

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

AIZAWL BENCH

WP(C) No. 73 of 2013

PETITIONER:

Sh. Zorammuana,
S/o Late Vanhlira,
R/o Luimawi,
P.O & P.S. Kanhmun,
Mamit (Mizoram) Pin 796471.

By Advocates:

Mr. S. Borgohain,
Ms. Shelly Singh,
Mr. N. Jyoti Gogoi,
Mr. M. Borbohain.

RESPONDENTS:

1. State of Mizoram,
Represented by the Principal Secretary
to the Government of
Mizoram, Revenue Department,
Aizawl-01.

2. Principal Secretary,
Government of Mizoram,
Department of Land Revenue &
Settlement,
Aizawl-01.

3. Deputy Commissioner & District Collector,
District-Mamit,
State-Mizoram
Pin-796441.

By Advocate:

Mr. A.K. Rokhum, Addl.A.G., Mizoram.

**BEFORE
HON'BLE MR. JUSTICE N. CHAUDHURY**

Date of hearing : 12.08.2013

Date of judgment and order : 12.08.2013.

JUDGMENT AND ORDER (ORAL)

Heard Mr. S. Borgohain, learned counsel for the petitioner and Mr. A.K. Rokhum, learned Addl. Advocate General, Mizoram appearing on behalf of the respondents.

2. This is an application under Article 226 of the Constitution of India, the petitioner has challenged the legality and validity of notification No. K.12011/57/13-REV (Annexure 2) to this writ petition issued under Section 4(1) of the Land Acquisition Act, 1894. Paragraph 2 of the said notification quoted below:-

“Any person interested in any land being notified may submit his/her objection to the acquisition in writing to the Deputy Commissioner/Collector, Mamit District, within a period of 30 days from the date of publication of this Notification in the Mizoram Gazette, who will dispose of the objection and claims as per provision of section 5-A of the Land Acquisition Act, 1894.”

3. The learned counsel for the petitioner has challenged this notification on the ground that his right following from section 5-A of the Land Acquisition Act, 1894 (Hereinafter the LA Act) has been violated by this notification. Section 4(1) of the LA Act requires a notification in Official Gazette as well as in daily newspapers having circular in the locality of proposed acquisition, one of whom shall be in regional

language and the said section also requires that the Collector should cause public notice of the substance of the notification under section 4(1) at convenient places. Under section 5-A of the LA Act, any person interested in any land notified under section 4 of the LA Act is entitled to file objection against acquisition of the land within the period of 30 days from the date of publication. So far as date of publication mentioned in the said Section is concerned it contemplates, according to Mr. Borgohain, the last date of publication made by the collector and not the date of Gazette notification as requires under section 4 of the LA Act. But in the impugned notification referred to above the collector has required filing of objection within a period of 30 days from the date of publication of official Gazette and not from the date of last publication in the newspaper following Gazette notification. This, according to Mr. Borgohain, has taken away the right of the prospective objectors, including the petitioner, from filing objection within the period prescribed by the statute. Mr. Borgohai has relied on a judgment of Kerala High Court in the case of *Jaimon -vs- District Collector, Civil Station Kakkanadu & Ors* reported in *AIR 2008 Kerala 224* wherein the Kerala High Court has held that the date of publication in the newspaper in regional language following Gazette notification under Section 4(1) of the LA Act is the date of publication within the meaning of section 5-A of the Act. Same is the view of the Hon'ble Supreme Court in the case of *Usha Stud and Agricultural Farms Private Limited and Others -vs- State of Haryana and others* reported in *(2013) 4 SCC 210*.

Paragraph 20.1 of the said judgment in *Ushu Stud (supra)* is quoted below:-

“20.1. Section 4(1) lays down that whenever it appears to the appropriate Government that land in any locality is

needed or is likely to be needed for any public purpose or for a company, then a notification to that effect is required to be published in the Official Gazette and two daily newspapers having circulation in the locality. Of these, one paper has to be in the regional language. A duty is also cast on the Collector, as defined in Section 3(c), to cause public notice of the substance of such notification to be given at convenient places in the locality. The last date of publication and giving of public notice is treated as the date of publication of the notification.”

4. Here in this case by the impugned notification, the Collector having required the prospective objectors to file objection, if any, within 30 days from the date of notification in Mizoram Gazette and not within 30 days from the date of publication in newspaper as is referred to above, the same part of the notification is in conflict with the law laid down by way of judicial pronouncements. This notification, being violative of the mandatory provision of law enunciated in section 4(1) read with section 5-A of the LA Act, the same is vitiated. Accordingly, this writ petition is allowed and notification (Annexure 2) No. K.12011/57/13-REV issued vide Principal Secretary to the Government of Mizoram, Revenue Department is quashed.

5. However, the Government shall be at liberty to issue fresh notification under section 4(1) strictly complying with the law.

JUDGE

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