
(2025) 11 GAU CK 1794
In the Gauhati High Court
Case No : WP(C) Of 2087 Of 2017

Gopanjy Naiding And 12 Ors

APPELLANT

Vs

State Of Assam And 6 Ors

RESPONDENT

Date of Decision : 07-11-2025

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2025) 11 GAU CK 1794

Hon'ble Judges : Sanjay Kumar Medhi, J

Bench : Single Bench

Advocate : B Baruah, C Baruah, RM Das

Final Decision : Disposed Of

Judgement

Sanjay Kumar Medhi, J

1. Thirteen numbers of petitioners have joined together in filing this petition under Article 226 of the Constitution of India with the following reliefs:

"It is therefore prayed that your lordship would be pleased to admit this petition call for the records, issue rule calling upon the respondents to show cause as to why the concerned respondent authority shall not be directed to pay the Zeerat Compensations for causing damage to the plantation and garden of the petitioners stood over the petitioners private land for causing substantial loss and damage while construction of National Highway 54, to protect the legitimate right of the petitioners and their family who were poor and illiterate local tribes of Dima Hasao District and after such cause or causes that may be shown, perusing the records and hearing the parties, further be pleased to make the rule absolute and/ or pass such further or other order as your lordship may seem fit and proper."

2. As per the facts projected, construction of the National Highway-54 was taken up by the National Highway Authorities of India (hereinafter NHAI) in the NC Hills District of Assam, including the Harangajao area where the petitioners reside. It

is contended that while earth cutting and dumping works were done in connection with the construction of the aforesaid National Highway, damage has been caused to the petitioners. It is the specific case of the petitioners that due to such earth cutting and dumping, plantations and gardens maintained by the petitioners have been damaged. It is also contended that the lands of the petitioners were, both in and outside the Right-of-Way (RoW) and in spite of the damage caused, no compensation has been paid. The petitioners claim to have submitted representations to the respondent authorities in spite of which, no action was taken to compensate the petitioners. The petitioners also allege that they are poor and illiterate persons and the authorities have taken advantage of the situation. Accordingly, the writ petition has been filed.

3. I have heard that Shri B Barua, learned counsel for the petitioners. I have also heard Shri C Baruah, learned Standing Counsel, NHAI as well as Shri RM Das, learned Standing Counsel, NCHAC.

4. Shri B Baruah, learned counsel for the petitioners has submitted that as per the information obtained by the petitioners, there was an agreement between the contractor and the NHAI as per which, for the compensation arising in the RoW, it is the NHAI which would pay the compensation and for any such claims which are outside the RoW, it would be the contractor who would pay the compensation. He has submitted that when this issue had subsequently come to light, the contractor was also made a party respondent No. 7 by an order dated 04.04.2018, passed in IA(C)/635/2018. By drawing the attention of the affidavit-in-opposition filed by respondent no.6 dated 17.12.2024, the learned counsel has submitted that vide a communication dated 16.12.2024 issued by the Lot Patwari, Harangajao to the Revenue Department of the Dima Hasao Council, it was stated that the petitioner nos. 1, 2 and 9 would not be entitled to any compensation. He has, however, drawn the attention of this Court to the affidavit filed by the Council on 18.12.2017 wherein, a communication has been enclosed dated 31.05.2017 whereby, the same Lot Patwari had recommended damage after making an assessment. He has submitted that even if the second communication dated 16.12.2024 is taken into consideration, some of the petitioners would still be entitled to the damage as per the assessment made. He has accordingly prayed for a direction for payment of the assessed compensation expeditiously as this writ petition is pending since the year 2017.

5. Per contra, Sri C Barua, learned Standing Counsel, NHAI has strenuously opposed the writ petition. He has submitted that though in the initial report dated 31.05.2017 given by the Lot Patwari, Harangajao, there were some recommendations for payment of compensation to the petitioners by assessment of the damage, in the meantime, the issue was redressed to a great extent and compensation to all the affected persons were made. He has also raised the issue of want of bonafide on the part of the petitioners who are trying to take advantage of the situation. He has submitted that the subsequent report of the Lot Patowary dated 16.12.2024 has clarified the issue. As regards the remaining

petitioners who have not been stated to have been paid the compensation, he has submitted that if some damage has actually been suffered by those petitioners due to the work in question, the same would be considered and reasonable compensation may be directed to be paid by the State. He has placed before this Court a communication issued by the Ministry dated 10.07.2023 to the Chief Minister of the State as per which an amount of Rs. 32.31 crores has been released to the State to make compensation for the damages suffered due to the construction of the present highway.

6. ShriDas, the learned Standing Counsel, NCHAC has submitted that though in the initial affidavit filed by the Council on 18.12.2017, the report of the Lat Patwari was enclosed regarding the recommendation for payment of damage, subsequently, the matter was reconsidered and a report was given on 16.12.2024 by the same Lat Patwari whereby few of the petitioners were stated to be outside the purview of the claim. As regards the claim for damage suffered by the rest of the petitioners, he has submitted that appropriate orders may be passed by this Court.

7. The rival submissions have been duly considered and the materials on record have carefully have been examined.

8. While this matter was being heard, this Court, after considering the affidavit filed, had passed the following order on 14.10.2025, the relevant part of which is extracted herein below:

" ...From the pleadings exchanged, it appears that though 13 numbers of petitioners have joined together in this writ petition, there is a communication enclosed to the affidavit dated 17.12.2024 filed by the respondent no. 4 that petitioner nos. 4, 6, 7, 8, 10 and 12 are not interested to pursue this case.

Shri Baruah, the learned counsel for the petitioners have also fairly submitted that those petitioners are not in touch with him.

Ms. Deka, the learned Standing Counsel has further informed that petitioner no. 3 has passed away and there is no substitution in the meantime. The matter would ultimately revolve around the claims of the petitioner nos. 1, 2, 5, 9 & 11.

..."

9. This Court has already come to a finding that amongst the thirteen petitioners, petitioner nos. 4, 6, 7, 8, 10 and 12 are not interested to pursue this case and the matter for consideration would remain alive for the petitioner nos. 1, 2, 5, 9 and 11. This Court has also looked into the two reports of the LatPatwari dated 31.05.2017 and 16.12.2024 respectively.

10. It is a matter of fact that from 2017, a considerable time has elapsed and the condition which had existed at the time of construction cannot be expected to be continuing after a lapse of about 8 years. Be that as it may, since the subsequent report of the Lat Patwari dated 16.12.2024 has been taken into consideration by

the Council, this Court is of the opinion that the matter would require consideration at the hands of the respondent authorities.

11. This court has noticed that the contractor has been made respondent no. 7 in this proceeding vide order dated 04.04.2018 which has been mentioned above. Such impleadment was made in view of the agreement of the contractor with the NHAI regarding its respective parts to pay compensation in case of any claim for damage. The contractor which has been arrayed as respondent no. 7 has chosen not to appear and its office is at Delhi. This Court also cannot be oblivious of the fact that those petitioners for which a consideration is required to be made are villagers in the remote village of Harangajao in the district of NC Hills. This court has also taken note of the communication placed before it as per which, a substantial sum has been placed at the disposal of the State government.

12. In view of the above, this writ petition is disposed of by directing the respondent Council to enquire into the matter of suffering of damage by the aforesaid petitioners nos. 1, 2, 5, 9 and 11 and if such damage is found to have been suffered, the Council would request the State Government for allotment of the required funds so as to make the compensation to the petitioners named above if they had indeed suffered any damage because of the work in question. The aforesaid exercise be undertaken and completed expeditiously, preferably within an outer limit of 4 months from the date of receipt of a certified copy of this order.

13. The writ petition accordingly stands disposed of in terms of the directions indicated above.

14. Costs made easy.