

IN THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM, NAGALAND, MIZORAM & ARUNACHAL PRADESH)
ITANAGAR BENCH.

WP (C) 483 (AP) 2011

Kiri Dini Bogum

.....Petitioner.

By Advocate:
Mr. Tony Pertin, Adv.

-Versus-

- 1.** Union of India, represented by the Secretary to Government of India, Ministry of Power, Shram Shakti Bhavan, New Delhi.
- 2.** National Hydro Power Corporation (NHPC), Govt. of India, Undertaking represented by its Chairman cum Managing Director, NHPC, Office Complex, Sector-33, Faridabad-121003, Haryana.
- 3.** General Manager, national Hydro Power Corporation (NHPC), Lower Subansiri Hydro Electric Project, Gerakamukh, P.O & P.S. Dhemaji, Dist. Dhemaji, Assam.
- 4.** State of Arunachal Pradesh represented by the Secretary, Department of Land Management, Govt. of Arunachal Pradesh, Itanagar.
- 5.** Secretary, Department of Forest, Govt. of A.P., Itanagar.
- 6.** Principal Chief Conservator of Forest, Govt. of A.P., Itanagar.
- 7.** Divisional Forest Officer, Likabali Forest Division, West Siang District.
- 8.** Deputy Commissioner, West Siang District, Aalo , Arunachal Pradesh.
- 9.** Nodal Officer (NHPC Ltd) cum Extra Assistant Commissioner, Gensi Circle, West Siang District, Arunachal Pradesh.
- 10.** Mr. Amjad Tak (IAS), Deputy Commissioner, Aalo, West Siang District, Arunachal Pradesh.

.....Respondents.

By Advocate:
Mr. K. P. Pathak, learned Asst. Solicitor General for FCI.
Mr. K. Ete, learned Addl. Advocate General for State.
Ms. S. G. Sarmah, for respondent Nos. 2 & 3.

BEFORE

THE HON'BLE JUSTICE Dr. (MRS.) INDIRA SHAH

Date of hearing : 28.10.2014

Date of Judgment & Order : 20.11 .2014

JUDGMENT & ORDER (CAV)

Heard Mr. Tony Pertin, learned counsel for the petitioner. Also heard Mr. K. Ete, learned Addl. Advocate General assisted by Ms. P. Pangu, learned State

counsel for the State of Arunachal Pradesh, Mr. K.P. Pathak, learned Assistant Solicitor General assisted by Mr. P.K. Roy, learned counsel for the respondent NHPC.

2] The land in State of Arunachal Pradesh, unlike other States of India, belongs to the people in private and community ownership basis unless acquire by the authorities or have been declared as reserved forest. The Tribal populations in Arunachal Pradesh are sustaining their livelihood by means of Wet cultivation, dry cultivation and Jhum cultivation. Some forest is termed as Un-classed State Forest (USF, in short) but nevertheless, the ownership of such Un-classed are with the people in private and community ownership basis.

3] A Environmental Impact Assessment & Environment Management Plan (EIA & EMP) study for construction of 2000 MW Lower Subansiri Hydro Electric Project over Subansiri River in West Siang District of Arunachal Pradesh through the Water and Power Consultant Services (India) Ltd. (WAPCOS, in short), was conducted by National Hydro Power Corporation Ltd. (NHPC). For this project, the National Hydro Power Corporation Ltd. (NHPC, in short) needed 3187.8 hectares of land in Arunachal Pradesh and 842.76 hectares of land in Assam.

4] In the present case, the issue pertains to curtailment of compensation amount of payment of Immovable properties fallen within 1185 hectares of submerged area under West Siang District. The Rehabilitation & Resettlement Agreement dated 05.09.2001 was executed between the project affected families of West Siang District and the National Hydro Power Corporation Ltd. (NHPC, in short) wherein it was agreed to pay compensation for land, trees, immovable properties etc., falling under submergence area of 1185 hectares.

5] The Deputy Commissioner, West Siang District, Aalo constituted a Compensation Board to assess value of immovable properties falling under submergence area of 1185 hectares in West Siang District for payment of compensation. Accordingly, the compensation Board consisting of officials from the District Land Management Department/Forest Department, Government of Arunachal Pradesh and the National Hydro Power Corporation Ltd. (NHPC, in short), carried loss assessment survey and after completing its assessment submitted Loss Assessment Report dated 01.02.2008 recommending payment of Rs.84,11,97,755/- (Eighty Four Crores, Eleven Lakhs, Ninety Seven thousand, Seven Hundred Fifty Five) only for immovable properties falling under

submergence area of 1185 hectare in West Siang District. As per Loss Assessment Report dated 01.02.2008, there are 4 (four) categories of project affected peoples under the Lower Subansiri Hydro Electric Project:-

(i) 77 Project Affected Families (PAF, in short), the 77 PAF of Gengi(38) are losing homestead and other immovable properties like WRC fields, trees, tokopatta, bamboos due to submergence of 484.85 hectares of their land and therefore they are being shifted to a new location.

(ii) 29 Project Affected Individuals (PAI, in short), the 29 Project Affected Individuals (PAI, in short), are not losing homestead but they are losing the same kind of immovable properties like the 77 PAF which is spread over 35.5 hectares. The 35.5 hectares of land is purely a private land.

(iii) 10(ten) Communities (viz, Gengi, Siberite, Ditten, Tango, Sibe, Ossumpuri, Lutak, Dibe, Durpai and Teyidu) are losing the same kind of immovable properties like the 77 PAF which is spread over 124.15 hectares.

(iv) Communities/3 Clans are losing 540 hectares of land in River Bank including shoal area without being displaced.

BENEFICIARIES	AREA	RATE	COMPENSATION
A) WRC (Wet Rice Cultivation) (i) 38 PAF Gengi Village (ii) 39 PAF Siberite Village (iii) 29 PAI	34.85 ha 34.60 ha <u>04.50 ha</u> 73.95 ha x	Rs.6,17,750/-	Rs.4,56,82,612.50
B) Jhum (i) Gengi Village (ii) Siberite Village	68.65 ha <u>61.90 ha</u> 130.55 ha x	Rs.1,48,260/-	Rs.1,93,55,343.00
C) Community private land under forest cover (i) 38 PAF Gengi Village (ii) 39 PAF Siberite Village (iii) Others (31 ha 29 PAI)	150.50 ha 134.35 ha <u>155.15 ha</u> 440.00 ha x	Rs.1,48,260/-	Rs.6,52,34,400.00
D) Compensation for trees, bamboos, tokopatta	440.00 ha x	Rs.14,33,784/ha	Rs.63,08,65,000.00
E) Community private land without forest covers i.e. land in the bank of river including shoal areas (i) Gengi Village (ii) Siberite Village (iii) Durpai/Rimen Clan (iv) Gachi/Keyu Clan land (v) Doje/Kena Clan land	50 ha 50 ha 50 ha 90 ha <u>300 ha</u> <u>540</u> x 1184.50 ha	Rs.1,48,260/-	Rs.8,00,60,400.00 Rs. 84,11,97,755.50/-

6] The Exact details of beneficiaries, land pattern, area, rate and amount of compensation of immovable properties prepared in the loss assessment report dated 01.02.2008 is given as under:-

“The Exact amount of compensation payable to the beneficiaries were enclosed as Annexure-V, VI, VII, VIII & IX in the loss assessment report dated 01.02.2008, which is quoted below:-

Annexure enclosed in the Loss Assessment Report	Beneficiaries/Project Affected Persons/Families Community/Clan	Total Submergence area & land pattern/immovable properties	Exact compensation amount assessed under Loss Assessment Report dated 01.02.2008
V	38 PAF Gengi Village	254 ha-WRC field, bamboo, tokopatta, trees, jhum land	Rs. 26,98,04,258.00
VI	38 PAF Gensi Village	254 ha-WRC field, bamboo, tokopatta, trees, jhum land	Rs.24,30,99,23.00
VII	29 PAI	35.50 ha WRC field, Bamboo, tokopatta, trees	Rs. 5,08,97,364.00
VIII	10 Communities	124.15 ha WRC field, bamboo, tokopatta, trees	Rs. 19,64,10,762.60
IX	3 Community/2 clan land	540 ha land in River bank and shoal area	Rs. 8,00,60,400.00

7] The Deputy Commissioner, West Siang District, Aalo submitted Loss Assessment Report dated 01.02.2008 to the General Manager, National Hydro Project Corporation Ltd.(NHPC, in short), Gerukamukh for payment of Rs.84,11,97,755/-. Thereafter, State Relief & Rehabilitation Policy, 2008 was implemented w.e.f. 30.09.2008. The 77 PAF's executed an affidavit that they are satisfied with the loss assessment prepared on the basis of joint survey carried out by District Administration, Department of Forest and the National Hydro Project Corporation Ltd. The petitioner executed an affidavit reflecting his satisfaction with regard to Loss Assessment Report dated 01.02.2008 prepared jointly by the Board Members. The case of the petitioners is that the Deputy Commissioner, West Siang District, Aalo unilaterally without the knowledge of the petitioners executed 2(two) impugned undertakings whereby and wherein, in the first undertaking, the Deputy Commissioner, West Siang District, Aalo allowed the assessed land for 29 PAI and 10 communities being 25% hectare for loss of rights & privileges to collect/use forest produce and Rs.2,34,750/- per hectare was assessed for extinction of traditional rights over USF as per Chapter IX Clause 9.1 of the State R & R Policy, 2008. Thus, the compensation amount for 1 (one) hectare of land was assessed at Rs.3,90,750/- (Rs.1,56,000+2,34,750) and the entire land of the 29 PAI and 10 communities measuring 159.65 ha was multiplied by Rs. 3,90,750/- which comes to Rs. 6,23,83,237.50/- (Six crores twenty three lakhs eighty three thousand two hundred thirty seven and fifty paise). Hence, Rs. 6,23,83,237.50/- was declared as full and final compensation for the 29 PAI and 10 communities by the Deputy Commissioner, West Siang District, Aalo, completely discarding the compensation amount of Rs.24,73,08,126.60 (twenty four crores seventy three

lacs eight thousand one hundred twenty six and sixty paise) which was assessed in the Loss Assessment Report dated 01.02.2008 for the 29 PAI's and 10 communities. Thus, due to execution of aforesaid undertakings by Deputy Commissioner, West Siang District, Aalo, 29 PAI's and 10 Communities have been deprived of Rs.18,49,24,888/- (Eighteen crores forty nine lakhs twenty four thousand eight hundred eighty eight).

Detail compensation as per Loss Assessment Report dated 01.02.2008 and the actual compensation amount received as per APR (paid up/roll\) after the execution of the 1st under taking dated 04.05.2008 is given in a chart below:-

Beneficiary & Area	Compensation under Loss Assessment Report	Compensation as per 1 st undertaking shown in APR	Compensaton curtailed
38 Gengi Village (254 ha)	Rs.26,98,04258.00 (Annexure-V)	Rs.26,98,03,018/-	Rs.1240/-
39 Siberite Village (230.85 ha)	Rs.24,30,9,230.00 (Annexure-VI)	Rs.24,30,98,485/-	Rs.745/-
29 PA/Individuals (35.50 ha)	Rs.5,08,97,364.00 (Annexure-VII)	Rs.1,38,71,625/-	Rs.3,70,25,739/-
10 Communities (124.15 ha)	Rs.19,64,10,762.60/- (Annexure-VIII)	Rs.4,85,11,612.50/-	Rs.14,78,99,149.50/-

8] 77 PAF received Rs.51.29 crores for acquisition of 484.85 hectares of land as per the Rehabilitation & Resettlement Agreement dated 05.09.2001. The aforesaid amount of Rs.51.29 crores is the approximate amount of compensation assessed in Loss Assessment Report dated 01.02.2008 for which 77 PAF and those 77 PAF received full compensation to their satisfaction. The petitioners were under the impression that only 25% of compensation was paid to them under the Loss Assessment Report dated 01.02.2008 and therefore, they submitted representation for payment of remaining 75% compensation. When the respondent authorities failed to give response, the petitioner filed WP (C) 65 (AP) 2011 on behalf of 28 PAI and 10 communities for payment of 75% compensation under the Loss Assessment Report dated 01.02.2008. During the writ proceeding, the petitioner learnt about the two undertakings dated 04.05.2009 for the first time, when the affidavit-in-opposition of the NHPC Ltd was filed along with the undertakings executed by the Deputy Commissioner, West Siang District, Aalo. Then the petitioner withdrew WP (C) 65 (AP) 2011 with a prayer to file a fresh writ petition. The petitioner also came to know that the said undertakings were manufactured on 03.11.2011 wherein it has been shown to be executed on 04.05.2009. Thereafter, the petitioner served a legal notice dated 03.11.2011 through his advocate to the Deputy Commissioner, West Siang District, Aalo. The petitioner also came to know that

the Deputy Commissioner, West Siang District, Aalo was not appointed as Administrator under the R & R Policy, 2008, to execute the undertaking dated 04.05.2009, as Administrator. The Nodal Officer-cum-EAC, Gensi issued a certificate that the NHPC sanctioned 100% compensation to 77 PAF'S and paid 25% compensation to 29 PAI/10 Communities, whereas the land of 77 PAF'S and 29 PAI are same and there is no distinguishable reason for the discrimination meted out by the NHPC Ltd. towards the 29 PAI and 10 communities. The petitioner's main objection is the undertaking dated 04.05.2009, was formulated on a back date and it was to deprive of payment of actual compensation of Immovable Properties to 29 PAI's and 10 communities. The petitioners have claimed the compensation as per the Loss Assessment Report dated 01.02.2008.

9] The respondent Nos. 4,5 & 6 (State respondents) in their affidavit-in-opposition have averred that the ownership of the land in Un-classed State Forest (USF) vests with the State Government and the local indigenous tribal people enjoy traditional and customary rights over the land in USF areas. According to them a certificate dated 07.12.2007 issued by the Divisional Forest Officer, Likabali, forest division to the effect that the land under the submergence does not falls under the R.F, ARF, PRF & VRF and the proposed Reserve Forest, was cancelled vide letter dated 03/07/2010. Therefore, the forest land was diverted for construction of Lower Subansiri Hydro Electric Project in West Siang District of Arunachal Pradesh and the petitioners cannot claim Un-classified forest as their own land.

10] The respondent No. 8, the Deputy Commissioner, West Siang District, Aalo in his affidavit-in-opposition has admitted that a Board consisting of 7 members was constituted to assess the total land and other immovable properties coming under the Submergence, due to construction of 2000 MW i.e. Lower Subansiri Hydro Electric Project. The Board after verification submitted report to the Deputy Commissioner, West Siang District, Aalo and in the verification report 77 PAF and 29 PAI were identified for compensation. It is also admitted that there was an agreement between the Gaon Burahs and villages of Gengi and Sebirite, West Siang District and NHPC. The total submergence area as per the report for payment of compensation was 1185 hectares. However, the respondents have denied that any land possession certificate to PAF's and PAI's was issued to establish their absolute title and

ownership of the land. The NHPC authorities before releasing the compensation amount directed the 77 PAF's and 29 PAI's to give undertakings in affidavit, accordingly, the PAF's and PAI's submitted their affidavit which were forwarded to the NHPC authorities. The exact averment of the respondent No. 8, is as under:-

“(i) The payment may be termed as compensation for loss of customary rights of collection of forest produce of forest produce and traditional land use of USF.

(ii) The Deputy Commissioner in the capacity as Forest Settlement Officer, assisted by Land Revenue and Settlement officer, shall work out compensation for the loss of rights and privileges of tribal people to collect and use forest produce from USF @Rs.1,56,000.00 per hectare and Rs.78,000/ per hectare for Reserved forest land (if any rights and privileges are granted by notification constituting Reserve Forest), for base year 2008 as on 01.04.2008.

(iii) In addition, in case of diversion of Un-classed State Forest, the community shall also be paid compensation against extinction of their traditional rights over USF and land use @25% of NPV as determined by Government of India from time to time. The compensation to the community is over and above the NPV paid to CAMPA.

If the PAF's and PAI'S are entitled further compensation as per R & R Policy, 2008, The NHPC authorities may be directed to make payment”.

11] It is further averred in the affidavit-in-opposition that there was no State Relief Rehabilitation Policy in the State of Arunachal Pradesh at the time of preparation of Loss Assessment and estimate for the compensation. The R & R Policy came into effect only in the year 2008 through Gazette notification; prior to that there was no clear cut guidelines on R & R Policy. It is also averred that the Deputy Commissioner was not aware how the NHPC has curtailed the compensation amount and the respondent Nos. 8 & 10 have no objection with regard to the additional payment of compensation or relief in terms of the relevant sections of land acquisition act or State R & R Policy.

12] In affidavit-in-opposition filed on behalf of respondent Nos. 2 & 3, a preliminary objection has been raised by the respondents as regard the maintainability of the writ petition. It is averred that the present writ petition is not maintainable as the petitioner has not exhausted alternative remedy available to him under R & R Policy, 2008 of the State of Arunachal Pradesh. Chapter 11 of the said R & R Policy provides mechanism redressal. Clause 11.5 of the policy states that any person if aggrieved for not being offered benefits

available under the R & R Policy can move a petition for redressal of the grievance to the ombudsman. However, this objection cannot be entertained in view of the fact that there is no ombudsman in Arunachal Pradesh, for the redressal of the grievance under the R & R Policy.

13] It is submitted that the 77 PAF's have lost their cultivable land due to submergence in the reservoir of Lower Subansiri Hydro Electric Project Corporation and the families decided to shift from their villages to the new location to be decided by the District/State Administration. In the case of the petitioners and other individuals neither cultivable land nor homestead land has been submerged. These individuals and community have simply lost their traditional rights over USF for which they have already been adequately compensated. Their case is different from the case of 77 PAF's, therefore, they cannot be compensated at par with the 77 PAF's of Gengi & Sebirite village. It is alleged that the petitioner had earlier filed WP (C) 65 (AP) 2011 wherein the respondent filed detailed affidavit-in-opposition annexing the affidavit executed before the Judicial Magistrate, First Class at Likabali declaring and affirming that the petitioners shall not claim any further compensation if NHPC/District Administration will make payment as per the R & R Policy, 2008 adopted by the Government of Arunachal Pradesh. Subsequently, the petitioner withdrew the earlier petition. They have approached this Court seeking the same relief and in the present writ petition it has been stated that the affidavit which were annexed by the respondents in their affidavit-in-opposition stands withdrawn before the Judicial Magistrate, First Class, Likabali. It is averred that the withdrawal of the said affidavit had been executed after few months of execution of the original affidavit. Once admissions are made and benefits been drawn, admission cannot be withdrawn. The writ petition is liable to be dismissed. The petitioners have also challenged the genuineness of the affidavit alleged to be executed by them, according to them, affidavit have been manipulated. It is submitted by the learned counsel for the respondent, that the matter involves disputed question of fact and therefore, the writ court cannot entertain the writ petition.

14] According to the respondents, NHPC has paid all the admissible compensation to the project affected families as well as communities. Accordingly, total 4030.56 hectares Forest Land (31.87 ha) in Arunachal Pradesh and 842.76 ha in Assam, so far, has been diverted by the ministry of

Environment and Forest, Government of India for construction of 2000 MW Lower Subansiri Hydro Electric Project Ltd. Out of above, 4030.56 hectare, the area of 34.36 hectare (3071 hectare and 365 hectare in Assam) is coming under the submergence. No homestead land is coming under the submergence except cultivable land of 77 families of 2 villages namely, Gengi, and Sebirite of Gensi Circle, West Siang District, Aalo. Although, none of the families of this 2 villages are losing homestead land, even then they have opted to shift to a new location site because their cultivable land is coming under the Submergence.

15] All these 77 families have been compensated as per recommendation of the Deputy Commissioner, West Siang District, Aalo passed upon the R & R agreement decision hold between the NHPC and the villages of Gengi and Sebirite of Gensi Circle. Besides, 77 families, who were compensated by NHPC under R & R agreement dated 2001, the community clan of adjoining villages were also compensated under Rights and Privileges for land of their traditional rights, reserved forest/Un-classified State Forest as per the said R & R Policy, 2008. While admitting the report submitted for assessment for loss of compensation, it is submitted that on receipt of the said report, objection was raised by the respondents/NHPC regarding the rights of land considered by the Board of the Deputy Commissioner, West Siang District, Aalo vide its letter dated 19.03.2008 wherein it was stated that the owners/clans members of the land under West Siang District are also required to be covered under rights and privileges as provided to other clans members of Hapoli, Banderdewa, Daporijo Forest Division. The NHPC also asked to frame policy guidelines for payment and compensation/claim rights and privileges on account of diversion of use of land, so that, uniform policy can be adopted for all the Forest Division involved in the Hydro project. Subsequently, the Government of Arunachal Pradesh formulated the R & R Policy, 2008 taking into consideration the R&R Policy of State of Arunachal Pradesh, 2 (two) numbers of undertakings dated 04.05.2009 was executed by the Deputy Commissioner, West Siang District, Aalo. In the first undertaking, it was stated that Rs.1745.59 Lacs under Right and Privileges for diversion of Un-classed State Forest against the area embarked and diverted to NHPC for use of Lower Subansiri Hydro Project and there is nothing due or payable by NHPC and after release of this amount and no further claim in respect of Rights and Privileges shall be raised in terms, of R & R Policy, 2008. In the Second undertaking, it was certified that Rs. 51.29 Crores under

Rehabilitation and Resettlement is the full and final amount towards the R & R of 77 project affected families of Gengi and Sebirite. The NHPC has already released amount of Rs.51.29 Crores as compensation of RR Project affected families and Rs.174.59 Lacs as compensation for Rights and Privileges as determined by the State Authorities. Thus, according to the respondents, full and final amount of compensation is determined by the State Government has been paid and nothing is due or curtailed as alleged by the petitioner.

16] So far, as payment of Rs.51.29 Crores to the villagers of Gengi and Seberite for diversion of 484.85 hectare land is not in dispute in this writ petition.

17] Chapter IX of R & R Policy reads:-

“9” Compensation against Diversion of Unclassed State Forests (USF) and Reserved Forests.

“9.1” The Deputy Commissioner being the Forest Land Settlement Officer should earmark the area (in hectare) of USF proposed to be diverted for the development of hydropower and other projects community-wise/Clan wise and individual Claimnat-wise.

- (i)** The payment may be termed as compensation for loss of customary rights of collection of forest produce and traditional land use of USF.
- (ii)** The Deputy Commissioner in his capacity as Forest Settlement Officer, assisted by Land Revenue and Settlement Officer, shall work out compensation for the loss of rights and privileges of tribal people to collect and use forest produce from USF @ Rs.1,56,000 per hectare for USF area and Rs.78,000 per hectare for Reserved Forest land (if any rights and privileges are granted by notification constituting Reserve Forest), for base year 2008 as on 01.04.2008.
- (iii)** In addition, in case of diversion of Unclassed State Forest, the community shall also be paid compensation against extinction of their traditional rights over USF land use @25% of NPV as determined by Govt. of India from time to time. This compensation to the community is over and above NPV paid under Forest Conservation Act, 1980.

18] According to the respondents, there was no clear cut policy/guidelines to determine the compensation/claim on account of loss of rights and privileges. The Government of Arunachal Pradesh was requested to formulate a policy in this regard whereupon the Government of Arunachal Pradesh formulated State Rehabilitation and Re-settlement Policy in September, 2008 as stated earlier. Based upon the aforesaid RR Policy, the amount of compensation payable for diversion of 699.65 hectare reserved forest/community forest of other adjoining areas was worked out which comes to Rs.17.46 Crores. This area was neither cultivable land nor homestead land which is going to be submerged due to construction of Subansiri Lower Hydro Project. These individuals/communities had to loss only their traditional rights over forest land for which compensation was worked out as per Chapter-IX of R & R Policy. The same amount was deposited with District Administration which the District Administration acknowledged as full and final amount towards compensation. Since the petitioners themselves claimed compensation as per R & R Policy, 2008, therefore, they are not entitled to any other amount except as per R& R Policy, 2008 which has already been paid by NHPC.

19] It is further averred that NHPC's consistent stand is that 29% Communities/Clans of adjoining areas are not entitled to the compensation as recommended by the Board. When the loss report was forwarded to NHPC for payment of compensation, the NHPC expressed their concern about the rights of land and payment of compensation to other adjoining villages. After publication of R & R policy, the compensation under rights and privileges was considered and payment was made to the Deputy Commissioner, West Siang District, Aalo. 29 individuals and 10 other communities also executed affidavit before the Judicial Magistrate, First Class stating that they will not claim any additional compensation if payment is made under R & R Policy, 2008 adopted by the Government of Arunachal Pradesh.

20] Thus, from the aforesaid discussions, it is apparent that the present writ petition involves determination of disputed questions of facts. The earlier assessment report was based on the subjective satisfaction of the Board. There is no mention, which method was adopted for determination of the loss or compensation. Whether the petitioners received the compensation without protest or whether they withdrew their affidavit filed to the affect that they are ready to accept the compensation without any protest, are disputed

questions of facts. Whether the petitioner had any right, title or interests over the land or they had only traditional right of use over the forest land cannot be determined in a writ application under Article 226 of the constitution of India. No ombudsman has been established as per R & R Policy.

21] In view of the above circumstances, the State respondents are directed to create and appoint ombudsman in terms of R & R Policy for redressal of grievance of the persons affected under R & R Policy, as early as possible, preferably within 4 months.

22] This writ petition, is however, dismissed without any cost.

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JUDGE