

(2024) 10 GAU CK 1186
In the Gauhati High Court

Case No : WA Of 71 Of 2018, Connected With WA Of 70 Of 2018

State Of Mizoram

APPELLANT

Vs

R. Lalthanzauva

RESPONDENT

Date of Decision : 30-10-2024

Acts Referred:

Constitution Of India, 1950 — Article 14, 246, 254, 256, 371(g)
Land Acquisition Act, 1894 — Section 4, 4(1), 6, 11

Citation : (2024) 10 GAU CK 1186

Hon'ble Judges : Vijay Bishnoi, CJ;N. Unni Krishnan Nair, J

Bench : Division Bench

Advocate : B. Deb, A. Barua, P.D. Nair, K. Gogoi

Final Decision : Dismissed

Judgement

Vijay Bishnoi, CJ

1. Heard Mr. B. Deb, learned Advocate General, Mizoram, assisted by Mr. A. Barua, learned Government Advocate, Mizoram, representing the appellants in both these writ appeals. Also heard Mr. P.D. Nair, learned counsel appearing for the respondent Nos.1 to 88 in Writ Appeal No.71/2018 and for respondent Nos.1 to 68 in Writ Appeal No.70/2018 and Mr. K. Gogoi, learned Central Government Counsel, representing the respondent Nos.89 to 92 in Writ Appeal No.71/2018 and for the respondent Nos.69 to 72 in Writ Appeal No.70/2018.

2. These 2(two) writ appeals are filed by the State of Mizoram being aggrieved with the common judgment & order dated 15.11.2017 passed by the learned Single Judge in WP(C) No.20/2014 and WP(C) No.30/2014, whereby the learned Single Judge, while disposing of the writ petitions filed on behalf of the writ petitioners (private respondents herein), has directed the State respondents to complete the acquisition proceedings of the private respondents'/writ petitioners' lands as per the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter to be

referred as the "Act of 2013") within a period of 4(four) months from the date of receipt of a copy of the said judgment & order. By the said judgment & order, a direction was also issued to the Union of India to deposit the amount of compensation awarded within a further period of 3(three) months in the Office of the District Collector, Lunglei, who shall disburse the same to the land owners.

3. The brief facts of the case which are not in dispute are that the lands belonging to the private respondents/writ petitioners are in occupation of the Security Forces since 1966 and at present are occupied by the Assam Rifles. The private respondents/writ petitioners have raised their voice and on the basis of the survey conducted by the Government of Mizoram, they were paid rent from the year 1966 to 1986 against the said occupation. However, from the year 1986 when due rent was not paid to the private respondents/writ petitioners and other similarly situated persons, they have approached this Court by way of filing WP(C) No.41/2010, which came to be disposed of by the learned Single Judge vide order dated 25.06.2010 directing the respondents therein to make a spot verification to ascertain whether the lands of the private respondents/writ petitioners are in occupation of the Assam Rifles and has further directed that after such verification, the report shall be submitted to the Ministry of Home Affairs, Government of India, who shall proceed further on the basis of the said report.

4. Pursuant to the said direction, a joint spot verification was conducted and on the basis of the same, it is verified that 57. 73 Acres of land situated in Lunglawn, Lunglei is in occupation of the Assam Rifles. On the basis of the said spot verification, an assessment of the rent to be paid to the land owners was made and as per the said assessment, rent has also been paid to the land owners from the year 1986 to 31.12.2010. However, after 31. 12.2010 no rent was paid to the private respondents/ writ petitioners for which a separate writ petition was filed before the Aizawl Bench of this Court. However, till the decision was passed by the learned Single Judge, the said writ petition was still pending.

5. Since the lands belonging to the private respondents/writ petitioners and other similarly situated persons remained under occupation of the Assam Rifles, 2(two) writ petitions, viz. WP(C) No.41/2011 and WP(C) No.53/2011, have been filed by the land owners before the Aizawl Bench of this Court seeking a relief that the respondents Union of India as well as the State Government be directed either to handover the possession of the land to them or to pay adequate compensation to them by initiating acquisition proceedings.

6. The learned Single Judge of this Court, after considering the rival stands, has disposed of those writ petitions vide judgment & order dated 26.04.2012 by directing the respondents to initiate land acquisition proceedings in respect of the lands, which were in occupation of the Assam Rifles, under the provisions of the Land Acquisition Act, 1894 (hereinafter to be referred as the "L.A. Act, 1894"), which was in force at that relevant point of time, by issuing necessary notification under Section 4(1) of the said Act, within a period of 3(three) months

from the date of passing of the said judgment & order. The learned Single Judge has further directed the respondents to proceed with the acquisition proceedings with utmost expedition by scrupulously following the provisions of the L.A. Act, 1894.

7. Pursuant to the said directions given by the learned Single Judge vide judgment & order dated 26.04.2012, the State Government has issued a Notification dated 05.07.2012 under Section 4 of the L.A. Act, 1894 for acquisition of the land of an approximate area of 57.73 Acres, which includes the lands of the private respondents/writ petitioners, for the public purpose of establishment of Assam Rifles Battalion Key Location Plan at Lunglawn, Lunglei District. Thereafter, though the declaration under Section 6 of the L.A. Act, 1894 was made but no progress was achieved. In the meantime, the L.A. Act, 1894 was repealed and the Act of 2013 was enacted, which came into force with effect from 01.01.2014 and the private respondents/writ petitioners have filed 2(two) separate writ petitions, viz. WP(C) No.20/2014 and WP(C) No.30/2014, essentially with a prayer to issue a direction to the respondent authorities therein to expeditiously conclude the land acquisition proceedings initiated vide Notification dated 05.07.2012 under Section 4 of the L.A. Act, 1894 with a further prayer to determine the compensation and make the award under the provisions of the Act of 2013. The private respondents/writ petitioners have claimed that since no award under Section 11 of the L.A. Act, 1894 has been made till the enactment of the Act of 2013, by virtue of the provisions of Section 24(1)(a) of the Act of 2013, they are entitled to get the compensation as per the provisions of the Act of 2013.

8. Initially in response to the writ petitions, a short counter affidavit is filed on behalf of the State Government stating that a Notification for declaration under Section 6 of the L.A. Act, 1894 was issued by the Government on 30.05.2013, however, the action taken for preparation of the draft award could not be continued as the State Government decided to draft its own Rules for the purpose of land acquisition within the State of Mizoram. It is to be noticed that no counter affidavit on behalf of the Union of India, Ministry of Home Affairs and the Assam Rifles has been filed.

Later on, an additional affidavit is filed on behalf of the State of Mizoram, wherein it is mentioned that since the Mizoram (Land Acquisition, Rehabilitation and Resettlement) Act, 2016 (hereinafter to be referred as "Mizoram Land Acquisition Act") has come into force, the Government shall initiate land acquisition proceedings under the provisions of the said Act.

9. The said stand of the State Government is opposed by the private respondents/writ petitioners by filing a counter affidavit claiming that the Mizoram Land Acquisition Act has no application in the State of Mizoram as the same has not received the assent of the President of India and is also less beneficial in comparison to the Act of 2013.

10. The learned Single Judge, after hearing the learned counsel appearing for the parties and after taking into consideration the rival stands of the parties, has disposed of the writ petitions in the manner indicated above, vide the impugned judgment & order dated 15.11.2017. The learned Single Judge has recorded a finding to the effect that the Mizoram Land Acquisition Act is not applicable in the State of Mizoram and the private respondents/writ petitioners are liable for compensation as per the provisions of the Act of 2013.

11. Being aggrieved with the impugned judgment & order dated 15.11.2017 passed in WP(C) No.20/2014 and WP(C) No.30/2014, the State of Mizoram has filed these 2(two) writ appeals.

12. Mr. B. Deb, learned Advocate General, Mizoram has argued that the learned Single Judge has erred in passing the impugned judgment, which virtually resulted into setting aside the Mizoram Land Acquisition Act itself. It is contended that the validity of the Mizoram Land Acquisition Act was not under challenge in the writ petitions, however, the learned Single Judge exceeded his jurisdiction by setting aside the Act itself. It is pointed out that as per the Notification No.43 issued by the Gauhati High Court on 19.08.2015, the matters challenging the vires of Acts or Rules are only to be heard by the Division Bench and not by the Single Judge. However, the learned Single Judge in contravention of the said Notification, has proceeded to examine the validity of the Mizoram Land Acquisition Act, which was not permissible. It is further contended that the learned Single Judge, vide the impugned judgment, granted such relief to the private respondents/writ petitioners which were not even prayed for by them in the writ petitions and on this ground alone, the impugned judgment is liable to be set aside.

13. It is also argued by the learned Advocate General, Mizoram that the learned Single Judge has failed to consider that under Article 371(G) of the Constitution, in its true spirit, wherein it is specifically mentioned that no Act of Parliament in respect of ownership and transfer of land shall apply to the State of Mizoram, unless the Legislative Assembly of the State of Mizoram by resolution so decides. It is contended that the Legislative Assembly of the State of Mizoram has never passed any resolution allowing application of the Act of 2013 in the State of Mizoram and in such circumstances, the direction given by the learned Single Judge to pay compensation to the private respondents/writ petitioners as per the provisions of the Act of 2013, is illegal.

14. The learned Advocate General has emphasized that though the Act of 2013 is an Act of Parliament but it is on the subject of ownership and transfer of property, which includes acquisition. It is contended that ownership and transfer of property find mention in Article 371(G) of the Constitution as well as in Entry 18 of List-II of Seventh Schedule of the Constitution. It is submitted that in view of the protection granted to the State of Mizoram under Article 371(G) of the Constitution and as per Entry 18 of List-II of Seventh Schedule of the Constitution, the Parliament has no power to make law on the subjects

mentioned in the State List. It is contended that when the Act of 2013 has no application in the State of Mizoram, there is no question of repugnancy of the Mizoram Land Acquisition Act with the Act of 2013 and as such, the provisions of Article 254 of the Constitution of India do not come into play.

15. The learned Advocate General has further argued that ownership means right of exclusive possession and enjoyment of thing owned, including the right to transmit it to others. It is contended that as acquisition is one of the modes of transfer which is a subject under the head of "ownership and transfer of property", as enumerated in Entry 18 of List-II of Seventh Schedule of the Constitution, the State of Mizoram has exclusive right to enact a law on the said subject by virtue of Article 246 of the Constitution of India.

16. The learned Advocate General has further argued that the Parliament or the Legislative Assembly of the States derives power to legislate on the subjects mentioned in entry/entries enumerated in List-I, List-II and List-III of the Seventh Schedule of the Constitution from Article 246, sub-sections (1), (2) and (3) of the Constitution. However, those lists merely demarcate the legislative fields in which the Parliament and the State Legislatures can enact the laws. It is argued that simply because the acquisition and requisition of property found mention in one of the entries of Concurrent List, it cannot be said that the Act made by the Parliament on the said subject would prevail over in the State of Mizoram despite enactment of the Mizoram Land Acquisition Act. It is contended that the Act made by the Parliament in respect of any of the subject enumerated in entry/entries of List- II of Seventh Schedule of the Constitution cannot be made applicable in the State of Mizoram. The learned Advocate General, Mizoram has, therefore, argued that the impugned judgment passed by the learned Single Judge is not liable to be sustained and the same may be set aside.

In support of the above contentions, learned Advocate General has placed reliance on several decisions of the Hon'ble Supreme Court

17. Per contra, learned counsels appearing for the private respondents have vehemently opposed the writ appeals and have argued that the learned Single Judge has not committed any illegality in passing of the impugned judgment and has rightly held that the Mizoram Land Acquisition Act cannot be made applicable in the State of Mizoram and the private respondents/writ petitioners are liable to get compensation under the provisions of the Act of 2013 only. It is contended that ownership and transfer of property is distinct from the acquisition and, therefore, the Act of Parliament, i.e. the Act of 2013, cannot be said to be not applicable in the State of Mizoram, in view of the restrictions imposed under Article 371(G) of the Constitution of India. It is contended that the Mizoram Land Acquisition Act has not received the assent of the President of India though it is repugnant to the Act of 2013 and, therefore, the learned Single Judge has rightly held that the same cannot be applied in the State of Mizoram.

18. The learned counsels appearing for the private respondents/writ petitioners

have invited our attention towards an affidavit filed by the private respondents/writ petitioners in Writ Appeal No.70/2018 on 04.11.2019 highlighting that for acquisition of land for the Security Forces under the Ministry of Defence, Government of India in Helipad Area, Thuampui, Aizawl, Mizoram, the Government of Mizoram has taken recourse and implemented the Act of 2013. It is contended that award has also been passed under the provisions of the Act of 2013 in case of acquisition of land for Security Forces in the Helipad Area. It is contended that on one hand the State Government is acquiring land for public purposes by applying the provisions of the Act of 2013, however, in the case of the private respondents/writ petitioners, they are opposing the application of the Act of 2013 in the State of Mizoram. It is contended that the State Government is not supposed to play hot and cold at the same time and being a welfare State, is required to give maximum benefit to its citizen of a beneficial legislation. It is argued that the action of the State Government of paying compensation in lieu of acquisition of land to one set of citizens while applying the provisions of the Act of 2013 and denying the same benefit to the other set of citizens, i.e. the private respondents/writ petitioners, is discriminatory and cannot be sustained.

In support of the above contention, learned counsels appearing for the private respondents/writ petitioners have also placed reliance on various decisions of the Hon'ble Supreme Court.

19. In rejoinder, learned Advocate General, Mizoram has argued that, as a matter of fact, in the matter of acquisition of land in the Helipad Area of Thuampui, Aizawl, Mizoram, the Government of Mizoram has provided compensation to the persons, whose lands have been acquired, as per the provisions of the Act of 2013 because the High Court has passed such directions in a writ petition as well as in contempt petition. It is contended that since the compensation to the affected persons in the case of Helipad area was given as per the provisions of the Act of 2013 under the Court orders, this cannot be treated as a precedent and the private respondents/writ petitioners cannot take aid of the said action of the State Government.

20. Heard the learned counsels appearing for the parties and also perused the material available on record.

21. We feel that the decisions of the Hon'ble Supreme Court, on which reliance is placed by the respective counsels, are not required to be gone into detail because the controversy in these appeals lies in a very narrow compass regarding the applicability of the Act made by the Parliament or the State Legislature on the subject of acquisition in the light of the provisions of the Constitution of India and other relevant laws.

22. First of all, we deal with the argument of the learned Advocate General that the learned Single Judge ought not to have exercised his jurisdiction in the matter. It is contended that vide the impugned judgment, the learned Single Judge has virtually set aside the Mizoram Land Acquisition Act itself, whereas it

was not under challenge. It is also contended that as per the Notification issued by this Court dated 19.07.2005, validity of an Act can only be examined by the Division Bench.

23. We have carefully gone through the writ petitions, reliefs claimed and the pleadings of the parties. In the writ petitions, the validity of the Mizoram Land Acquisition Act was not under challenge and rightly so because at the time of filing of the writ petitions, the Mizoram Land Acquisition Act was not even came into force. The relief claimed for by the private respondents/writ petitioners in the writ petition was that the State Government be directed to conclude the acquisition proceedings initiated way back in the year 2012 and to disburse the compensation to the private respondents/writ petitioners in terms of the provisions of the Act of 2013. The said claim of the private respondents/ writ petitioners was opposed by the State while claiming that the private respondents/ writ petitioners are liable to get compensation as per the provisions of the Mizoram Land Acquisition Act and not as per the provisions of the 2013 Act. The learned Single Judge has not given any finding in respect of validity of the Mizoram Land Acquisition Act in the impugned judgment. The learned Single Judge has only opined, after taking into consideration the provisions of the Constitution and the Act of 2013 as well as the decisions of the Hon'ble Supreme Court, that the Mizoram Land Acquisition Act cannot be made applicable in the State of Mizoram due to lack of assent of the President of India and being less beneficial to the public. The validity part of the Mizoram Land Acquisition Act has not even touched by the learned Single Judge. In such circumstances, we have no hesitation in rejecting the argument of the learned Advocate General to the effect that the impugned judgment passed by the learned Single Judge is without jurisdiction.

24. The core question, which is to be decided in these appeals, is that which Act, i.e. the Act of 2013 or the Mizoram Land Acquisition Act, will apply in the State of Mizoram.

25. So far as the finding of the learned Single Judge to the effect that there is clear repugnancy between the Act of 2013 and the Mizoram Land Acquisition Act and that the Mizoram Land Acquisition Act is less beneficial in comparison to the Act of 2013 are concerned, though the State has assailed those findings in these writ appeals, however, the learned Advocate General has failed to satisfy us that how those findings are not correct or not in consonance with law. We have assessed those findings in the light of the provisions of the Act of 2013 and the Mizoram Land Acquisition Act but we do not find any infirmity.

26. If we give wider meaning to the word "acquisition", it appears that it involves transfer of ownership or transfer of title of properties. However, acquisition and requisition always treated as separate subject since the time the Constitution was framed and adopted. Originally, the entry "acquisition and requisition of property" in the respective fields find mention in all the 3(three) lists, i.e. List-I, List-II and List-III (33 in List-I, 36 in List-II and 42 in List-III). Later on, the

Parliament felt that all the above entries essentially relating to the single subject of acquisition and requisition of property by the Government give rise to unnecessary technical difficulties in legislation. So in order to avoid those difficulties and to simplify the Constitutional position, it was proposed to omit the entries in the Union or State Lists and replace the entry in Concurrent List by a comprehensive entry covering the whole subject. Therefore, vide Constitution (Seventh Amendment) Act, 1956, 3(three) entries, i.e. Entry 33 in List-I, Entry 36 in List-II and Entry 42 in List-III were repealed and a single Entry 42 in the Concurrent List "Acquisition and requisition of property" was substituted. [See – the Constitution (Seventh Amendment) Act, 1956]. It means that apart from ownership and transfer of property, acquisition and requisition of property is made a separate entry and find place as Entry 42 in List-III of Seventh Schedule of the Constitution of India.

27. It is settled that entries in different lists should be read together without giving narrow meaning to them. However, at the same time though an entry is to be given its widest meaning but it cannot be so interpreted so as to overwrite another entry or made another entry meaningless when there is an apparent conflict between the different entries. In such a situation, the role of the Court comes into play and its core duty is to reconcile the different entries. In this connection, reference may be made to the decision of the Hon'ble Supreme Court rendered in *Vijay Kumar Sharma & Ors. -Vs- State of Karnataka & Ors.*, reported in (1990) 2 SCC 562; *Union of India -Vs- Shah Goverdhan L. Kabra Teachers' College*, reported in (2002) 8 SCC 228; *Girnar Traders (3) -Vs- State of Maharashtra & Ors.*, reported in

(2011) 3 SCC 1 and *K.T. Plantation Private Limited & Anr. - Vs- State of Karnataka*, reported in (2011) 9 SCC 1.

28. Taking into consideration the above situation, the Constitution Bench of the Hon'ble Supreme Court in *Dr. M. Ismail Faruqui & Ors. -Vs- Union of India & Ors.*, reported in (1994) 6 SCC 360 has held as under:-

"30. It is significant to bear in mind that Entry 42, List III, as it now exists, was substituted by the Constitution (Seventh Amendment) Act to read as under:-

'Acquisition and requisitioning of property.'

Before the Constitution (Seventh Amendment) Act, the relevant entries read as follows:-

List I, Entry 33 :

'33. Acquisition or requisitioning of property for the purposes of the Union.'

List II, Entry 36 :

'36. Acquisition or requisitioning of property, except for the purposes of the Union, subject to the provisions of Entry 42 of List III.'

III, Entry 42 :

'42. Principles on which compensation for property acquired or requisitioned for the purposes of the Union or of a State or for any other public purpose, is to be determined, and the form and the manner in which such compensation is to be given.'

By the amendment so made, Entry 42, List III reads as extracted earlier while Entry 33, List I and Entry 36, List II have been omitted. The comprehensive Entry 42 in List III as a result of the Constitution (Seventh Amendment) Act leaves no doubt that an acquisition Act of this kind falls clearly within the ambit of this Entry and, therefore, the legislative competence of the Parliament to enact this legislation cannot be doubted. This ground of challenge is, therefore, rejected."

29. The controversy can be viewed from another angle also by examining whether the State Legislature of the State of Mizoram has enacted the Mizoram Land Acquisition Act by virtue of Article 246 of the Constitution relying on Entry 18 of List-II of 7th Schedule of the Constitution.

30. To determine the true nature and character of an enactment, pith and substance of the legislation are required to be taken into consideration. The scheme of the Act, its object and the purpose is required to be focused at. The Hon'ble Supreme Court in *Girnar Traders (3)* (supra) has elaborated the application of doctrine of pith and substance, where there is an apparent conflict between the entries enumerated in different lists of the Seventh Schedule of the Constitution. Relevant paragraphs of the judgment rendered in the aforesaid case are reproduced hereunder:-

"179. The Court has to keep in mind that function of these constitutional lists is not to confer power, but to merely demarcate the legislative heads or fields of legislation and the area over which the appropriate legislatures can operate. These entries have always been construed liberally as they define fields of power which spring from the constitutional mandate contained in various clauses of Article 246. The possibility of overlapping cannot be ruled out and by advancement of law this has resulted in formulation of, amongst others, two principal doctrines i.e. doctrine of pith and substance and doctrine of incidental encroachment. The implication of these doctrines is, primarily, to protect the legislation and to construe both the laws harmoniously and to achieve the object or the legislative intent of each Act. In the ancient case of *Subrahmanyam Chettiar v. Muttuswami Goundan* [1940 FCR 188], Sir Maurice Gwyer, C.J. supported the principle laid down by the Judicial Committee as a guideline i.e. pith and substance to be the true nature and character of the legislation, for the purpose of determining as to which list the legislation belongs to.

180. This Court in *Jilubhai Nanbhai Khachar v. State of Gujarat* [1995 Supp (1) SCC 596] , referring to the principle of interpretation of entries in the Legislative Lists, held as under: (SCC p. 609, para 7)

'7. It is settled law of interpretation that entries in the Seventh Schedule are not powers but fields of legislation. The legislature derives its power from Article 246 and other related articles of the Constitution. Therefore, the power to make the Amendment Act is derived not from the respective entries but under Article 246 of the Constitution. The language of the respective entries should be given the widest scope of their meaning, fairly capable to meet the machinery of the Government settled by the Constitution. Each general word should extend to all ancillary or subsidiary matters which can fairly and reasonably be comprehended in it. When the vires of an enactment is impugned, there is an initial presumption of its constitutionality and if there is any difficulty in ascertaining the limits of the legislative power, the difficulty must be resolved, as far as possible in favour of the legislature putting the most liberal construction upon the legislative entry so that it may have the widest amplitude. ..."

181. The primary object of applying these principles is not limited to determining the reference of legislation to an entry in either of the lists, but there is a greater legal requirement to be satisfied in this interpretative process. A statute should be construed so as to make it effective and operative on the principle expressed in the maxim *ut res magis valeat quam pereat*. Once it is found that in pith and substance, an Act is a law on a permitted field then any incidental encroachment, even on a forbidden field, does not affect the competence of the legislature to enact that law (*State of Bombay v. Narottamdas Jethabhai* [1950 SCC 905 : AIR 1951 SC 69 : 1951 SCR 51]).

182. To examine the true application of these principles, the scheme of the Act, its object and purpose, the pith and substance of the legislation are required to be focused at, to determine its true nature and character."

31. Applying the above test and after careful scrutiny of the Mizoram Land Acquisition Act, we find that it is in respect of acquisition of land for industrialization, development of essential infrastructure facilities and urbanization. The Mizoram Land Acquisition Act itself is a self-contained code within the framework of limited purpose, i.e. acquisition of land. It provides for complete machinery for acquisition of land, including process of execution, payment of compensation as well as legal remedies in case of any grievance and rehabilitation and resettlement of the displaced person.

32. Strictly speaking, the Mizoram Land Acquisition Act addresses exclusively the issue of acquisition of land, subject which is enumerated in Entry 42 of List-III.

33. We have also compared the provisions of the Act of 2013 as well as the Mizoram Land Acquisition Act and find that both the Acts are on the same subject, i.e. acquisition and requisition of property, which is the subject matter enumerated in Entry 42 of List-III of Seventh Schedule of the Constitution of India. As a matter of fact, the Mizoram Land Acquisition Act is almost verbatim to the Act of 2013 with minor changes, such as number of Sections and missing of some of the provisions which relate to the Central Government only.

34. In view of the above discussion, we are of the view that the Legislative Assembly of the State of Mizoram has enacted the Mizoram Land Acquisition Act by invoking the power conferred under Article 246 of the Constitution of India on the subject matter "acquisition and requisition of property" as enumerated in Entry 42 of List-III of Seventh Schedule of the Constitution and not on the subject enumerated in Entry 18 of List-II of the Seventh Schedule of the Constitution. As such, we have no hesitation in holding that the Act of 2013 is not hit by the restrictions imposed under Article 371(G) of the Constitution of India and the same is applicable in the State of Mizoram by virtue of Clause (2) of Section 1 of the Act of 2013, whereas the Mizoram Land Acquisition Act being repugnant to the Act of 2013, cannot be made applicable in the State of Mizoram in the absence of assent of the President of India in terms of Article 254 of the Constitution of India.

35. Under the constitutional scheme as per Article 256 of the Constitution, the executive power of every State is required to be exercised as to ensure compliance with the laws made by the Parliament and any existing laws which apply in that State. Article 257 of the Constitution provides that the executive power of every State shall be so exercised as not to impede or prejudice the exercise of the executive power of the Union. In such circumstances, the State of Mizoram is obliged to ensure compliance of the Act of 2013 made by the Parliament.

36. It is not in dispute that the State of Mizoram has determined the compensation in relation to the persons whose lands were acquired in the Helipad area by invoking the provisions of the Act of 2013. The explanation offered for that by the State Government is that the same was done under the orders passed by this Court passed in writ proceedings as well as contempt proceedings. We are of the view that the said explanation is not justifiable because State cannot discriminate between its citizens, who are on the same footing, for whatever reasons.

37. There is no justification in the action of the State Government of denying the relief to the private respondents/writ petitioners of determining the compensation in lieu of acquisition of their lands by applying the provisions of the Act of 2013 when the same benefit has been given to the other set of citizens of the State of Mizoram. The action of the State Government is clearly discriminatory and violative of Article 14 of the Constitution of India and the same cannot be approved.

38. It is true that Section 107 of the Act of 2013 provides that nothing in the Act of 2013 shall prevent any State from enacting any law to enhance or add the entitlements enumerated under the said Act which confers higher compensation than payable under the Act of 2013 or to make provisions for rehabilitation and resettlement, which is more beneficial than provided under the Act of 2013. However, since the findings of the learned Single Judge that the Mizoram Land Acquisition Act is less beneficial to the citizens of the State of Mizoram and,

therefore, is not in conformity with the provisions of Section 107 of the Act of 2013, has already been affirmed by us, the same cannot be interfered with.

39. Resultantly, no case for interference with the impugned judgment & order dated 15.11.2017 passed by the learned Single Judge in WP(C) No.20/2014 and WP(C) No.30/2014 is made out. Therefore, both the writ appeals preferred on behalf of the State of Mizoram are dismissed.

40. The District Collector, Lunglei is directed to complete the acquisition proceedings initiated vide Notification dated 05.07.2012 as per the provisions of the Act of 2013 within a period of 3(three) months from the date of receipt of a certified copy of this judgment & order. After determining the compensation under the provisions of the Act of 2013, the same shall be forwarded to the Union of India. We direct the Union of India to deposit the amount of compensation awarded within a period of 3(three) months thereafter in the Office of the District Collector, Lunglei, who shall then disburse the same to the respective land owners expeditiously.

41. However, there shall be no order as to costs.