

GAHC030007722024



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

Case No. : WP(C)/142/2024

Sh. Bawihzika and 3 Ors.
S/o Lallawma (L)
R/o Vairengte, Mizoram-796101 2: Sh. Ngurchungnunga

3: Sh. Lalhruaizuala

4: Sh. Lalzuithang

VERSUS

Union of India r/b the Secretary, Ministry of Defence and 3 Ors.
Room No. 234, South Block, New Delhi-110011. 2:The Defence Estate Office
Guwahati Circle
Ministry of Defence
Govt. of Indi

:::BEFORE:::

HON'BLE MR. JUSTICE MRIDUL KUMAR KALITA

Advocate for the petitioners	: Lalchhanliana Khiangte, Adv.
Advocate for the respondents	: 1.Ms. Zairemsangpuii Learned CGC. 2.Ms. Caroline

K. Lungawipuii,
Govt. Advocate.

Date on which judgment is reserved : **28.04.2026.**

Date of pronouncement of judgment : **30.04.2026**

Whether the pronouncement is of the operative part of the judgment ? : Yes.

Whether the full judgment has been pronounced? : No.

JUDGMENT & ORDER (CAV)

1. Heard Mr. Lalchhanliana Khiangte, the learned counsel for the petitioners. Also heard Ms. Zairemsangpuii, the learned Central Government Counsel appearing for the respondent Nos. 1 to 3 and Ms. Caroline K. Lungawipuii, learned Government Advocate appearing for the respondent No. 4.
2. This writ petition under Article 226 of the Constitution of India has been filed by the petitioners, namely, *1. Bawihzika, 2. Ngurchungnunga, 3. Lalhruaizuala and 4. Lalzuithanga* seeking expeditious payment of compensation assessed by the District Collector, Kolasib in compliance to the judgment and order dated 23.02.2017, passed by the Co-ordinate Bench of this Court in WP(C) No. 48/2019 and WP(C) No. 19 of 2011.

- 3.** Prior to filing of the instant Writ Petition, the present petitioners had approached this Court on an earlier occasion by filing Writ Petition, i.e., W.P.(C) No. 48/2010, wherein they had prayed for payment of compensation as per Award No. 1 of 2007, which was made by the District Collector, Kolasib, in connection with acquisition of lands located within Vairengte, VC-II area under Vairengte Sub-Division for establishment of Counter Insurgency Jungle Warfare School (CIJWS), a key location post at Vairengte for which notifications under Section 4 and 6 of the Land Acquisition Act, 1894, were issued by the State Government.
- 4.** The Union of India also filed a Writ Petition bearing WP(C) No. 19 of 2011, wherein it contended that the State Government, on its own initiative, issued the two notifications for acquisition of land without consulting the Ministry of Defense and without there being any formal requisition, although there was a discussion regarding increasing the area of CIJW School.
- 5.** It is contended in the present Writ Petition that during the pendency of the earlier Writ Petitions, the Central Government had given approval for acquisition of land occupied by the CIJW School and also for the

extension of the same. However, as many fake claims were made by fake land owners and an investigation was initiated by the Anti-Corruption Branch of the CID. After completion of the investigation, it was found that only 21 land passes (including that of the present petitioners) were genuine.

- 6.** The Writ Petition No. 48 of 2010 and Writ Petition No. 19 of 2011 were disposed of by a Co-ordinate Bench of this Court by a common judgment dated 23.07.2017. In the aforesaid judgment, it was held that the genuine land owners should be adequately compensated in terms of the provisions of Article 300A of the Constitution of India, as well as Land Acquisition Act, 1894, for the loss of their land. In the said judgment, the District Collector, Kolasib was directed to make a verification as to the placement of genuine land passes and land owners, *viz-a-viz*, the Award No. 1 of 2007.
- 7.** It was also directed that the District Collector, Kolasib, shall constitute a verification team consisting of Revenue Department and representative of respondents Nos. 1 to 4, who shall verify whether the land covered by 21 (twenty one) genuine passes are already occupied areas by the CIJW School or not. It was directed if the verification team finds that

the lands of the petitioners were within the lands that are to be in the area of extension of CIJW School, there is no question of payment of interest under Section 34 of the Land Acquisition Act, 1894, or payment of rent. However, in the event, it is found that the lands covered by 21 (twenty one) genuine land passes are already occupied by the Armed Forces, then the petitioner's case for payment of interest under Section 34 of the Land Acquisition Act, 1894, and payment of rent would have to be considered. The Court fixed a period of 4(2+2) (four) months for payment of compensation to the land owners possessing genuine land passes and it fixed a period of five months for the payment of rent as well as payment of interest under Section 34 of the Land Acquisition Act to the genuine land owners.

- 8.** Mr. Lalchhanliana Khiangte, the learned counsel for the petitioners, has submitted that in pursuant to the directions given by this Court, a joint spot verification was conducted and it was found that the lands of the petitioners were occupied by CIJW School. Accordingly, the verification report was submitted by the Assistant Settlement Officer of Land, Revenue and Settlement Department, to the District Collector by Letter No. L.11021/1/93 - REV (K)/267, dated 16.05.2017.

- 9.** Thereafter, the District Collector, Kolasib, issued a joint verification notice dated 12.07.2017 to ascertain land compensation and rental charges regarding land passes proposed for acquisition within and near CIJW School, Vairengte. Ultimately, on 07.09.2019, a joint meeting was held in the Office Chamber of the Chief Secretary, Government of Mizoram, and it was decided that the compensation shall be paid to the private land owners as per the Judgment & Order dated 23.02.2017, of the High Court.
- 10.** The learned counsel for the petitioners submits that, thereafter, an assessment of rental compensation of the lands under occupation of CIJW School was made for the period with effect from May, 1974 to July, 2020, amounting to a total sum of Rs. 2,91,60,088/-, to the present petitioners. However, the petitioners were not paid any rental compensation.
- 11.** The learned counsel for the petitioners submits that the petitioners also submitted a representation dated 20.03.2024, for expeditious payment of compensation as well as interest under Section 34 of the Land Acquisition Act, 1894, in pursuant to the directions of this Court. He submits that, in spite of the receipt of the aforesaid letter, the

respondents have not taken any positive steps for payment of compensation.

- 12.** The learned counsel for the petitioners submits that even respondent No. 4, i.e., the District Collector, Kolasib, has also requested respondent No. 2 to deposit the assessed amount of rental compensation of Rs. 2,91,60,088/-, payable to the owners of the land, including the petitioners.
- 13.** The learned counsel for the petitioners has submitted that the petitioners cannot be deprived of their property without authority of law, and Article 300A of the Constitution of India gives constitutional protection to them in this regard. He submits that the rental compensation of Rs. 2,91,60,088/-, as assessed by the District Collector, is to be paid to the present petitioners for the period from May, 1971 to July, 2022. However, he submits that, since the respondents are still occupying the land of the petitioner even after July, 2022, the petitioners are also entitled to get compensation under the "*Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act, 2013*".
- 14.** On the other hand, Ms. Zairemsangpuii, learned CGC has submitted that

out of the 21 land owners whose land passes were found to be genuine, only the lands of the four land owners (i.e., the present petitioners) have been found to be under the occupation of CIJW School, Vairengte. She submits that the steps are being taken to comply with the direction of the High Court, and a proposal for rental compensation of Rs. 2,91,60,088/-, in respect of petitioners lands, has already been sent to the Ministry of Defense by the higher authority of the Defense State Officer, Gauhati, by Letter No. DEO/GAU/RENTAL/FOUR/CIJW/1/51, dated 10.12.2024. She, however, submits that regarding the direction by the Court for taking steps for acquiring the land in accordance with the Land Acquisition Act, 1894 is concerned, same may be legally not tenable, as the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 has come into force with effect from 01.01.2014.

- 15.** Ms. Caroline K. Lungawipuii, learned Govt. Advocate appearing for respondent No. 4 has submitted that the final assessment of rental compensation in respect of the petitioners' land have already been sent to the Defense State Officer for payment and the DEO, Guwahati, has intimated that the proposal for payment of rental compensation has been sent to higher authority by Letter dated 10.12.2024, to obtain

Government sanction and release.

- 16.** I have considered the submissions made by learned counsel for both sides and have gone through the materials available on record.
- 17.** It appears that the respondents have admitted the fact that the lands of the present petitioners are under occupation of the respondents as the CIJW School is situated over their land. It also appears that the respondents have also initiated the steps for payment of rental compensation of Rs. 2,91,60,008/-, as was assessed in pursuant to the directions of this Court.
- 18.** However, it appears that the Co-ordinate Bench of this Court by common Judgment dated 23.02.2017, passed in WP(C) No. 48/2010 and WP(C) No. 19/2011, had granted four months' time for disbursing the rental compensation to the petitioners, whereas the proposal for rental compensation was sent to the Ministry of Defence only on 10.12.2024.
- 19.** Accordingly, the respondent authorities are hereby directed to expedite the process of disbursement of rental compensation to the present petitioners in pursuant to the judgment of this Court referred herein above. By any means, it shall have to be complied with within a period

no later than three months from the date of this order.

- 20.** As the land of the present petitioners is still under the occupation of CIJW School, Vairengte, and the rental compensation for which proposals have been moved has been assessed only till June, 2022, the petitioners are entitled to get compensation and all other statutory entitlements, till date, for possession of their lands by the respondents, under the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.
- 21.** If the land in possession of CIJW School is required to be continuously held by the said school, the only lawful option available for the respondents is to acquire the same under the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. As such, the respondents are directed to take a decision in this regard and initiate the process of acquisition of the land of the petitioners, which is under the possession of CIJW School, by paying fair compensation to them as per the provisions of the said Act. The said process shall be initiated within a period of 3 (three) months from the date of this order and shall be completed as per the timeline provided in the Act of 2013 itself.

22. With the above observation, this Writ Petition is accordingly disposed of.

JUDGE

Comparing Assistant