

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

Writ PETITION No. 214 (AP) 2011

1. **Sri Sengo Taipodia,**
A resident of Liru Viillage,
PO & PS- Likabali,
West Siang District,
Arunachal Pradesh.

2. **Smti Doyir Taipodia,**
W/o Sri Sengo Taipodia,
Liru Village, PO & PS-Likabali,
West Siang District,
Arunachal Pradesh.

.....Petitioners.

By Advocate:
Mr. I Riram

-Versus-

1. **The State of Arunachal Pradesh**
(represented by Secretary,
Land Management),
Govt. of Arunachal Pradesh,
Itanagar.

2. **The Director of Land Management,**
Govt. of Arunachal Pradesh,
Itanagar.

3. **The Deputy Commissioner,**
West siang District,
Aalo (A.P.)

4. **The Addl. Deputy Commissioner,**
West Siang District,
Basar, (A.P.),

5. **The Sub-Divisional Officer,**
Likabali,
West Siang District,
Basar, (A.P.)

6. **The Extra Assistant Commissioner,**
Likabali,
West Siang District, A.P.

7. **Sri Ibom Tao, EAC,**
Likabali,
West Siang District, A.P.

- 8 **Officer Commanding, 519,**
44 BRTF (GREF), C/o 99 APO.

- 9 **Officer Commanding, 1033 (1) ESPL,**
23 TF (GREF), C/o 99 APO

(Respondent Nos. 8 & 9 has been impleaded vide order dated 27-7-2011 passed in MC [WP(C)] 61 (AP) 2011.

.....Respondents.

By Advocates:

Ms. G. Deka, Addl. Sr. G.A.

Mr. K. Jini, S/C for Resp. No.2

Mr. Muk Pertin, CGC for Resp Nos. 8 & 9.

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

Date of hearing : 16.03.2012

Date of Judgment & Order : 03.04.2012

JUDGMENT & ORDER

The legality and validity of order dated 25-10-2010 passed by the Addl. Deputy Commissioner cancelling the plot of land allotted to petitioner has been challenged under Article 226 of the Constitution of India.

2. I have heard Mr. I. Riram, learned counsel appearing on behalf of the petitioners and Ms. G. Deka, learned Addl. Sr. Govt. Advocate for the State respondents. Also heard Mr. K. Jini, learned Standing Counsel appearing on behalf of the respondent No.2 and Mr. Muk Pertin, learned CGC, on behalf of the respondent Nos. 8 & 9.

3. The petitioners' case is that his forefathers donated their huge part of land for establishment of Likabali Township. His father, however, retained some areas near the BRTF which were then outside the Town area known as Liru Village. The petitioners applied for Land Possession Certificate and after necessary formalities i.e. verification, public notice

and Forest Clearance etc. the Sub-Divisional Officer issued the Land Possession Certificate in favour of petitioners vide Land Possession Certificates dated 04-08-2010 and 01-04-2010. All of a sudden, the petitioners were informed that their Land Possession Certificates (LPCs) were cancelled. The petitioners through RTI application came to know that the allotment order was cancelled without observing any procedure. The impugned cancellation order was purportedly said to have issued on public complaint dated 01-11-2010 to the Chief Secretary, Govt. of Arunachal Pradesh whereas the verification was carried out without any notice.

4. After the cancellation order dated 25-10-2010, the so called complaint was lodged followed by verification report in most arbitrary, mala fide and ulterior manner. Being aggrieved by the impugned order, the petitioners approached the Deputy Commissioner, Aalo vide representation dated 18-04-2011 but failed to get any response. Petitioners' case is that the BRTF Authorities never lodged any complaint against the petitioners. The alleged complaint against the petitioners was

not made in Public Interest but a vindictive action on the part of the Extra Assistant Commissioner (Respondent No.4). The order dated 25-10-2010 issued by respondent No.4 is therefore, liable to be set aside.

5. Respondent Nos. 4 to 6, respondent No.7 and respondent Nos. 8 &9 respectively have filed their affidavits-in-opposition alleging inter alia that the plot of land in respect of which the petitioners illegally obtained Land Possession Certificate was the land allotted to GREF by the Government of Arunachal Pradesh. In fact, total area of 1,55,889 Square metres were allotted to GREF vide Govt. Order dated 16-01-1989. The GREF Unit has been continuously occupying the land at Likabali since early sixties. As per intimation of Deputy Commissioner, the land value of Rs.7,79,445/- was paid on 25.03.2008. While issuing LPC to petitioners the GREF were not informed. The SDO illegally issued the LPCs and therefore, Addl. Deputy Commissioner, Basar, initiated action and cancelled the LPCs issued in favour of the petitioners. The plot of land allotted to the petitioner is still in possession

of BRTF Likabali Unit is with barbed wire fencing and MIBT Building of BRTF Organisation.

6 Learned counsel for the petitioners has tried to impress the court that the land allotment certificate in favour of the petitioners was cancelled on the basis of complaint. The most intriguing fact is that the cancellation order was passed on 25-10-2010 whereas the complaint was lodged on 01-11-2010. The enquiry was conducted on 04-11-2010 of which report was submitted on 11-11-2010.

7. It appears from Para No.2 of the report dated 11th November, 2010 (Annexure-VI to the petition), the Assistant Director, Subsidiary Intelligence Bureau (MH), Govt. of India, Dibrugarh, lodged a complaint dated 19th August, 2010 against the issuance of Land Possession Certificate to Sri Rimi Taipodia within the allotted land of Subsidiary Intelligence Bureau and it was found that a plot of land measuring 33,986.40 square metres area allotted to SSB vide Deputy Commissioner, Aalo, order dated 30-11-1987 and the land was formally

handed over to Subsidiary Intelligence Bureau (SIB) on 05-01-2005 as per the order of the Govt. of India.

8. On physical verification conducted on 6th October, 2010, it was found that a Land Possession Certificate measuring 2878 square metres was issued to Rimi Taipodia, which falls within the land area earlier allotted to SIB post at Likabali. The land was under barbed wire fencing of SIB Likabali. The issue of Land Possession Certificate to private individual over the Govt. allotted land was not legal. The SDO, Likabali was not competent authority to transfer the land or hand over the land to a private individual without Government approval. No notice was served either to BRTF or to SIB authority to file claim or objection against the issuance of Land Possession Certificate.

9. The petitioners have simply filed the Land Possession Certificates issued in their favour by the SDO, Likabali. From the affidavit-in-opposition as well as from the enquiry report (Annexure-VI), it appears that no notice was even served to BRTF and SIB authority.

10. From the order dated 15th February, 2011 passed by the Commissioner, Land Management Department, Govt. of Arunachal Pradesh, it appears that 1,55,889 square metres of land was allotted to BRTF whereas BRTF are in occupation of 1,89,819 square metres of land. The SDO, Likabali was directed to re-survey the entire area in occupation of BRTF authority and make recommendation for allotment of additional land to them. From the said order itself, it transpires that the BRTF occupied the entire area and since 1960 they are in occupation.

11. From the careful scrutiny of all documents submitted by the parties, it appears that LPCs in favour of the petitioners were issued without proper verification and without observing the procedure laid down by law. The petitioners could not prove that for the establishment of Likabali Township, the land was donated by their ancestors. The land for which LPCs were issued in favour of the petitioners are under the physical occupation of BRTF. The said land is within barbed fencing area of BRTF. The land was already in possession of BRTF. The then,

SDO, Likabali without proper verification and without intimation to the BRTF and SIB, issued the Land Possession Certificates. The illegality when came to the notice of respondents, the allotment issued in favour of petitioners was cancelled vide the impugned order.

12. The petitioners cannot claim that wrong done in their favour to be allowed to be continued. The issuance of LPCs in favour of the petitioners cannot confer their title over the land.

13. In view of the above, this writ petition filed by the petitioners is devoid of merit and accordingly, the same stands dismissed.

14. There shall be no order as to cost.

JUDGE