereby rendered nugatory due to the fact that all the LSCs concerned in the said Award No. 6/2003 and Supplementary Award No. 6/2003 is found to be illegal and cancelled by the Government.*

4. *The above decision and the subsequent actions to be taken thereof shall not in any way be deemed to have any derogatory affect on the ongoing project."*

**[31.]** A perusal of the above Order, dated 05.08.2016, reveals that the same was issued based on the purported direction of this Court, dated 02.07.2012, passed in CRP No. 02/2011 which was, of course, as referred therein preceded by an agreement between the land holders and the

Government held on 18.04.2013 and a number of decisions of the Council of Ministers, and further, in view of dismissal of Contempt Case No. 9/2014 as well as findings after verifications to the effect that the LSCs issued to the petitioners over the Tuirial riverine reserved forest area were not issued following the relevant provisions of law in force.

**[32.]** It is noticed that in the Judgment and Order dated 02.07.2012, passed in CRP No. 02/2011, this Court, besides setting aside and modifying the Order dated 10.12.2010 of the Executing Court in Execution Case No. 13/2010, to the effect "by procuring the same from the NEEPCO, observed as herein below extracted –

*"34. Before parting with the record, this Court would like to observe that in view of the CBI investigation as referred to above and the stand taken by Forest Department, Mizoram, the Chief Secretary to the Government of Mizoram may look into the matter and take a conscious decision keeping in view the public interest involved. However, it is not for the Court to suggest as to what course of action should be adopted. Beyond this, the Court refrains from saying any further".*

**[33.]** With regard to the above para No. 34, this Court in Contempt Case No.09/2014 interpreted the said para in para 35 of the Judgment and Order dated 08.05.2015 as follows:-

*"35. The Court while deciding the said revision petition, by its order dated 02.07.2012 passed in said CRP No. 2/2011 neither made any specific direction to the Chief Secretary of the State nor specified any time limit for compliance of any such direction and only made an observation which is evident from the word "may" that appears in 'para 34' of the said order dated 02.07.2012. Said observation of the Court dated 02.07.2012 with "may" itself is susceptible to an interpretation that as per the said order dated 02.07.2012, keeping in view the public interest involved in the case, the Chief Secretary of the Government of Mizoram was free either to look into the matter and take a conscious decision or not".*

**[34.]** Thus, the observation made in para 34 of the Judgment and Order, dated 02.07.2012 passed in CRP No. 02/2011 was interpreted and clarified in the aforesaid subsequent Judgment and Order dated 08.05.2015 passed in Contempt Case No. 09/2014 to the effect that the same had no legally binding effect on, that is, not a mandatory direction specific to the State Government to do certain act in a certain way as misinterpreted in the Order dated 05.08.2016.

On the other hand, the Government of Mizoram also referred to the Order dated 21.04.2010 passed in PIL No. 15/2008 based on which the CBI investigation was going on into the allegedly bogus claims made by some of the awardees. Pursuant to the said order, the CBI registered a case being

CBI (ACB) Case No. RC6(A)2010-IMPH and after completion of investigation laid a charge-sheet against 9 (nine) persons, none of whom is petitioner in the above Writ Petitions.

**[35.]** Further, it is noticed that on 18.04.2013, the Government of Mizoram acknowledged their liability to the awardees by convening a meeting with them to bargain on the amount of awarded compensation for acquisition of their lands to which they agreed "*to accept payment of certain amount of compensation plus interest etc.,*". However, instead of following the provisions of the Land Acquisition Act in making payment of compensation to the awardee/petitioners as per the terms of the Awards, which received the final approval of the State Government, resorted to two physical verifications in absence of all the petitioners/LSC holders and without affording them sufficient opportunity of being heard unilaterally came to the findings that "all the LSCs of the petitioners falls within the riverine reserved forest areas" and their "LSCs were directly issued by the Assistant Settlement Officer without approval of the Government and these LSCs are thereby invalid in the eye of the Government".

**[36.]** The Hon'ble Supreme Court in para 12 of the judgment rendered in **Suzuki Parasrampuriah Suitings Private Limited -vs- Official Liquidator Of Mahendra Petrochemicals Limited** reported in **(2018) 10 SCC 707** held as under-

“**12.** A litigant can take different stands at different times but cannot take contradictory stands in the same case. A party cannot be permitted to approbate and reprobate on the same facts and take inconsistent shifting stands. The untenability of an inconsistent stand in the same case was considered in *Amar Singh v. Union of India*

“**50.** This Court wants to make it clear that an action at law is not a game of chess. A litigant who comes to court and invokes its writ jurisdiction must come with clean hands. He cannot prevaricate and take inconsistent positions.”

**[37.]** Thus, in the backdrop of facts, it is noticed that the Government of Mizoram most arbitrarily without due process of the provisions of the Mizoram Land Revenue Laws and the Rules made thereunder, pre-decided and directed the District Collector to cancel all the LSCs of the Landowners concerned formally and to this end to initiate appropriate steps for cancellation of the Award No. 6 of 2003 and the Supplementary Award No. 6 of 2003 as stated above.

**[38.]** With regard to the plea of the respondents/State Government that the acquired land falls within the riverine forest area of Tuirial river, this Court feels it apposite to extract herein below the relevant provisions of The Mizo District (Forest) Act, 1955-

*"14. Power to constitute Council Reserve Forest- The District Council may constitute any land at the disposal of the Council as a Council Reserve Forest in the manner hereinafter provided.*

*15. Notification of proposal to constitute a Council Reserve Forest- Whenever it is proposed to constitute any land as a Council Reserve Forest, the Executive Committee shall publish a notification in the Zoram Hriattirna, (1) declaring that it is proposed to constitute such a land a reserved forest, and (2) specifying as nearly as possible the situation and limits of such land and (3) inviting claim of rights and objections.*

*16. Survey of the proposed Council Reserved Forest- The Executive Committee, as soon as a notification is issued under Section 15 shall cause the area to be surveyed and demarcated by one or more of the Council Forest Officers not below the rank of Forester, shall also enquire into any right of any person in the area and shall also submit reports the Executive Committee which report shall deal with all points including compensation involved or alteration of the area recommended.*

*17. Disposal of claims and objections- All claims of right on the land and all objections against the proposed Council Reserved Forest shall be submitted in writing to the Executive Committee within 120*

*days from the date of publication of the notification under section 15.*

*18. Council Forest Tribunal- The Executive Committee shall appoint a Council Forest Tribunal who shall decide all claims of right on land all objections against the proposed Reserved Forest. The orders of the Council Forest Tribunal shall be published forthwith in the Assam Gazette.*

*19. Appeal- All appeals against the decision of the Council Forest Tribunal shall be submitted to the Executive Committee within 30 days of the order issued by the Council Forest Tribunal. The Executive Committee shall review the case as it deems necessary and pass order which shall be final.*

*20. Nothing contained in sections 18 and 19 of this Act shall bar the jurisdiction of a competent Civil Court.*

*21. Final Notification constituting Council Reserved Forest- The Executive Committee shall after disposal of all appeals, publish in the Assam Gazette the final notification specifying the limit of the Council Reserved Forest incorporating therein any changes and modifications made from the preliminary notification under section 15 of this Act and declaring the same to be a Council Reserved Forest from the date fixed by such notification”.*

**[39.]** The above provisions in The Mizo District (Forest) Act, 1955 prescribed the procedure for constituting the Government reserved forest in the State of Mizoram except the areas under the jurisdiction of the Chakma, Lai and Mara District Councils.

It is seen that the above Section 14 of the said Act empowers the Government to constitute any Government land as a Government Reserve Forest and Section 15 requires to publish notification of proposal in Zoram Hriattirna (The then official bulletin of Mizo District Council) for this purpose specifying the land and thereby to invite claim of rights and objections if any, in this regard. Thereafter, Section 16 required survey of the proposed site and demarcation of the same by the Council Forest Officer(s) and followed by disposal of claims and objections and then to submit a written report in this regard to the Executive Committee within 120 days from the date of publication of the Notification under Section 15 aforementioned. Thereafter, as provided in Section 21 of the Act, the Executive Committee, after disposal of all appeals as provided under Section 19, required to publish in the Assam Gazette, the final Notification specifying the limit of the Council Reserved Forest and declare the same to be the Council Reserved Forest from the date of such final Notification.

**[40.]** A perusal of the Notification dated 28.01.1965 published in the Assam Gazette dated 19.05.1965 reveals that the Chief Executive Officer, Mizo District Council declared forests located within half a mile on either

side of the river Tuirial and 15 other rivers to be the Council Reserved Forest. This Notification was issued under Section 14 read with Section 21 of The Mizo District (Forest) Act, 1955. However, it is noticed that before making the final Notification under Section 21 of the said Act, no preliminary notification as required under Section 15 of the said Act, quoted above, was ever published in the official bulletin of the Council "Zoram Hriattirna". As such, the impugned Notification cannot be accepted to be a legally valid notification declaring the Tuirial riverine area as the Council Reserved Forest, where LSCs of the petitioners were issued in favour of the petitioners for no fault of them or their misrepresentation of facts. Hence, the aforesaid impugned Order dated 05.08.2016 stating that the lands of the petitioners are covered by the Riverine Reserved Forest area is not sustainable.

**[41.]** The grounds of delay and laches to challenge the said Gazette Notification dated 19.05.1965 cannot come on the way of the petitioners' right to seek relief of compensation under the Awards as the cause of action for challenge of the said Notification by the petitioners arose only on and from the date of the impugned Order dated 05.08.2016 as the date of knowledge. Therefore, the petitioners have good and sufficient reasons for the delayed challenge to the said Notification. Further, it follows an obvious inference that as Section 22 of The Mizo District (Forest) Act, 1955 has been adapted and continued to be in force till date, it is undoubtedly within the competence and authority of the Executive Committee of the then Mizo

District Council or the Government of Mizoram, after amendment, allotment of lands may be made to any individual or a community granting rights of any nature to such individuals of a community as the case may be and therefore, the land allotments made by issuing LSCs in favour of the petitioners cannot now be cancelled without following the procedure prescribed in the Mizoram (Land Revenue) Act, 2013 and the Rules made thereunder. Moreover, as their lands have been included in the Final Awards made under the Land Acquisition Act, 1894 the question whether those are valid or not cannot be gone into at a subsequent stage.

**[42.]** It is surprising to notice that the Notification dated 16.04.1956, under Section 14 read with Section 21 of The Mizo District (Forest) Act, 1955 was published by the Executive Committee of the Mizo District Council, referred to above, which the respondents claimed to be the preliminary Notification in the Zoram Hriattirna (the official Bulletin of the Council) in its issue dated 29.02.1956, that is, before the date of the Notification without any explanation and as such, both the dates could not be reconciled being contradictory. It is also surprising that the respondents have claimed that after an unexplained delay of 10 years from the aforementioned preliminary Notifications, the State Government published the so called final Notification in The Assam Gazette dated 19.05.1965 whereby, one mile riverine area was reduced to half a mile on either side of the river. The aforesaid claims of the respondents/Government were not

raised literally in course of the acquisition process of the lands of the petitioners leading to the said Awards, which have already attained finality on receiving the Government approval, the same cannot be raised at this belated stage to defeat the rights of the petitioners to compensations in terms of the awards.

**[43.]** The Apex Court in **Pune Municipal Corporation And Another -vs- Harakchand Misirimal Solanki & Others** reported in **(2014) 3 SCC 183** held as under-

**"18.** The 1894 Act being an expropriatory legislation has to be strictly followed. The procedure, mode and manner for payment of compensation are prescribed in Part V (Sections 31-34) of the 1894 Act. The Collector, with regard to the payment of compensation, can only act in the manner so provided. It is settled proposition of law (classic statement of Lord Roche in *Nazir Ahmad*) that where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all. Other methods of performance are necessarily forbidden."

**[44.]** The Hon'ble Supreme Court in **State of Karnataka & Others - vs- I.S Nirvane Gowda & Others** reported in **(2007) 15 SCC 744** held that ".....When the lands were included in the reserved forest, the entries in the Revenue records were of no consequence and further, mere *saguvali chits* did not confer any title on the suit lands. ....which was

the part of the reserved forest.” However, it may be noted that in the fact situations in the instant proceedings the purported declaration of the land in question as council forest reserve cannot be said to have been established in accordance with the relevant provisions of law as stated above in the present writ proceedings.

**[45.]** In the case of **State of Jharkhand & Other -vs- K.N. Farms and Industries Private Ltd.** reported in **(2012) 5 SCC 297**, it is held as extracted hereunder-

“The said mandamus could not have been issued as it was clearly beyond the scope of writ petition No. 1546 of 2005. The respondent had not made a grievance that the agreement dated 28.02.1960 was ultra vires the provisions of the 1894 Act or that even though possession of a substantial portion of the land specified in the agreement had been handed over on 31-3-1960, the State Government was under a legal obligation to initiate the acquisition proceedings and pay compensation under the 1894 Act.”

**[46.]** It is noticed that pursuant to the Notification published by the Collector, Aizawl under Sections 4(1) and 9(1) of the Land Acquisition Act, the petitioners have submitted their claims for compensation for acquisition of their lands for the public purpose of construction of Tuirial Hydro Electric Project under NEEPCO and after due process of enquiry into the objections of the persons interested and on due approval passed the

Awards under Section 11 of the said Act and thereafter, pronounced the final Awards under Section 12 (2) of the said Act. It is seen that some of the petitioners, more particularly of WP(C) No. 130/2013; WP(C) No. 16/2014; WP(C) No. 118/2015; WP(C) No. 132/2013; WP(C) No. 135/2013 and WP(C) No. 116/2015 being aggrieved by the amount of compensation awarded approached the Civil Court for execution of the Awards. Having not got appropriate reliefs, they expected in the execution proceedings, have preferred the extra-ordinary writ jurisdiction under Article 226 of the Constitution of India instead of following the procedure prescribed in the Land Acquisition Act, 1894 for the effective protection of their interest in the lands and right to compensation for acquisition of the same for public purpose. It may be mentioned that Part-V of the Act deals with the mode of payment of compensation of the awarded amount for land acquisition. Section 31(2) of the Act requires the Collector to deposit the awarded amount in Court in case it is not received by the persons interested or there is some dispute. Under the said Act, the deposit is required only with a view to avoid liability to pay interest, but if it does not deposit the amount under Section 31, acquisition would not lapse thereby. The land owners' right to be compensated is enforceable against the State as the Awards in question are not vitiated by malafide and it is the liability of the Collector in terms of the relevant provisions of the Land Acquisition Act to pay the amount awarded together with interest in the event of the amount not being paid on time to the awardee/petitioners.

**[47.]** A land acquisition Award undoubtedly has the sanctity of a decree and as such, in the complicated backdrops of claims and counter-claims of the parties in the instant writ proceedings, the Awards in question cannot be executed by resorting to the extra-ordinary jurisdiction under Article 226 by way of issuing the writ of mandamus or certiorari as a short cut method to compel the Government which has not bothered to pay the compensation to the awardee petitioners, whose landed property has been acquired more than eighteen (18) years ago for public purpose. The petitioners apparently have an alternate and efficacious remedy in the Land Acquisition Act, 1894 to compel the Government to pay the compensation due to them, in the present complicated nature of facts involved in their claims and counter-claims of the State Government, the writ jurisdiction cannot be the appropriate remedy to enforce their rights. It may be pointed out here that the Collector by making the Awards did not act as agent of the Government, but as a statutory authority and the same having attained finality on receipt of approval of the Government, the same do bind both the Collector and the writ petitioners. It may further be pertinently mentioned, as submitted by both sides, that the acquired land has already been handed over to the NEEPCO and the NEEPCO has already completed construction of the Hydro Electric Project.

**[48.]** Accordingly, directions are made as follows-

**(A).** The impugned Order dated 05.08.2016 issued by the Chief Secretary to the Government of Mizoram and the impugned Notification dated 28.01.1965 made under Section 14 read with Section 21 of the Mizo District (Forest) Act, 1955 are hereby set aside and quashed as prayed for in WP(C) No. 45/2017 and WP(C) No. 51/2017; and

**(B).** The petitioners of all the above Writ Petitions shall seek alternative remedy for execution of the Awards in accordance with the procedure prescribed in the Land Acquisition Act, 1894.

It is, however, made clear that despite having directed as above, the State Government is at liberty to pay the compensation amounts due to the writ petitioners.

Accordingly, the writ petitions are disposed of.

**JUDGE**

Mahruai/Zotei

ITEM NO.14 Court 13 (Video Conferencing)

SECTION XIV

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

SPECIAL LEAVE PETITION (CIVIL) Diary No(s). 13444/2021

(Arising out of impugned final judgment and order dated 27-01-2021 in WPC No. 45/2017 passed by the Aizawl Bench of Gauhati High Court)

CENTRE FOR ENVIRONMENT PROTECTION

Petitioner(s)

VERSUS

THE STATE OF MIZORAM &amp; ORS.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.89589/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.89590/2021-EXEMPTION FROM FILING O.T. and IA No.89588/2021-PERMISSION TO FILE PETITION (SLP/TP/WP/..))

Date : 02-08-2021 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MR. JUSTICE A.S. BOPANNA

For Petitioner(s) Mr. Siddhartha Dave, Sr. Adv.  
Ms. Pallavi Langar, AOR  
Ms. Poushali Banerjee, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following  
O R D E R

Learned counsel for the petitioner wishes to withdraw the petition along with application for permission to file special leave petition with liberty to avail remedy of intra court appeal before the Gauhati High Court.

The application for permission to file special leave petition and the special leave petition are dismissed as withdrawn with the aforesaid liberty.

Signature Not Verified  
Digitally signed by Renu Bala Gambhir  
Nataraj  
Date: 2024.08.04  
19:10:50 IST  
Reason: 

(SWETA BALODI)  
COURT MASTER (SH)

(RENU BALA GAMBHIR)  
BRANCH OFFICER

Item No. 06

Court No.1

**BEFORE THE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH, KOLKATA  
(Through Video Conferencing)**

Original Application No. 68/2019/EZ

Center for Environment Protection (CEP)

Applicant(s)

Versus

Union of India &amp; Ors.

Respondent(s)

Date of hearing: 22.07.2021

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER  
HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER**

For Applicant(s) : Ms. Paushali Banerjee, Advocate

For Respondent(s) : Mr. Gora Chand Roy Chowdhury, Advocate for R-1  
Ms. Ana Upadhyay, Advocate for R- 2 to 10

**ORDER**

1. Ms. Paushali Banerjee, learned Counsel for Applicant is present.
2. Mr. Gora Chand Roy Chowdhury, learned Counsel for Respondent No. 1-Ministry of Environment, Forests and Climate Change, Ms. Ana Upadhyay, learned Counsel for Respondent No. 2-The State of Mizoram, Respondent No. 3-Department of Environment, Forest & Climate Change, Government of Mizoram, Respondent No. 4-The Principal Chief Conservator of Forest, Department of Environment, Forest & Climate Change, Government of Mizoram, Respondent No. 5-The Divisional Forest Officer, Aizwal Forest Division, Respondent No. 6-The Secretary to Government of Mizoram, Department of Land, Revenue & Settlement, Respondent No. 7-Department of Land Revenue and Settlement, Through the Director, Respondent No. 8-The Settlement Officer, Department of Land Revenue and Settlement, Respondent No. 9- Local Administration Department and Respondent No. 10-Local Administration Department, Government of Mizoram are present.

3. The learned Counsel for the Applicant as well as learned Counsel for Respondents pointed out that with regard to the lands in dispute which fall in the Tuirial Riverine Reserve Forest had been acquired by the State Government in the land acquisition proceedings and several awards were made. Those awards were challenged by the land owners/Writ Petitioners before the High Court of Gauhati, Aizwal Bench in Writ Petition (C) No. 45 of 2017, Writ Petition (C) No. 51 of 2017, Writ Petition (C) No. 130 of 2013, Writ Petition (C) No. 131 of 2013, Writ Petition (C) No. 132 of 2013, Writ Petition (C) No. 135 of 2013, Writ Petition (C) No. 16 of 2013, Writ Petition (C) No. 116 of 2013, Writ Petition (C) No. 117 of 2013 & Writ Petition (C) No. 118 of 2013.
4. The Hon'ble High Court by its judgement dated 27.01.2021 quashed the order dated 05.08.2016 of the Chief Secretary to the Government of Mizoram whereby directions had been issued for cancellation of the Village passes etc. The Hon'ble High Court also quashed the Notification dated 28.01.1965 issued under Section 14 read with Section 21 of the Mizo District (Forest) Act, 1955 whereby the land in question was declared to be a Riverine Reserve Forest.
5. The learned Counsel for the parties submit that aggrieved by the order of Hon'ble High Court of Gauhati, the State of Mizoram filed Special Leave Petition (SLP) bearing Diary No. 12441 of 2020-C. Rochungnunga & 2 Ors. Vs. State of Mizoram and Special Leave Petition (SLP) bearing Diary No. 4623 of 2021 before the Hon'ble Supreme Court. Ms. Ana Upadhyay, learned Counsel informs that both the SLPs filed by the State of Mizoram have been dismissed.
6. Ms. Paushali Banerjee, learned Counsel on the other hand submits that against the judgment of the High Court of Gauhati the petitioners also have filed SLP No. 31444 of 2021 which is stated to be still pending.

7. We find that the High Court of Gauhati in its judgment dated 27.01.2021 had quashed the order dated 05.08.2016 issued by the Chief Secretary, Government of Mizoram whereby the State Government had directed for cancellation of all the Village Certificates/LSCs issued by the Village Councils and SLP against the same and Notification dated 28.01.1965 issued under Section 14 read with Section 21 of the Mizo District (Forest) Act, 1955 whereby the land in question was declared to be a Riverine Reserve Forest which is still pending in the Hon'ble Supreme Court.
8. That being the position, the relief sought in the SLP filed by the Petitioner's pending against the judgment of the High Court of Gauhati quashing the Notification dated 28.01.1965, and the matter being still sub-judice in the Hon'ble Supreme Court it has been fairly submitted by Ms. Paushali Banerjee, learned Counsel for the Applicant that the relief claimed in the present application cannot be granted as of now and the present original application may be adjourned to some other date and in the meantime the Applicants shall try to get their SLP expedited.
9. We, therefore, adjourn this matter *sine die*.
10. The learned Counsel for the parties shall apprise the Tribunal of orders passed by the Hon'ble Supreme Court in the pending SLP.

.....  
B. Amit Sthalekar, JM

.....  
Saibal Dasgupta, EM

July 22, 2021  
O.A. No. 68/2019/EZ  
MN



GOVERNMENT OF MIZORAM  
LAND REVENUE & SETTLEMENT DEPARTMENT

Secretariat Building No.2,  
1<sup>st</sup> Floor, New Capital Complex.  
email : [Mizoram.revenue@gmail.com](mailto:Mizoram.revenue@gmail.com)

Dated Aizawl, the 20<sup>th</sup> Sept., 2021.

### NOTIFICATION

**No. K. 15011/126/2010-REV :** Whereas an area of 64.25 Hectares within the Reserve areas of River Tlawng at Lengpui has been utilized for non-forest purpose of National Institution of Technology, Mizoram Campus and the area so diverted has to be compensated from non-forest land within the State of Mizoram as provided under the Forest (Conservation) Act, 1980.

Now, therefore, the Government of Mizoram is pleased to mutate the area of 64.25 Hectares of land specified below out of the land bank notifies in lieu of the area diverted for the NIT, Mizoram Campus within Reserve areas of Tlawng River at Lengpui with immediate effect.

<i>Location &amp; Name of Village</i>	<i>District</i>	<i>Area in Ha.</i>	<i>Map of Site Plan</i>
Pa Ngena Mual, North Serzawl.	Aizawl	64.25	As shown in Annexure

<i>Description of Boundary</i>		
<i>Grid Co - ordinates</i>		<i>Grid bearing of forward pillar from North</i>
<i>Easting</i>	<i>Northing</i>	
485765.681	2651821.401	
485789.934	2654786.504	0° 28' 07"
486149.768	2656903.175	9° 38' 53"
487525.604	2656829.092	93° 04' 56"
487245.378	2655949.043	197° 39' 45"
487202.812	2655477.068	185° 09' 12"
489008.561	2654659.441	114° 21' 38"
489036.907	2653535.552	178° 33' 19"
488609.471	2650796.561	188° 52' 11"
485765.681	2651821.401	289° 49' 05"

**Sd/- R. ZARZOSANGA.**  
Secretary to Government of Mizoram.

Memo No. K. 15011/126/2010-REV : Dated Aizawl, the 20<sup>th</sup> Sept., 2021.

Copy to:-

1. P.S. to Minister, Land Revenue & Settlement Department.
2. Sr PPS to Chief Secretary, Government of Mizoram.
3. P.S. to Secretary, Land Revenue & Settlement Department.
4. P.S. to Secretary, Higher & Technical Education Department.
5. Director, Land Revenue & Settlement.
6. Settlement Officer, Land Revenue & Settlement, Aizawl District.
7. Guard file.



**(ZOHMINGTHANGA)**

Under Secretary to the Govt. of Mizoram,

...

Sunhluchhip

Scale 1:20000

Area : 642500.00 Sq.m  
64.25 Ha



To Sunhluchhip  
Jeepable Road  
To Chhanchhuahna Khawpui

3

4

5

6

7

8

1

9

Pa Ngena Mual  
(Proposed Site For NIT Mizoram)



026 Lalramzauva 021 Siamliana

017 Ngurchhuana 012 Lalauva

015 Lalmawibera 025 Zachtinga

022 Thanglianchhunga 023 Thanglura

008 RL Chhuanawma 008 RL Chhuanawma

001 Lalchawia 005 H.Ramfanzauva 007 Lianmawii 006 Biaktluanga

013 Lalchhuana Darlawn

009 L. Mangchhuana 020 L. Ramfiana Lalsangluaia

Private Land

018 L. Ramfiana 024 Vungtawna 016 RL. Biaktliana 011 Lalvuana (L)

Sawheng

Chhanchhuahna Khawpui

## NIT MIZORAM TABLE

Boundary Pillar No.	Grid Co-ordinates		Grid bearing of forward pillar from North	Horizontal Distance
	Easting	Northing		
1	485765.681	2651821.401		
2	485789.934	2654786.504	0° 28' 07"	2965.202
3	486149.768	2656903.175	9° 38' 53"	2147.039
4	487525.604	2656829.092	93° 04' 56"	1377.829
5	487245.378	2655949.043	197° 39' 45"	923.586
6	487202.812	2655477.068	185° 09' 12"	473.891
7	489008.561	2654659.441	114° 21' 38"	1982.232
8	489036.907	2653535.552	178° 33' 19"	1124.247
9	488609.471	2650796.561	188° 52' 11"	2772.142
1	485765.681	2651821.401	289° 49' 05"	3022.820



Office Swaraj&amp;Kotwal &lt;office@swarajandkotwal.com&gt;

**SERVICE: Report\_ State of Mizoram in O.A.179/2017/EZ**

1 message

Office Swaraj&amp;Kotwal &lt;office@swarajandkotwal.com&gt;

Thu, Sep 23, 2021 at 3:08 PM

To: "poushali\_b@yahoo.com" &lt;poushali\_b@yahoo.com&gt;, soumitramookherjee@gmail.com, gora.roychoudhury@gmail.com

Cc: Pragya Barsaiyan &lt;pragyabarsaiyan@swarajandkotwal.com&gt;, Ana Upadhyay &lt;anaupadhyay@swarajandkotwal.com&gt;

Dear Ma'am/ Sir,

Hope this email finds you well.

Please find attached the Report filed on behalf of the State of Mizoram in the above captioned matter, for your kind reference and record.

Best Regards,  
Ana Upadhyay  
Advocate  
+91 6202231868

Junior to Mr. Siddhesh Kotwal  
Standing Counsel for the State of Mizoram  
New Delhi

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