
(2011) 03 GAU CK 0032
In the Gauhati High Court
Case No : Writ Petition (Civil) No. 420 of 2002

S.Shangreikhai & Ors.

APPELLANT

Vs

Union of India & Ors.

RESPONDENT

Date of Decision : 14-03-2011

Acts Referred:

Constitution of India, 1950 — Article 21, 21

Citation : AIR 2011 Guw 171

Hon'ble Judges : T.NK.Singh, J

Bench : Single Bench

Advocate : S.Risom, for Petitioners, C.Komol, CGSC & Ng.Kumar, for Respondents., Advocates appearing for Parties

Judgement

1. Heard Mr. S. Risom, learned counsel for the petitioners, Mr. C. Kamal, learned CGSC appearing for respondent Nos. 1, 2 and 5 as well as Mr. Ng. Kumar, learned counsel for respondent Nos. 3 and 4.

2. By this present writ petition, filed by 112 petitioners, is praying for a direction to the respondents to pay compensation for the reduction of usufruct of their paddy fields due to diversion of water by the 20th Assam Rifles at Somsai Village, Ukhrul from Kahui Kong river, which is used by the petitioners for irrigation of their paddy fields.

3. FACTUAL BACKGROUND

The private lands/paddy fields of the writ petitioners are situated at Kahui, Khaiwar, Mashang and Mailan which are situated nearby the Kahui Kong river at Halang village, Ukhrul District, Manipur. The said private lands of the petitioners are solely depending on Kahui (Kahui Kong) river for irrigation during the rainy season and winter season. With the help of irrigation from the said river, the petitioners grow crops like soyabean, cowpea, maize mintha, brinjal, bitter, tomato, chillies, onion, bean and rice. The usufruct of the said private paddy fields is the only means of livelihood of the petitioners.

4. Since the early eighties the 20th Assam Rifles stationed at Somsai, Ukhrul constructed a Water Tank/Dam in the middle of the said river for diverting water to their camp. Because of the said diversion of water by the Assam Rifles from the said river a great loss was caused to the petitioners in such a manner that:

1. Reduction of paddy yield due to non irrigation in the lean season as well as in the rainy season.

2. Abandoning of pisciculture as the paddy fields got dry in the lean season due to non irrigation.

3. Abandoning of the growing of the crops: soya bean, cowpea, maize, mintha, brinjal, bitter, tomato, chilly and onion etc. due to non irrigation in the lean season.

4. Increase of labour force during the lean season to make their paddy fields cultivable.

5. Since the installation of the said project of diversion of water from the said river by the personnel of the Assam Rifles, the petitioners i.e. private land owners made many representations praying for payment of compensation for the loss of usufruct of their paddy fields. On 11 June 1998, the land owners formed a committee and one Shri Luvingam Horam was the convenor and the convenor under his letter dated 11/6/1998 addressed to the Deputy Commissioner, Ukhrul prayed for compensation to the private land owners i.e. (writ petitioners) who are the victims of the said project of diversion of water by the Assam Rifles. The SDC, HQ, Ukhrul, i.e. Sub Deputy Collector of the office of the Deputy Commissioner vide his letter No. 10/ 50/99Rev (U)/528 dated 8/1/1999 requested the Sub Divisional Officer, Ukhrul to verify the allegations made by the villagers by visiting the spot, if 20th Assam Rifles had constructed the water tank at the middle of the Kahui Kong River and diverted water resulting to decrease in usufruct of the private paddy fields and assess the loss caused to the said paddy fields of the petitioners. The SDO, Ukhrul had been further informed that the assessment of loss suffered by the petitioners may be done by the District Fishery Officer, Ukhrul. The Additional D. C., Ukhrul under his letter dated 3/7/1999 forwarded the complaint filed by the petitioner for causing inquiry and furnishing of comments and detailed report. The District Fishery Officer issued an office memorandum being No. 1/7/78DFY (Ukl) dated 14/7/1999 that two officers of the office of the District Fishery Officer, Ukhrul shall conduct a spot inquiry regarding the damage caused to the fish farm of the petitioners by diversion of source of water by the 20th Assam Rifles.

6. On 20/7/1999 the District Fishery officer, Ukhrul furnished his report vide his letter dated 20/9/1999 (AnnexureA/8 to the writ petition) regarding the loss suffered by the writ petitioners because of diversion of water by the Assam Rifles in terms of money to the Addl. Deputy Commissioner, Ukhrul, Manipur. The SDO, Ukhrul under his letter dated 12/4/2000 submitted the list of owners of the paddy fields who had suffered loss due to diversion of water by the 20th Assam Rifles

from Kahui Kong river which started in 1981 with the construction of water tank (AnnexureA/10 to the writ petition), which read as follows:

"GOVERNMENT OF MANIPUR

OFFICE OF THE SUBDIVISIONAL

OFFICER: UKFTRUL

Ukhrul, the 12th April 2000.

No. US/306/LanAcq (PtI)/91

To,

The Deputy Commissioner, Ukhrul.

Sub: Diversion of water by 20th Assam

Rifles, at water source (Kahui Kong/ River)

Sir,

With reference to your office letter No. 10/59/90Rev(4)/588 dated 841999 on the subject indicated above, I have the honour to state that as directed, necessary spot enquiry has been conducted through the Circle Lambu Shri: S. Mahangthei of this office and it is reported that the diversion of water by the 20th Assam Rifles from Kahui Kong/ River which started in 1981 with the construction of water tank, resulted in affecting wet paddy fields owned by 112 (one hundred twelve) persons of Huining (haling) village. Their names are given hereunder for favour of kind further necessary action.

Name of wet paddy field owner whose paddy fields field are affected:

1. Shangreikhai s/o late Phungshim. 2. R. Ramkahao s/o R. Vareishui.
3. Z. Shaklei s/o late Z. Kahaosan. 4. V. S. Aunterson s/o Phungshim.
5. K. Vareichin s/o (1) Ruichumhao. 6. C. Khaso s/o (1) C. Peter.
7. V. S. Kayangnam s/o (1) Magamlong. 8. V.S.Mark s/o (1) Chilang.
9. V. S. Mishivam s/o (1) VS Thuingaleng. 10. C. Samayo s/o (1) C. Peter.
11. V. S. Chinaongi s/o (1) Nagalenghai. 12. K. S. Ngaiem s/o (1) Mangamleng.
13. K. S. Shimkhayei s/o Mangamlong. 14. V. S. Vangachan s/o V. S. Natangmi.
15. V. S. Surrender s/o (1) Khashim. 16. Vr. Luiha s/o (1) Khalung.
17. Ks. Yaoleingam s/o (1) Nagapaikhui. 18. K. Veikhok s/o (1) Kuishang.
19. K. Chihanpam s/o Kazaching. 20. K. Nagazek s/o Kazaching.
21. K. Rangai s/o (1) K. Yarkai. 22. K. Nagaithing s/o (1) K. Shangazan.

23. C. Elijah s/o (1) C. Shimkhayee. 24. V. S. Titimons s/o (1) V. S. Yarchung.
 25. V. R. Winson s/o V. R. Khangsan. 26. K. Ningaima s/o (1) K. Paisho.
 27. K. Huimi s/o K. Ningaima. 28. V. R. Theophilus s/o Vr. Shangyin.
 29. V. R. Felix s/o (1) V. R. Yuishi. 30. V. R. Donner s/o (1) V. R. Issac.
 31. V. R. Vakham s/o (1) V. R. Khangsan. 32. K. S. Stephen s/o (1) K. S. Ruichumhao.
 33. V. R. Daniel s/o (1) V. R. Mingmayang. 34. V. S. Ningtam s/o (1) V. S. Khasim.
 35. K. S. Mishivam s/o (1) K. S. Mawonshang. 36. Mr. K. S. Chihanpam s/o (1) K. S. Mawonshang
 37. K. S. Tuisem s/o (1) K. S. Shangzak. 38. K. Somi s/o (1) Paisho.
 39. V. R. Yarei s/o (1) V. R. Pashi. 40. H. R. Luingam1 s/o (1) H. R. Marah.
 41. Mr. H.R.Moses s/o H. R. Mingkan. 42. C. Dearson s/o C. Phashaiphang.
 43. H. L. Ringam s/o H. L. Chapthai. 44. C. Shangnam s/o C. Honlei.
 45. H. R. Chihansing s/o H. R. Mingkan. 46. H. R. Chihanpam s/o H. R. Maninglum.
 47. K. Albert s/o (1) K. Paisho. 48. H. R. Luiphang s/o H. R. Marah.
 49. Khaso s/o H. R. Jungre. 50. H. R. Ningreingam s/o H. R. Khaso.
 51. Hr. Seth s/o Hr. Khaso. 52. H. L. Pamching s/o H. L. David.
 53. H. L. Khavangsing s/o H. L. Chapthai. 54. K. Ngalangzar s/o (1) K. Yuishi.
 55. Mrs. K. Wonmila w/o K. Kaitha. 56. S. David s/o S. Malungchang.
 57. C. Mataisang s/o C. Laiwum. 58. Z. Ngavaophung s/o Z. Marasan.
 59. Z. Chihanshing
 60. Z. Shangnaishang 61. Z. Wungpam
 62. K. Shangreipung 63. K. Vaorei
 64. K. Thotchishang 65. K. Shangam
 66. C. Wilson 67. C. Ningmi
 68. C. Amos 69. C. Mareiyo
 70. K. Cornilus 71. S.Ishmael
 72. H. R. LuingamII 73. C. Chihanngam
 74. Z. Ramrei 75. C. Ngazeklei
 76. K. Isaac 77. K. Misang

78. K. Ringsung 79. C. Judah
 80. C. Mawonthing 81. Z. Shangahan
 82. Hr. Aaron 83. S. Keidom
 84. Hr. Naghanshang 85. H. L. Mangamleng
 86. C. Sword 87. C. Canaan
 88. Hr. Thomas 89. Hr. Vareiyio
 90. Hr. Benjamin 91. L. Ngaraipam
 92. L. Malungchang 93. L. Surrender
 94. L. Naomazum 95. H. L. Wongho
 96. H. L. Yangsing 97. Hr. Wungchim
 98. H. L. Shangaohan 99. H. L. Kanmila
 100. H. L. Vareishang 101. H. L. Nagashangshi
 102. Z. Absolom 103. Z. Philip
 104. H. L. Shimreiyo 105. H. L. Ngavaophung
 106. H. L. Ramgui 107. H. L. Ngavaophung
 108. Hr. Thotwon 109. Z. Ramdhar
 110. Z. Timothy 111. H. L. Somishon
 s/o Z. Shangnaishang.
 s/o (1) Z. Yarnao. s/o (1) Z. Yarnao.
 s/o K. Sareng. s/o K. Sareng.
 s/o K. Barnabus. s/o K. Yarkao
 s/o C. Vamung. s/o C. Machihan.

The affected paddy fields which is within the village area of Huining (haling) is known as Kahui.

Yours faithfully sd/

R. Choudhury

Sub Divisional officer, Ukhr?

7. The district agriculture Officer, Ukhrul under his letter dated 1242000 submitted detailed estimate of each individual farmer who had suffered loss due to diversion of water from Kahui Kong river by the Assam Rifles after spot inquiry (AnnexureA/11 to the writ petition).

8. The respondent Nos. 1, 2 and 5 filed joint affidavit in opposition wherein they did not deny that water being drawn from Kahui Kong river. Further in their counter affidavit they stated that water is drawn only for 68 hrs everyday in Kahui Kong river and is adequate for irrigation and agriculture if judiciously utilized even during the lean season; and also the personnel of Assam Rifles were not party in the verification and assessment of loss carried out by the District Agriculture Officer, Ukhrul. It is also further stated that the writ petitioners have not produced any document of their title over the lands claimed by them as their paddy fields. The petitioners may be directed to go to civil Court to establish their title and they also be directed to file their individual cases since they belong to different villages located at far off area from each other.

9. Respondent Nos. 3 and 4 also filed joint affidavit in opposition wherein they deny that the Assam Rifles stationed at Somsai Ukhrul constructed water tank in the middle of the Kahui Kong river for diverting the river water, but they are not denying that the 20th Assam Rifles personnel stationed at Somsai Ukhrul have been drawing water from Kahui Kong river.

10. The writ petitioners also filed additional affidavit stating that during the pendency of the writ petition, Government of Manipur instructed to cause spot inquiry and the SDPO Ukhrul submitted report to the Superintendent of Police, to the fact that:

".....Kahui Kong River is a small river originated from Ukhrul Tangrei Hill gorges flowing in between the Kahui Forest and Ira Forest of Halang (Huining) village area. The rivulet has a small stream in the lean season, i.e. from January and May every year and on both sides of the river banks a stretch land of paddy field owned by the villagers of Halang is situated and irrigation of these cultivated land are solely dependent on this rivulet. In the eastern side hill, i.e. Somsai Hill the Assam Riflies Camp now occupied by the 13 Assam Rifles Headquarters is located. The source of water supply of the Assam Rifles camp is from this river by pumping up the water is three stages.

"There is a pumping set room fitted with a pipeline for pumping water from the riverbed in the eastern bank of Kahui river installed by the Assam Rifles since 1981. There is also a small kutcha irrigation canal constructed by the villagers at the eastern side bank of the river carrying diverted water/ stream from the said river from a distance of above 300 metres (western side) apart from the side pump house running beside the pump house to a down distant place for irrigation of the vast paddy fields situated at the eastern side bank of the river.

"This diverted water/stream is also now used up by the Assam Rifles Personnel by dropping the current to the small tank meant for pumping up to their camp. A small kutcha dam made up of boulders and mud is also temporarily constructed across the river by the Assam Rifles personnel blocking the stream just below the pump house as such no water is flowing down the river bed to the north eastern side. This practice has been reportedly going on since 1981 till date during the

dry season i.e. January to May every year by the Assam Rifles Personnel. No document could be available here at present some photo. 6 (six) numbers showing riverbed dam, using diverted water pump house of the spot is enclosed herewith."

11. The Superintendent of Police, Ukhul. by his letter No. CC5(06SP) Ukhul with reference to endorsement No. V:2/13/14/008 PHQ/35/4 dated 1442008 submitted Inspection report to the Inspector of Police Manipur," Manipur (Admn.) that since the kutcha dam is constructed in the middle of the river by the A/R no water is flowing down the river bed into the kutcha irrigation canal which reportedly caused a lot of problem for the land owners to irrigate their paddy fields; and that the writ petitioners may have mistakenly referred to the temporary dam of the 13th A/R as a water tank. But it is true that they have been facing hardships because of the dam and the water being pumped up by the A/R in three stages as shown in the photographs enclosed. The said letter of the S. P., Ukhul dated 2542008 (AnnexureA/12 to the writ petition) read as follows:

"C5(06SP) Ukhul

Govt. of Manipur

Office of the SP of Police, Ukhul District

Ukhul the 25th April, 2008 To,

The Inspector of Police Manipur, Imphal (Admn.)

Sub: Filing of counter affidavit of the State Respondents in W. P. (C) No. 420 of 2002.

Sir,

With kind reference to endorsement No. V:2(13/4) 2008 PHQ/3534 Dated 1442008 on the above subject, I am to furnish the required comments on para 4(a) of the enclosure dated 1232008 to the Social Council as below:

Para 4(a) during spot inspection no water tank as such as reported by the land owner/ petitioners is found to be constructed in the middle of the Kahui Kong river by 20 A/R or anybody else. But a temporary Kutcha made up of boulders and mud is found to be constructed across the river by the 13th AR posted at the Battalion Headquarters, Somsai. Wherefrom, the river water is being pumped up in 3 stages and thus they have diverted the water to their Battalion, H/Qs for their consumption. For this purpose 3 (three) pumping sets are installed at 3 (three) different places and a distance of 300 metres away from each other. This practice of diverting water from this river by the AR during dry season has been reportedly going on since many years back (1981) or so till date.

On both sides of the Kahui Kong (river) bank, a stretch of paddy fields reportedly cultivated by the villagers (petitioners) of Halang are enclosed:

It is observed that this river water is supposed to irrigate these paddy fields and the villagers have built a small kutchha irrigation canal for the purpose and there is no other source of water nearby the area.

Since the Kutchha dam is constructed in the middle of the river by the A/R no water is flowing down the river bed into the kutchha irrigation canal which reportedly caused a lot of problem for the land owners to irrigate their paddy fields.

Therefore, to conclude, the petitioners may have mistakenly referred to the temporary dam of the 13th A/R as a water tank. But it is true that they have been facing hardships because of the dam and the water being pumped up by the A/R in 3(three) stages as alleged (6) six photographs enclosed.

Submitted for kind perusal and further necessary action please.

Enclosed as above:

Sd/

Superintendent of Police

Ukhrul District."

12. The Deputy Commissioner, Ukhrul under his letter dated 562008 informed the Principal Secretary (Revenue) that the 112 writ petitioners are the genuine owners of the paddy fields, cultivation of which had been affected due to diversion of water by the Assam Rifles. Record regarding the inquiry conducted by the authorities could not be made available since all the records were burnt by the fire on 972005 during ANSAM agitation. For easy reference the said letter of the D. C., Ukhrul dated 562008 is reproduced hereunder:

"No. 10/65/2008Rev(U)

Government of Manipur Office of the Deputy Commissioner, Ukhrul

Ukhrul, 5th June, 2008

To,

The Principal Secretary (Rev) Government of Manipur, Imphal.

Sub:

Writ Petition (C) No. 420 of 2002 Shri S. Shangraikhai and Ors.

v.

The State of Manipur & Ors. Sir,

Kindly refer to Government W/T Message No. 40/24/2002R (Pt) dated 2842008 in connection with the above referred High Court case. The matter was enquired by conducting spot verification. It was found that the Assam Rifles of

SomsaiHeadquarters have been diverting water at the same source of river which serves the water to the paddy fields of the petitioners of Halang village by way of constructing Dams at 3(three) different places across the said river which resulted failure of paddy cultivation every year. It was also confirmed that the 112 petitioners are the genuine owners of the paddy fields whose cultivation has been affected due to diversion of water by the Assam Rifles.

The relevant records of this case could not be made available since all the office records were burnt by fires on 972005 during ANSAM agitation. However, it may be stated here that as per normal system of functioning of this office most of the correspondences were entrusted and sent under the signature of subordinate officers after approval given by the Deputy Commissioner. Hence, the authority of writing the said letters to the concerned departments such as SDO (Ukhrul), Distt. Agriculture Officer, Ukhrul and District Fishery Officer (Ukhrul) would be under the directive order and instructions of the then Deputy Commissioner, Ukhrul.

Yours faithfully, Sd/

(Pankas Kumar Pal)

Deputy Commissioner/ Ukhrul".

13. From the above facts, it is not disputed that the personnel of the Assam Rifles are utilizing the water by constructing tank or /dam over the Kahui Kong river and petitioners also utilized water of Kahui Kong river for irrigation of their paddy fields. But the dispute is if the drawing of water from Kahui Kong river by the personnel of Assam Rifles really caused loss or reduced usufruct of the paddy fields of the petitioners.

14. It is the mandate of Article 300 A of the Constitution of India that persons may not be deprived of property, save by authority of law. The Apex Court in a catena of cases held that no vested right of a citizen over his property shall be deprived save by authority of law. The Apex Court had discussed the meaning of vested right in State of Kerala & Anr. v. Peoples Union for Civil Liberties, Kerala State Unit and Ors.: (2009) 8 SCC 46 and held that the expression "vested right" means an absolute or indefeasible right. It is an immediate fixed right in present or future enjoyment in respect of property. The Apex Court further held in Peoples Union for Civil Liberties"s case (supra) that if a person is said to be deprived of indefeasible right acquired by him, he should be paid an amount of compensation. Para 71 and 88 of the Peoples Union for Civil Liberties"s case (supra) read as follows:

"71. A vested right has been defined in P. Ramanatha Aiyar"s Advanced Law Lexicon, 3rd Edn., P. 4888 in the following terms:

"Vested rights. Property rights.

The expression "vested right" means an absolute or indefeasible right. It is an

immediate fixed right in present or future enjoyment in respect of property. The claim based on the vested right or settled expectation to obtain sanction cannot be set up against statutory provisions. It cannot be countenanced against public interest and conveniences which are sought to be served."

88. When a person acquires an indefeasible right, he cannot be deprived therefrom only by taking recourse to the doctrine of eminent domain. If a person is sought to be deprived of an indefeasible right acquired by him, he should be paid an amount of compensation. In a case of this nature, therefore, where an amount of compensation has not actually been tendered, the vendees of the land could not be deprived of their right to be dispossessed. In that view of the matter, a distinction must be made between a case where an amount of compensation has been paid and in a case where it has not been."

15. The Apex Court in *Samatha v. State of A. P. & Ors.* (1997) 8 SCC 191: (AIR 1997 SC 3297) observed that "Agriculture is the only source of livelihood for Scheduled Tribes, apart from collection and sale of minor forest produce to supplement their income. Land is their most important natural and valuable asset and imperishable endowment from which the tribals derive their sustenance, social status, economic and social equality, permanent place of abode and work and living. It is a security and source of economic empowerment. Therefore, the tribes too have great emotional attachment to their lands." The Apex Court in *Samathas case* (supra) had considered the scope and contents of "right to life" under Article 21 of the Constitution of India and observed that:

"78. Article 21 of the Constitution reinforces "right to life" a fundamental right which is an inalienable human right declared by the Universal Declaration on Human Rights and the sequential conventions to which India is a signatory. In *Delhi Transport Corpn. v. DTC Mazdoor Congress*: 1991 Supp (1) SCC 600 : 1991 SCC (L&S) 1213 : AIR 1991 SC 101 (AIR at P. 173 in para 223 : SC p. 717, para 232) this Court had held that right to life would include right to continue in permanent employment which is not a bounty of the employer nor can its survival be at the volition or mercy of the employer. Income is the foundation to enjoy many fundamental rights and when work is the source of income, the right to work would become as much a fundamental right. Fundamental rights can ill afford to be consigned to the limbo of undefined premises and uncertain application. That will be a mockery of them. In *Bandhua Mukti Morcha v. Union of India*: (1984) 3 SCC 161 : 1984 SCC (L&S) 389 (SCC at pp. 18384, para 10) : (AIR 1984 SC 802) this Court held that right to live with human dignity enshrined in Article 21 derives its life breath from the Directive Principles of State Policy and that opportunities and facilities should be provided to the children to develop in a healthy manner and in conditions of freedom and dignity. Adequate facilities, just and humane conditions of work etc. are the minimum requirements which must exist in order to enable a person to live with human dignity and the State has to take action. In *Subhash Kumar v. State of Bihar* : (1991) 1 SCC 598 : AIR 1991 SC 420 this Court had held that the right to life includes the right to

enjoyment of pollution free water and air for full enjoyment of life. In *Olga Tellis v. Bombay Municipal Corpn.* : (1985) 3 SCC 545 : AIR 1986 SC 180 this Court had held that right to livelihood is an important facet of the right to life. In *C. E. S. C. Ltd. v. Subash Chandra Bose* : (1992) 1 SCC 441 : 1992 SCC (L&S) 313 (SCC at pp. 46263, para 30): (AIR 1992 SC 573), it was held that right to social and economic justice is a fundamental right. Right to health of a worker is a fundamental right. Therefore, right to life enshrined in Article 21 means something more than mere survival of animal existence. The right to live with human dignity with minimum sustenance and shelter and all those rights and aspects of life which would go to make a man's life complete and worth living, would form part of the right to life. Enjoyment of life and its attainment social, cultural and intellectual without which life cannot be meaningful, would embrace the protection and preservation of life guaranteed by Article 21. Right to health and social justice was held to be fundamental right to workers in *Consumer Education and Research Centre v. Union of India* : (1995) 3 SCC 42 : 1995 SCC (L&S) 604 : (AIR 1995 SC 922) and *LIC of India v. Consumer Education and Research Centre* : (1995) 5 SCC 482 : (AIR 1995 SC 1811) Right to economic equality is held to be fundamental right in *Dalmia Cement (Bharat) Ltd. v. Union of India*: (1996) 10 SCC 104 : JT (1996) 4 SCC 555 : (1996 AIR SCW 3652) Right to shelter was held to be a fundamental human right in *P. G. Gupta v. State of Gujarat*: 1995 Supp (2) SCC 182: 1995 SCC (L&S) 782 : (1995) 30 ATC 47 : (1995 AIR SCW 1540) *Shantistar Builders v. Narayan Khimalal Totame* : (1990) 1 SCC 520 : (AIR 1990 SC 630), *Chameli Singh v. State of U. P.* (1996) 2 SCC 549 : (AIR 1996 SC 1051) and *Ahmedabad Municipal Corpn v. Nawab Khan Gulab Khan* : (1997) 11 SCC 121 : JT(1996) 10 SC 485 : (AIR 1997 SC 152). The tribals. therefore, have fundamental right to social and economic empowerment. As a part of the right to development to enjoy full freedom, democracy offered to them through the States regulated power of good Government that the lands in Scheduled Areas are preserved for social economic empowerment of the tribals."

(Emphasis supplied)

16. This Court (Division Bench) in writ petition, i.e. C. R. No. 1331/90/1/91 of the Gauhati High Court, Imphal Bench filed by the residents of Ukhrul District, whose agricultural lands had been seriously affected because of the construction of mini cement factory with an approach road and Nungshangkhong mini hydro electric power project, had directed the State respondents to pay compensation for loss of pisciculture and also loss of yield of the paddy as a result of construction of mini hydro electric project at Nungshangkhong vide paras 25 and 26 of the judgment and order of this Court dated 22/1993 passed in the said C. R. On appeal filed by the State respondents being Civil Appeals No. 26 of 1994 against the said judgment and order of this Court dated 22/1993 before the Apex Court, the Apex Court had confirmed the said direction of this Court with regard to payment of compensation in *State of Manipur & Anr. v. Humdung Victims of Development & Ors.* (1998) 9 SCC 335 : (AIR 1995 SC 1865).

17. In the given case, this Court is of considered view that the respondents shall pay compensation to the writ petitioners for the loss caused to their private lands/paddy fields and a committee is required to be constituted for spot verification for determining the amount of compensation to be paid for the reduction of the yield or/usufruct of the paddy fields of the writ petitioners because of diversion of water from Kahui Kong river which resulted to failure of irrigation of the said paddy fields of the writ petitioners. Accordingly, a committee consisting of (1) D.C. Ukhul, (2) District Agriculture Officer, Ukhul, (3) District Fishery Officer, Ukhul, (4) two representatives of the Assam Rifles, nominated by respondent No. 5 or/respondent No. 5 himself and (5) two representatives of the writ petitioners, selected and nominated by the writ petitioners is constituted; and committee shall inspect the spot and determine the amount of compensation to be paid for reduction of the yield/usufruct of the petitioners' paddy fields because of diversion of water from Kahui village by the Assam Rifles. The spot verification and determination of the amount of compensation should be completed by the Committee within three months from the date of constitution of the committee. The Committee should be constituted within two months from the date of receipt of certified copy of this judgment and order, 80% of the amount of compensation should be paid by respondent Nos. 1, 2 and 5 jointly and severally and remaining 20% of the amount of compensation should be paid by respondent Nos. 3 and 4 within two months from the date of determination of the amount of compensation by the Committee.

With the above direction, the writ petition is disposed of.