
(2020) 02 MAN CK 0016

In the Manipur High Court

Case No : Writ Petition (c) No. 975, 981, 1029, 1139 Of 2018, 909 Of 2019

Tekcham Rameshwor Meitei And Ors

APPELLANT

Vs

State Of Manipur And Ors

RESPONDENT

Date of Decision : 21-02-2020

Acts Referred:

Right To Fair Compensation And Transparency In Land Acquisition, Rehabilitation And Resettlement Act, 2013 — Section 11(1)
Constitution Of India, 1950 — Article 300(A)

Citation : (2020) 02 MAN CK 0016

Hon'ble Judges : Kh. Nobin Singh, J

Bench : Single Bench

Advocate : Kh. Tarunkumar, I. Denning, Momota Oinam

Final Decision : Disposed Of

Judgement

Heard Shri Kh. Tarunkumar, learned Advocate appearing for the petitioners in WP(C) No. 1029 of 2018 and WP(C) No.981 of 2018; Shri I. Denning,

learned Advocate appearing for the petitioners in the remaining writ petitions and Smt. Momota Oinam, learned Addl. Advocate General appearing for

the respondents in all the writ petitions.

[1] Since the above writ petitions have arisen out of the similar set of facts and circumstances, the same are being disposed of by this common

judgment and order.

[2.1] By the instant writ petition, the petitioners have prayed for issuing a writ of certiorari or any other appropriate writ to quash and set aside the

Public Notice dated 29-08-2017 issued by the Deputy Commissioner, Thoubal, Manipur; to quash and set aside consequential actions/ steps taken by

them and also to direct the respondents to initiate the process as regards the

land acquisition in accordance with the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the "Land Acquisition Act, 2013").

[2.2] According to the petitioners, they are the pattadars/ land owners in respect of certain lands and are in possession thereof by paying land revenue

to the concerned authorities. The petitioners are also carrying on trade and business over the said lands as the same are situated adjacent to the

National Highway. In support of their factum of possession, a separate sheet indicating the name, address, patta number, area, village etc. is enclosed

for perusal and in addition thereto, copies of the Jamabandi issued in the name of some of the petitioners, are enclosed for easy reference.

[2.3] The respondents issued a Notification dated 06-08-2013 in connection with the expansion of National Highway-102 (old-39), from southern side

of Lilong bridge upto border bridge, Moreh, affecting 44 numbers of villages which was published in the local daily "Sangai Express" on 12-01-

2014. The said notification was issued under the old Act. The Deputy Secretary (Works), Government of Manipur vide its letter dated 20-08-2016

addressed to the Deputy Commissioner, Thoubal, conveyed the approval for direct purchase of the lands required for widening the said road from the

local owners under the supervision of a Committee chaired by the Deputy Commissioner, Thoubal. Pursuance to the said letter, the Deputy

Commissioner, Thoubal issued an official letter dated 06-06-2017 requesting to expedite the submission of the desired information to him, followed by a

letter dated 20-07-2017 requesting to do necessary marking and demarcation.

[2.4] The Deputy Commissioner, Thoubal issued a Public Notice dated 05-08-2017 which was published in the local daily newspaper

"Poknapham" on 07-08-2017 informing all the affected pattadars in the proposed direct purchase of lands for expansion/ construction of National

Highway No.102 (old-39) under the revenue jurisdiction of Thoubal District for negotiation of rates. The petitioners, their business being run for their

livelihood, formed an association called the "National Highway New Alignment Affected Land Owners Committee" and the petitioners through

their Joint Action Committee (JAC) submitted a representation to the Deputy Commissioner, Thoubal requesting him not to initiate any illegal and

unconstitutional action. If the lands of the petitioners are acquired for expansion

of the said road, the procedure contemplated in the Land Acquisition Act, 2013 ought to have been initiated by the authorities. Even after the representation being submitted, the respondents and its agents carried out actions contrary to the procedure established by law entering into the said lands illegally and disturbing the peaceful possession of the lands and being aggrieved by such actions, the petitioners were compelled to approach this Court to protect their lawful possession of the said lands by way of writ petitions being WP(C) No.613 of 2017 and WP(C) No.814 of 2017 wherein this Court was pleased to pass an interim order dated 16-08-2017 directing the respondents not to disturb the peaceful possession of land without the leave of the Court. The said writ petitions were, later, disposed of on 03-08-2018 directing the respondents to consider the representation to be submitted by the petitioners and till then, the respondents were directed not to disturb the peaceful possession of the petitioners. The petitioners did submit a detailed representation but the respondents, instead of considering the same, issued the impugned order dated 29-08-2018.

[2.5] An affidavit has been filed on behalf of the respondent No.2 stating that the purpose for issuing the said notice by the Deputy Commissioner,

Thoubal for direct purchase of lands, was for speedy completion of the proposed expansion/ construction of NH-102 through negotiation i.e. from the

willing pattadars. There is no question of discrimination on the part of the State Government as the direct purchase was to be made from the willing

pattadars. As per the OM dated 09-10-2017, the State Government while purchasing the lands through direct purchase, would give the same amount

of compensation as given in the Land Acquisition Act, 2013 and therefore, there is no question of arbitrary, unreasonableness in the direct purchase

method. The process of direct purchase will not violate the rights of the petitioners as it is through negotiation and consent. The lands of the petitioners

will not be purchased by the State Government without their consent and payment of compensation thereof as prescribed in the Land Acquisition Act,

2013.

[2.6] In the rejoinder affidavit filed on behalf of the petitioners, it has been stated that the present petitioners are those persons who are not willing to

sell their lands by negotiation through direct purchase. The State Government can proceed with the acquisition of lands through the procedures as

prescribed in the Land Acquisition Act, 2013 but not through the direct purchase. In respect of other areas in the State, the State Government has

chosen to apply the procedures prescribed in the Land Acquisition Act, 2013 and therefore, the petitioners have expressed their desire that the

procedure as prescribed in the Land Acquisition Act, 2013 be taken up in respect of their lands. The process of direct purchase was initiated long

before the existence of the OM dated 09-07-2017. The State Government is playing fraud and misleading those affected pattadars by doing hide and

seek and also by not applying the relevant law and therefore, the actions of the State Government are unjust, unfair, unreasonable and unconstitutional.

[3.1] By the instant writ petition, the petitioners have prayed for issuing a writ of certiorari or any other appropriate writ to quash and set aside the

letters dated 20-08-2016 & 06-06-2017; Public Notice dated 05-08-2017 and the Notice dated 29-08-2018.

[3.2] According to the petitioners, they are the owners of lands/ recorded pattadars under the Thoubal Sub-Division, Manipur and are affected by the

ongoing project of expansion of National Highway No.102

[3.3] On 20-08-2016, the Deputy Secretary (Works), Government of Manipur wrote a letter to the Deputy Commissioner, Thoubal conveying the

approval of purchasing lands belonging to the petitioners by way of direct purchase. On 06-06-2017, the Deputy Commissioner, Thoubal wrote a letter

to the SDC, Thoubal requesting him to take up immediate necessary action and to furnish a detailed report followed by another letter dated 20-07-2017

requesting him to do necessary marking and demarcation for the lands which are going to be acquired for expansion of the National Highway on or

before 31-07-2017. On 05-08-2017, the Deputy Commissioner, Thoubal issued a public notice informing all the affected pattadars in respect of the

proposed direct purchase of land that a public hearing for negotiation of rates of affected lands will be held on 17-08-2017 and all the affected

pattadars of the revenue villages in the proposed expansion/ construction were requested to attend it on time. A Joint Action Committee was formed

by the affected pattadars and thereafter, the Secretary of the JAC submitted a written objection to the Deputy Commissioner, Thoubal on 16-08-2017

highlighting their grievances and requesting him to take necessary proceedings under the provisions of the Land Acquisition Act, 2013.

[3.4] About 10 persons from the Wangjing Village under the Thoubal District, Manipur filed a writ petition being WP(C) No.613 of 2017 questioning the legality of the expansion of the National Highway in which this Court passed an order dated 16-08-2017 directing the respondents not to evict the petitioners from their possession without the leave of the Court. The petitioners along with some others also filed a writ petition being WP(C) No.741 of 2017 praying for setting aside the Government letters dated 20-08-2016, 06-06-2017 and 20-07-2017 and Public Notice dated 05-08-2017 issued by the Deputy Commissioner, Thoubal which was disposed of on 03-08-2018 permitting the petitioners to submit a representation and till then, the respondents were directed not to disturb them from the possession of their lands. In compliance with the said order of the Court, the petitioners submitted a representation highlighting their grievance and requesting the State Government to follow the provisions of the Land Acquisition Act, 2013. The respondents instead of considering the said representation dated 20-08-2018, issued a notice dated 29-08-2018 informing the pattadars for necessary checking/ verification of the respective affected lands to be done at the office of the Deputy Commissioner within 06-09-2018 during office hour. It was further notified that the claims and objections beyond the above mentioned date, would not be entertained by the State Government. Thereafter, on 03-10-2018, the Chairperson of the Thoubal Municipal Council submitted an extract copy of the resolution of the Councillors requesting to take up necessary process in the interest of the general public. Being aggrieved by the actions of the respondents, the instant writ petition has been filed by the petitioners.

[3.5] An affidavit on behalf of the respondent No.1 has been filed taking the same stand as has been taken in writ petition being WP(C) No. 975 of 2018 and therefore, the averments made therein are not repeated here for the sake of brevity.

[3.6] In the reply affidavit filed on behalf of the petitioners, it has been stated that the Land Acquisition Act, 2013 is an Act enacted by the Parliament which is followed in the State. There is no any provision in the said Act for acquiring lands belonging to the general public through direct purchase. In respect of the construction of the Imphal-Kangchup-Tamenglong Road, a Notification dated 23-06-2018 was issued by the Government of Manipur

under Section 11(1) of the Land Acquisition Act, 2013. The respondents being the State authorities, must exercise their power in a just, reasonable and fair manner. They are not permitted to act at their own whims and sweet wills just like an individual person. In the OM dated 09-10-2017, it is nowhere mentioned as to the provision of law under which the same was issued. On perusal of the said OM., it is clear that the State Government did not want to follow the provisions of the Land Acquisition Act, 2013.

[4.1] By the instant writ petition, the petitioners have prayed for issuing a writ of certiorari or any other appropriate writ to quash and set aside the letters dated 20-08-2016 & 06-06-2017; public notice dated 05-08-2017 and notice dated 29-08-2017.

[4.2] According to the petitioners, they are the owners/ recorded pattadars of the lands under the Thoubal Sub-Division, Manipur and are affected by the ongoing project of expansion of National Highway No.102.

[4.3] Facts and circumstances as narrated in the instant writ petition are similar to that of the writ petition being WP(C) No.981 of 2018 and therefore, the same are not repeated here for the sake of brevity.

[4.4] An affidavit has been filed on behalf of the respondent No.2 stating that the widening of the National Highway from Lilong bridge to Yaithibi

Loukon under the revenue jurisdiction of Thoubal District was/is required for strengthening the road pavement to the standard of National Highways

under the Act East Policy of India. Hence, the State Government has conveyed approval to the expansion/ widening of National Highway?" 102 for

direct purchase of lands from the pattadars with the authority of law. An affidavit on behalf of the respondent No.1 also has been filed and the stand

taken therein is similar to the one taken by it in writ petition being WP(C) No.981 of 2018 and therefore, the averments made therein are not repeated

here for the sake of brevity.

[5.1] By the instant writ petition, the petitioners have prayed for issuing a writ of certiorari or any other appropriate writ to quash and set aside the

Public Notice dated 29-08-2017 issued by the Deputy Commissioner, Thoubal, Manipur and also to quash and set aside consequential actions/ steps of

the respondents as the respondents have made unauthorized and illegal actions/ process/ steps.

[5.2] The petitioners are in physical possession and are the pattadars/ land

owners of their respective lands paying land revenue to the concerned authorities from time to time.

[5.3] According to the petitioners, the respondents issued a Notification dated 06-08-2013 in connection with the expansion of the National Highway-

102 (old-39) which was published in the local daily "Sangai Express", Imphal on 12-01-2014. The Patta number, Dag number, affected areas and

classification of the lands as shown in the said Notification, have tallied with the land records, Patta lands and the Jamabandis of the petitioner's lands.

[5.4] The Deputy Secretary (Works), Government of Manipur vide its letter dated 20-08-2016 addressed to the Deputy Commissioner conveyed the

approval of the State Government for direct purchase of the said lands and pursuant thereto, the Deputy Commissioner issued an office letter dated

06-06-2017 to expedite submission of the desired information to him at the earliest, followed by a letter dated 20-07-2017 requesting to do necessary

marking and demarcation of the lands.

[5.5] Facts and circumstances as narrated in the writ petition are similar to that of the facts mentioned in writ petition being WP(C) 975 of 2018 and

therefore, the same are not repeated here for the sake or brevity.

[6.1] By the instant writ petition, the petitioners have prayed for issuing a writ of certiorari or any other appropriate writ to quash and set aside the

Office Memorandum dated 09-10-2017 issued by the Commissioner, Government of Manipur.

[6.2] The petitioners are the pattadars/ land owners and are in possession of the lands situated at Wangjing under Thoubal District, Manipur paying

land revenue from time to time to the concerned authorities.

[6.3] The State respondents have decided to acquire their lands through a mechanism or procedure called "Direct Purchase" for the expansion of

the National Highway-102 (old-39) from the Southern side of the Lilong bridge upto the border bridge, Moreh and being aggrieved by it, the petitioners

have already approached this Court by way of various writ petitions and the last being WP(C) No.975 of 2018 which is pending for adjudication by

this Court.

[6.4] The State Government issued the O.M. dated 09-10-2017 laying down the guidelines to be followed by the Purchase Committee of different

departments while resorting to direct purchase of land from willing pattadars/ land owners for various schemes of the State Government. The validity and correctness of the OM dated 09-10-2017 is being challenged by the petitioners on the inter-alia grounds that it is an executive order issued by the State Government to supersede the relevant provisions of the statutory law; that the guidelines contained in the said OM, if followed, will lead to treating similarly situated persons differently and unequally; that the Land Acquisition Act, 2013 is the law enacted for purpose of acquisition of private land and that the expression "direct purpose" is nowhere mentioned in the Land Acquisition Act, 2013.

[7] From the pleadings as aforesaid, two issues have arisen for consideration by this Court-one, whether the process for acquisition of lands belonging to the petitioners initiated by the State Government through the method of "direct purchase" or for that matter, the steps taken by the State Government towards acquisition of the lands belonging to the petitioners in the form of notice, letter etc. for expansion/ construction of the National Highway No.102 through the method of "direct purchase", is legally valid and two, whether the State Government is competent to issue the Office Memorandum dated 09-10-2017 laying down the guidelines to be followed by various Departments while acquiring the private land.

[8] Article 300A of the Constitution of India provides that no person shall be deprived of his property save by authority of law. This article has been inserted in the year, 1979 by way of an amendment of the Constitution of India. Prior to the amendment, it was a fundamental right but it is now a constitutional right. This constitutional right or for that matter, the deprivation of the property of a person, is impermissible in the hands of the executive except by sanction of law. In other words, deprivation of property may take place in various ways in the hands of the State but not in a manner unknown to law. The land acquisition Act is an expropriatory legislation. The State can ordinarily acquire a property in exercise of its power of "eminent domain" subject to the existence of public purpose and on payment of reasonable compensation in terms of the provisions of the Act. The land acquisition Act, 1894 was the general law relating to acquisition of land for public purposes and for determining the amount of compensation to be made on account of such acquisition. But the provisions of the said act were found to be inadequate in addressing certain issues related to the exercise

of the statutory powers of the State for involuntary acquisition of private land and property. The said Act did not address the issues of rehabilitation

and resettlement to the affected persons and their families. Keeping in mind the various issues relating to acquisition of private land, the Land

Acquisition Act, 2013 was enacted by the parliament.

[9] It is not in dispute that the petitioners are the land owners/ pattadars of the lands which are sought to be acquired by the State Government for the

purpose of expansion/ construction of the National Highway No.102 (old-39) from Lilong bridge to border bridge, Moreh. It is also not in dispute that

the lands of the petitioners are required for public purpose and that the National Highway No.102 is also one of the important highways from different

angles like communication, trade development, Act East Policy etc. It may be noted that the execution of development works by the State

Government is meant for the general public. As regards the first issue, the only contention of the petitioners is that their lands can be acquired for the

expansion/ construction of the National Highway No.102 but the acquisition shall be done in accordance with the procedure known to law. According

to them, the acquisition of their lands through the method or mechanism of 'direct purchase' by the State Government is not known in law and

moreover, it is nowhere envisaged about it in the Land Acquisition Act, 2013 which is enacted by the parliament for such purpose. There is no reason

as to why the procedure as prescribed in the Land Acquisition Act, 2013 should not be followed while acquiring their lands. During the course of

hearing, it has been vehemently submitted by the counsels appearing for the petitioners that the petitioners have no objection to the acquisition of their

lands in public interest and that they have no objection to the development projects being undertaken by the State Government for the general public.

All that they have submitted, is that the process of land acquisition shall be initiated and their lands be acquired in accordance with the provisions of

the Land Acquisition Act, 2013.

[10] The stand of the State Government as indicated in the affidavits filed on its behalf, is that the method of 'direct purchase' is being adopted by it

for speedy completion of the expansion/ construction of the National Highway No.102 through negotiation from the willing pattadars. The action of the

State Government cannot be said to be arbitrary and unreasonable, as the direct

purchase is to be made from the willing pattadars only and while purchasing their lands, the guidelines as contained in the OM dated 09-10-2017 will be followed and they will be given the same amount of compensation and other benefits as contemplated in the Land Acquisition Act, 2013. The intention of the State Government may have been genuine but the actions taken by the officials of the State Government have shown contrary thereto. The process of acquisition of lands through the method of 'direct purchase' can be said to have been initiated sometime in the year 2016, although the Notification under the old Act was issued in the year, 2013. Even after the expiry of more than 3 years, the process of acquisition still remains incomplete with the result that the purpose of adopting the method of 'direct purchase' for speedy completion of the expansion/ construction of National Highway No.102 has remained a dream yet to be fulfilled by the State Government. Had the process of acquisition of land initiated under the provisions of the Land Acquisition Act been taken up seriously, it could have been completed by now. On perusal of the documents filed along with the writ petitions and the counter affidavits, it is seen that the State Government appears to have not done its exercise properly and sincerely. The State Government appears to be unaware and unclear of the exact details of the land owners/ willing pattadars whose lands are required to be acquired for expansion/ construction of the National Highway- 102. In other words, the State Government appears to have no separate list of pattadars who have expressed their willingness of selling their lands through the method of 'direct purchase' as is evident from the various notices issued by the Deputy Commissioner, Thoubal. The list of the affected pattadars appears to have included the names of the petitioners who have expressed no willingness. The State Government appears to have proceeded on the assumption that the petitioners are willing pattadars. Lack of sincerity on the part of the officials of the State Government could have been one of the factors for its inability to complete the process in time. While issuing notice like the one dated 29-08-2018, the respondents and in particular, the Deputy Commissioner, Thoubal shall take every care and caution and the use of the expression 'further claims and objections beyond the above mentioned date will not be entertained' in it may tantamount to laying threat on the affected pattadars including the petitioners

which shall be avoided by the Deputy Commissioner, Thoubal, as the lands of the petitioners are not going to be acquired by the State Government

through the method of "direct purchase". Such notice shall be confined specifically to the willing pattadars only and no confusion in the mind of the

public shall be created by the Deputy Commissioner, Thoubal so as to obviate further delay in the completion of the process. The approach of the

State Government ought to be clear, fair and reasonable so that the object sought to be achieved by it thereof, can be achieved in time without any

problem. During the course of hearing, the Additional Advocate General appearing for the State has produced a copy of the letter dated 10-02-2020

addressed to her by the Deputy Commissioner, Thoubal wherein it has been stated that the total number of pattadars affected by the National

Highway within the jurisdiction of Thoubal District is 1268, out of which the number of pattadars whose lands are in the process of executing sale

deed is 150 and the number of pattadars who have shown willingness but have filed applications to rectify certain anomalies are 338. The remaining

are the unwilling pattadars whose details are not disclosed by the State Government, with the result that it is not clear as to whether the said unwilling

pattadars will include the names of the petitioners.

[11] Be that as it may, in view of the stand taken by the State Government that only the lands of the land owners/ pattadars who are willing to sold

their lands through "direct purchase", will be acquired; it is fair enough and therefore, the issues involved herein need not be considered and decided

by this Court in the present writ petitions and the same can be considered in appropriate cases in future. In other words, the questions of law

formulated hereinabove shall be kept open and moreover, any decision rendered by this Court thereon will have a bearing and far reaching legal

consequence on the rights of the pattadars who have expressed their willingness to sell their lands through the method of "direct purchase" or for

that matter, the process of acquisition being initiated by the State Government in respect of them, as they are not arrayed as parties in the above writ

petitions. It is made clear that this Court does not express any opinion as regards the validity and correctness of the method of "direct purchase"

adopted by the State Government. Therefore, the decisions of the Hon^{ble} Supreme Court relied upon by the counsel appearing for the petitioners are

not being referred to herein. It is not required for the present. The names of the petitioners have been admittedly included in the list of willing pattadars

whose lands can be acquired through direct purchase method, although it is contended by them that they have never expressed their willingness to

sell their lands through the method of direct purchase and moreover, the State Government is unable to produce any document to show that the

petitioners have expressed their willingness to sold their lands through the method of direct purchase.

[12] For the reasons stated hereinabove, the instant writ petitions stand disposed of with the following directions:

(a) The State Government shall not acquire the lands of the petitioners through the method of direct purchase and if the lands of the petitioners

are still required by the State Government for the expansion/ construction of the National Highway No.102, the State Government can acquire them

by initiating the process of land acquisition under the provisions of Land Acquisition Act, 2013;

(b) The petitioners shall not be disturbed by anyone including the State Government, in any manner, from the possession of their respective lands

except in accordance with law namely, the Land Acquisition Act, 2013 as desired by them;

(c) It is open to the State Government to proceed with the land acquisition through the method of direct purchase from the willing pattadars only

and complete the process of land acquisition so as to complete the expansion/ construction of the National Highway No.102, at the earliest possible, in

the interest of general public.