VERDICTUM.IN

CNR No. SKHC010000922023

THE HIGH COURT OF SIKKIM: GANGTOK
(Civil Extra Ordinary Jurisdiction)

SINGLE BENCH : THE HON'BLE MR. JUSTICE A. MUHAMED MUSTAQUE, CHIEF JUSTICE

WP(C) No.28 of 2023

1. Union of India,
Through the Secretary,
Ministry of Defence,
Government of India,
South Block,
New Delhi – 110001.

2. The Director General,
Defence Estates,
Government of India,
Ministry of Defence,
Raksha Sampada Bhawan,
Ulaanbaatar Marg,
Delhi Cantonment – 110010.

3. The Principal Director,
Defence Estates,
Government of India,
Ministry of Defence,
Eastern Command,
Belvedere Road, Alipore,
Kolkata – 700027.

4. The Defence Estate Officer,
Office of Defence Estate Officer,
Siliguri Circle, Sevoke Road,
Siliguri – 734 001.

5. The Commandant,
HQ 112 Mtn. Brigade,
Pin – 908112,
C/O – 99 Apo. … **Petitioners**

versus

1. State of Sikkim,
Through the Chief Secretary,
Tashiling Secretariat,
Government of Sikkim,
Gangtok – 737101.

2. The Secretary,
Land Revenue and Disaster Management Department,
Tashiling Secretariat,
Government of Sikkim,
Gangtok – 737101.

VERDICTUM.IN

3. The District Collector,
Office of the District Collectorate,
Mangan District,
Pin – 737116, Sikkim.

4. The Sub-Divisional Magistrate,
Chungthang Sub-Division,
Mangan District,
Pin – 737120, Sikkim.

5. Zangpo Bhutia,
S/o Late Samohey Bhutia,
R/o Sharchok, Lachung,
Mangan District,
Pin – 737120, Sikkim.

6. Tempo Bhutia,
S/o Late Joreden Bhutia,
R/o Dogra, Lachung,
Mangan District,
Pin – 737120, Sikkim.

7. Pema Norbu Bhutia,
S/o Late Tenzing Bhutia,
R/o Sakumeh Lachung,
Mangan District,
Pin – 737120, Sikkim.

8. Taychíng Bhutia,
S/o Late Sangay Bhutia,
R/o Singring, Lachung,
Mangan District,
Pin – 737120, Sikkim.

9. Ningay Bhutia,
S/o Late Kunzang Namgay Bhutia,
R/o Bichu, Lachung,
Mangan District,
Pin – 737120, Sikkim.

10. Dorjee Kesang Bhutia,
S/o Dogay Bhutia,
R/o Bichu, Lachung,
Mangan District,
Pin – 737120, Sikkim.

11. Chozing Lachungpa,
S/o Late Nakching Lachungpa,
R/o Sakumeh, Lachung,
Mangan District,
Pin – 737120, Sikkim.

12. Tshering Lhamu Bhutia,
W/o Lakpa Thendup Bhutia,
R/o Sakumeh, Lachung,
Mangan District, Pin – 737120, Sikkim.

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13. Lendup Bhutia,
S/o Late Dawa Bhutia,
R/o Singring, Lachung,
Mangan District,
Pin – 737120, Sikkim.

14. Enchungla Bhutia,
S/o Late Dorjee Tshering Bhutia,
R/o Singring, Lachung,
Mangan District,
Pin – 737120, Sikkim.

15. Chokkyong Lachungpa,
S/o Late Sangdor Bhutia,
R/o Singring, Lachung,
Mangan District,
Pin – 737120, Sikkim.

16. Lakpa Bhutia,
S/o Thendup Bhutia,
R/o Thomchi, Lachung,
Mangan District,
Pin – 737120, Sikkim.

17. Koksi Lhamu Bhutia,
D/o Lomdan Bhutia,
R/o Singring, Lachung,
Mangan District,
Pin – 737120, Sikkim.

18. Dichen Bhutia,
W/o Late Sonam Chuzor Bhutia,
R/o Bichu, Lachung,
Mangan District,
Pin – 737120, Sikkim.

19. Kunga Bhutia,
S/o Late Tenzing Bhutia,
R/o Lachung,
Mangan District,
Pin – 737120, Sikkim.

20. Sonam Tshering Bhutia,
S/o Late Loday Bhutia,
R/o Lachung,
Mangan District,
Pin – 737120, Sikkim.

21. Lakpa Tshering Bhutia,
S/o Late Tashi Ongdi Lachungpa,
R/o Lachung,
Mangan District,
Pin – 737120, Sikkim.

22. Kessang Tshering Bhutia,
S/o Late Lakpa Gyalsen Bhutia,
R/o Bichu, Lachung,
Mangan District,
Pin – 737120, Sikkim.

23. Pema Tsetan Lachungpa,
S/o Late Loday Gyatso Lachungpa,
R/o Bichu, Lachung,
Mangan District,
Pin – 737120, Sikkim.

24. Zomden Lhamu Lachungpa,
W/o Gachuk Tshering Lachungpa,
R/o Bichu, Lachung,
Mangan District,
Pin – 737120, Sikkim.

25. Gachuk Tshering Lachungpa,
S/o Late Chewang Norbu Lachungpa,
R/o Bichu, Lachung,
Mangan District,
Pin – 737120, Sikkim.

26. Samten Lachungpa,
S/o Phuchung Lachungpa,
R/o Singring, Lachung,
Mangan District,
Pin – 737120, Sikkim.

27. Kumphel Dorjee,
S/o Passang Namgay,
R/o Bichu, Lachung,
Mangan District,
Pin – 737120, Sikkim.

28. Kessang Jigmee Bhutia,
S/o Temphay Bhutia,
R/o Phaka, Lachung,
Mangan District,
Pin – 737120, Sikkim.

29. Zigmee Ongay Bhutia,
S/o Late Chewang Norbu Bhutia,
R/o Bichu, Lachung,
Mangan District,
Pin – 737120, Sikkim.

30. Pachen Ongmu Bhutia,
W/o Late Nenda Bhutia,
R/o Thomchi, Lachung,
Mangan District,
Pin – 737120, Sikkim.

31. Tamding Chewang Bhutia,
S/o Late Kunga Bhutia,
R/o Phaka, Lachung,
Mangan District,
Pin – 737120, Sikkim.

32. Nima Gyalsten Bhutia and Dawa Singhi Bhutia,
S/o Late Chipen Bhutia,
R/o Sakumeh, Lachung,
Mangan District,
Pin – 737120, Sikkim.

33. Kessang Doma Bhutia,
D/o Neydo Bhutia,
R/o Singring, Lachung,
Mangan District,
Pin – 737120, Sikkim.

34. Norbu Bhutia,
S/o Zangpo Bhutia,
R/o Leema, Lachung,
Mangan District,
Pin – 737120, Sikkim.

35. Thuten Bhutia,
S/o Chongpen Dawa Bhutia,
R/o Bichu, Lachung,
Mangan District,
Pin – 737120, Sikkim.

36. Pema Choden Bhutia,
D/o Late Nawang Gyatso Bhutia,
R/o Sharchok, Lachung,
Mangan District,
Pin – 737120, Sikkim.

37. Pema Tenzing Bhutia,
S/o Palden Dorjee Bhutia,
R/o Bichu, Lachung,
Mangan District,
Pin – 737120, Sikkim.

38. Nethup Bhutia,
S/o Late Ching Dorjee Bhutia,
R/o Phaka, Lachung,
Mangan District,
Pin – 737120, Sikkim.

39. Sona Choden Bhutia,
D/o Leda Bhutia,
R/o Dogra, Lachung,
Mangan District,
Pin – 737120, Sikkim.

40. Norbu Zangpo Bhutia,
S/o Chewang Bhutia,
R/o Bichu, Lachung,
Mangan District,
Pin – 737120, Sikkim.

41. Karma Loday Lachungpa,
S/o Chetim Norbu Lachungpa,
R/o Phaka, Lachung,
Mangan District,
Pin – 737120, Sikkim.

42. Thakchay Bhutia,
W/o Pema Dorjee Bhutia,
R/o Thomchi, Lachung,
Mangan District,
Pin – 737120, Sikkim.

43. Chundi Tharchen Bhutia,
S/o Chopay Lhamu Bhutia,
R/o Phaka, Lachung,
Mangan District,
Pin – 737120, Sikkim.

44. Paki Bhutia,
D/o Late Rinzing Bhutia,
R/o Bichu, Lachung,
Mangan District,
Pin – 737120, Sikkim.

45. Hangu Bhutia,
S/o Zamboo Lachungpa,
R/o Bichu, Lachung,
Mangan District,
Pin – 737120, Sikkim.

46. Dawa Thendup Bhutia,
Tashi Ongyal Bhutia & Sonam Topgay Bhutia,
S/o Lendup Bhutia,
R/o Sharchok, Lachung,
Mangan District,
Pin – 737120, Sikkim.

47. Gatuk Bhutia,
S/o Chuzor Bhutia,
R/o Bichu, Lachung,
Mangan District,
Pin – 737120, Sikkim.

48. Chundi Lachungpa,
S/o Kunchok Bhutia,
R/o Leema, Lachung,
Mangan District,
Pin – 737120, Sikkim.

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49. Norgay Bhutia,
S/o Lakpa Lama,
R/o Dogra, Lachung,
Mangan District,
Pin – 737120, Sikkim.

50. Kunzang Norbu Bhutia,
S/o Losay Bhutia,
R/o Bichu, Lachung,
Mangan District,
Pin – 737120, Sikkim.

51. Dawa Tshering Bhutia,
S/o Dorjee Memba Bhutia,
R/o Dogra, Lachung,
Mangan District,
Pin – 737120, Sikkim.

52. Langdol Bhutia,
S/o Nidup Tshering Bhutia,
R/o Bichu, Lachung,
Mangan District,
Pin – 737120, Sikkim.

53. Tashi Pema Bhutia,
D/o Lakpa Tshering Bhutia,
R/o Lachung,
Mangan District,
Pin – 737120, Sikkim.

54. Tashi Topgay Bhutia,
S/o Thenduk Bhutia,
R/o Lachung,
Mangan District,
Pin – 737120, Sikkim.

55. Tshering Ongday,
S/o Pintso Bhutia,
R/o Sakumeh, Lachung,
Mangan District,
Pin – 737120, Sikkim.

56. Tshering Ongday,
S/o Pintso Bhutia,
R/o Singring, Lachung,
Mangan District,
Pin – 737120, Sikkim.

57. Gyenchen Bhutia,
S/o Tshering Ongdey Bhutia,
R/o Chungthang,
Mangan District,
Pin – 737120, Sikkim.

58. Nima Ongdi Bhutia,
S/o Tashi Ongdi Bhutia,
R/o Singring, Lachung,
Mangan District,
Pin – 737120, Sikkim.

59. Mindu Tshering Bhutia,
S/o Tashi Ongdi Bhutia,
R/o Singring, Lachung,
Mangan District,
Pin – 737120, Sikkim.

60. Yanku Tashi Bhutia,
S/o Late Dorjee Damdi Bhutia,
R/o Bichu, Lachung,
Mangan District, Sikkim
Pin – 737120, Sikkim.

61. Chungda Nima Lachungpa,
S/o Tenzing Hishey Lachungpa,
R/o Bichu, Lachung,
Mangan District,
Pin – 737120, Sikkim.

62. Norbu Bhutia,
S/o Nedup Tshering Bhutia,
R/o Bichu, Lachung,
Mangan District,
Pin – 737120, Sikkim.

63. Thupden Lachungpa,
S/o Ningay Lachungpa,
R/o Bichu, Lachung,
Mangan District,
Pin – 737120, Sikkim.

64. Passang Norzing Bhutia,
D/o Late Tenzing Bhutia,
R/o Singhik,
Mangan District,
Pin – 737116, Sikkim.

65. Thargay Bhutia,
S/o Late Gong Dadul Bhutia,
R/o Bichu, Lachung,
Mangan District,
Pin – 737120, Sikkim.

66. Zamyang Bhutia,
S/o Thendup Tshering Lachungpa,
R/o Bichu, Lachung,
Mangan District,
Pin – 737120, Sikkim.

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67. Dowang Wangchuk Bhutia,
S/o Thendup Wangchuk Bhutia,
R/o Bichu, Lachung,
Mangan District,
Pin – 737120, Sikkim.

68. Nedup Bhutia,
S/o Pempa Gokey Bhutia,
R/o Bichu, Lachung,
Mangan District,
Pin – 737120, Sikkim.

69. Tenzing Gyalsten Lachungpa,
S/o Tshering Thendup Lachungpa,
R/o Sharchok, Lachung,
Mangan District,
Pin – 737120, Sikkim.

70. Samching Lachungpa,
S/o Cho Topgay Lachungpa,
R/o Lachung,
Mangan District,
Pin – 737120, Sikkim.

71. Kunzang Zigmee,
S/o Namgyal Ongdi Bhutia,
R/o Sharchok, Lachung,
Mangan District,
Pin – 737120, Sikkim.

72. Lakpa Bhutia,
S/o Phenday Bhutia,
R/o Lachung,
Mangan District,
Pin – 737120, Sikkim.

73. Bhaichung Bhutia,
S/o Phumden Bhutia,
R/o Sharchok, Lachung,
Mangan District,
Pin – 737120, Sikkim.

74. Karma Lachungpa,
S/o Late Sakkya Lachungpa,
R/o Bichu, Lachung,
Mangan District,
Pin – 737120, Sikkim.

75. Chewang Kunley Lachungpa,
S/o Pintso Bhutia,
R/o Phaka, Lachung,
Mangan District,
Pin – 737120, Sikkim.

76. Ching Phuti Lachungpa,
W/o Klawa Sherap Lachungpa,
R/o Lachung,
Mangan District,
Pin – 737120, Sikkim.

77. Doma Lachungpa,
D/o Pempa Gokey Bhutia,
R/o Thomchi, Lachung,
Mangan District,
Pin – 737120, Sikkim.

78. Ongay Lachungpa,
S/o Pemgay Lachungpa,
R/o Lachung,
Mangan District,
Pin – 737120, Sikkim.

79. Tashi Pejo Bhutia,
S/o Pema Tenzing Lachungpa,
R/o Sharchok, Lachung,
Mangan District,
Pin – 737120, Sikkim.

80. K. John Lachungpa,
S/o Late Kunden Lachungpa,
R/o Bichu, Lachung,
Mangan District,
Pin – 737120, Sikkim.

81. Kunzang Lachungpa,
S/o Tenzing Lachungpa,
R/o Sakumeh, Lachung,
Mangan District,
Pin – 737120, Sikkim.

82. Ongay Lachungpa,
S/o Karma Lachungpa,
R/o Phaka, Lachung,
Mangan District,
Pin – 737120, Sikkim.

83. Sonam Rapden Lachungpa,
S/o Nenda Lachungpa,
R/o Phaka, Lachung,
Mangan District,
Pin – 737120, Sikkim.

84. Chewang Rinzing Bhutia,
S/o Jorbu Bhutia,
R/o Sharchok, Lachung,
Mangan District,
Pin – 737120, Sikkim.

VERDICTUM.IN

85. Dorjee Lachungpa,
S/o Sonam Gyantsen Lachungpa,
R/o Singring, Lachung,
Mangan District,
Pin – 737120, Sikkim.

86. Kunzang Norbu and Dorjee Lachungpa,
S/o Late Sonam Gyantsen Lachungpa,
R/o Lachung,
Mangan District,
Pin – 737120, Sikkim.

87. Tashi Gyaltsen Lachungpa,
S/o Champa Lachungpa,
R/o Lachung,
Mangan District,
Pin – 737120, Sikkim.

88. Tenzing Gyatso Lachungpa,
S/o Tashi Ongdi Lachungpa,
R/o Lachung,
Mangan District,
Pin – 737120, Sikkim.

89. Ganden Lachungpa,
S/o Jorgay Kinga Lachungpa,
R/o Lower Sichey,
Gangtok District,
Pin – 737101, Sikkim.

90. Nima Bhutia,
S/o Jorbu Bhutia,
R/o Dogra, Lachung,
Mangan District,
Pin – 737120, Sikkim.

91. Hissey Dorjee Bhutia,
S/o Nenda Bhutia,
R/o Thomchi, Lachung,
Mangan District,
Pin – 737120, Sikkim.

92. Karma Bhutia,
S/o Chopel Bhutia,
R/o Phaka, Lachung,
Mangan District,
Pin – 737120, Sikkim.

93. Tshering Ongmu Bhutia,
D/o Late Namdol Bhutia,
R/o Chungthang,
Mangan District,
Pin – 737120, Sikkim.

VERDICTUM.IN

94. Tseten Norbu Bhutia,
S/o Tamding Ongay Bhutia,
R/o Sharchok, Lachung,
Mangan District,
Pin – 737120, Sikkim.

95. Chimik Lachungpa,
S/o Late Taching Lachungpa,
R/o Singring, Lachung,
Mangan District,
Pin – 737120, Sikkim.

96. Donka Bhutia,
D/o Singhi Bata Lachungpa,
R/o Phaka, Lachung,
Mangan District,
Pin – 737120, Sikkim.

97. Phurbu Bhutia,
S/o Palkey Bhutia,
R/o Phaka, Lachung,
Mangan District,
Pin – 737120, Sikkim.

98. Rinchen Lachungpa,
S/o Zangpo Lachungpa,
R/o Sharchok, Lachung,
Mangan District,
Pin – 737120, Sikkim.

99. Tashi Thendup Bhutia,
S/o Phurbu Bhutia,
R/o Lachung,
Mangan District,
Pin – 737120, Sikkim.

100. Choden Bhutia,
D/o Kessang Chewang Bhutia,
R/o Lachung,
Mangan District,
Pin – 737120, Sikkim.

101. Palzing Bhutia,
S/o K. Jhon Bhutia,
R/o Sharchok, Lachung,
Mangan District,
Pin – 737120, Sikkim.

102. Hookching Bhutia,
S/o Late Chu Bhutia,
R/o Singring, Lachung,
Mangan District,
Pin – 737120, Sikkim.

VERDICTUM.IN

103. Pema Ongda Bhutia,
S/o Losay Bhutia,
R/o Sharchok, Lachung,
Mangan District,
Pin – 737120, Sikkim.

104. Samden Bhutia,
S/o Panden Bhutia,
R/o Singring, Lachung,
Mangan District,
Pin – 737120, Sikkim.

105. Lozang Hishey Bhutia,
S/o Chuzor Bhutia,
R/o Phaka, Lachung,
Mangan District,
Pin – 737120, Sikkim.

106. Pempa Dorjee Lachungpa,
S/o Dechen Lachungpa,
R/o Bichu, Lachung,
Mangan District,
Pin – 737120, Sikkim.

107. Keem Bhutia,
D/o Ongdi Gaypi Bhutia,
R/o Singring, Lachung,
Mangan District,
Pin – 737120, Sikkim.

108. Hissey Lachungpa,
S/o Tharchok Lachungpa,
R/o Bichu, Lachung,
Mangan District,
Pin – 737120, Sikkim.

109. Nima Lhamu Bhutia,
D/o Dorjee Lachungpa,
R/o Lachung,
Mangan District,
Pin – 737120, Sikkim.

110. Dawa Tashi Lachungpa,
S/o Tashi Lachungpa,
R/o Dogra, Lachung,
Mangan District,
Pin – 737120, Sikkim.

111. Pema Lachungpa,
S/o Thendup Lachungpa,
R/o Lachung,
Mangan District,
Pin – 737120, Sikkim.

112. Takki Bhutia,
W/o Sonam Wongchuk Bhutia,
R/o Singhik, Lachung,
Mangan District,
Pin – 737116, Sikkim.

113. Chenga Pintso Lachungpa,
S/o Sonam Lachungpa,
R/o Bichu, Lachung,
Mangan District,
Pin – 737120, Sikkim.

114. Pema Lachungpa,
S/o Tenden Lachungpa,
R/o Lachung,
Mangan District,
Pin – 737120, Sikkim.

115. Chewang Thenden Bhutia,
Kuki Bhutia and Tshering Chomu Bhutia,
S/o Pen Dorjee, D/o Pen Dorjee,
S/o Lozang Bhutia,
R/o Bichu, Lachung,
Mangan District,
Pin – 737120, Sikkim.

116. Denden Bhutia,
W/o Late Tshering Lama Bhutia,
R/o Phaka, Lachung,
Mangan District,
Pin – 737120, Sikkim.

117. Dabla Lachungpa,
S/o Serap Tenzing Lachungpa,
R/o Sharchok, Lachung,
Mangan District,
Pin – 737120, Sikkim.

118. Rangdol Bhutia,
S/o Namgay Bhutia,
R/o Bichu, Lachung,
Mangan District,
Pin – 737120, Sikkim.

119. Thentok Tshering Lachungpa,
S/o Kundup Lachungpa,
R/o Upper Sichey,
Gangtok District,
Pin – 737101, Sikkim.

120. Nindey Lachungpa,
S/o Ching Dadul Lachungpa,
R/o Lachung,
Mangan District,
Pin – 737120, Sikkim.

121. Norgay Lachungpa,
S/o Late Tenden Lachungpa,
R/o Dogra, Lachung,
Mangan District,
Pin – 737120, Sikkim.

122. Tshering Ongdi Lachungpa,
S/o Sonam Lachungpa,
R/o Lachung,
Mangan District,
Pin – 737120, Sikkim.

123. Palden Lachungpa,
S/o Late Tshering Lama,
R/o Sharchok, Lachung,
Mangan District,
Pin – 737120, Sikkim.

124. Dorjee Chewang Bhutia,
S/o Tamding Bhutia,
R/o Singring, Lachung,
Mangan District,
Pin – 737120, Sikkim.

125. Kina Bhutia,
S/o Nindu Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

126. Sonam Gyaentsen Bhutia,
S/o Late Ninda Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

127. Cho Rajbor Bhutia,
S/o Late Wangchuk Palden Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

128. Rangnu Bhutia,
S/o Thinlay Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

129. Tuezang Bhutia,
S/o Yongrup Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

130. Tharkang Lachungpa,
S/o Late Ganden Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

131. Suki Lachenpa,
S/o Late Akhaya Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

132. Tshering Yangzom Bhutia,
D/o Yakub Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

133. Engla Bhutia,
S/o Chyogen Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

134. Youber Bhutia,
S/o Late Yangdup Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

135. Shezang Lachenpa,
S/o Late Rewang Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

136. Hishey Namgyal Lachenpa,
S/o Late Tawang Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

137. Palzor Lachenpa,
S/o Late Kyaden Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

138. Boom Lachenpa,
S/o Late Anu Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

139. Gelay Bhutia,
S/o Khalp Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

140. Kessang Bhutia,
S/o Tenten Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

141. Norchen Lachenpa,
S/o Late Dota Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

142. Thugay Lachenpa,
S/o Late Kadup Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

143. Ugen Tenzing Bhutia,
S/o Late Gyaching Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

144. Cherpa Bhutia,
S/o Lakchung Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

145. Goan Sanchayat,
Pipon Lachen,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

146. Anil Lachenpa,
S/o Dhosum Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

147. Palzor Bhutia,
S/o Thenden Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

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148. Nima Tshering Bhutia,
S/o Gyabo Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

149. Nawang Tenzing Bhutia,
S/o Late Major Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

150. Sangchok Lachenpa,
S/o Late Kugo Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

151. Thupden Lachenpa,
S/o Late Thisung Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

152. Longchok Bhutia,
S/o Youhana Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

153. Lozang Bhutia,
S/o Chodup Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

154. Chodup Bhutia,
S/o Kuncho,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

155. Phutuk Bhutia,
S/o Late Tshering Thendup Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

156. Chingku Bhutia,
S/o Sasum Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

157. Gyalpo Bhutia,
S/o Pemba Bhutia,
R/o Chaten, Lachen,
Mangan District,
Pin – 737120, Sikkim.

158. Sonam Dadul Bhutia,
S/o Tashi Kumphel Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

159. Chongay Bhutia,
S/o Hapo Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

160. Huti Bhutia,
S/o Genden Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

161. Sonam Gyatso Bhutia,
S/o Dupden Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

162. Chewang Thendup Bhutia,
S/o Late Dogyal Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

163. Thitup Namgyal Bhutia,
S/o Nima Gyantsen,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

164. Sonam Gyaltsen Lachenpa,
S/o Late Ninda Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

165. Khandu Bhutia,
D/o Topden Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

166. Kunthup Dawa Bhutia,
S/o Mika Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

167. Jula Bhutia,
S/o Late Gopa Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

168. Gatuk Bhutia,
S/o Leemak Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

169. Pema Chorap Bhutia,
S/o Atop Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

170. Zangrup Bhutia,
S/o Thatuk Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

171. Kulu Bhutia,
S/o Needup Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

172. Chung Lhamu Bhutia,
W/o Late Emi Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

173. Topjor Bhutia,
S/o Dotam Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

174. Billi Bhutia,
S/o Nola Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

175. Zamyang Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

176. Rinzing Chewang Lachenpa,
S/o Late Rinzing Namgyal Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

177. Gatuk Lachenpa,
S/o Late Limak Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

178. Tamding Bhutia,
S/o Late Tamki Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

179. Daju Bhutia,
S/o Tamding Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

180. Ongdup Lachenpa,
S/o Late Samjor Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

181. Topjor Bhutia,
S/o Tshering Pintso Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

182. Pal Dorjee Lachenpa,
S/o Late Norching Bhutia,
R/o Lachen,
Mangan District, Pin – 737120, Sikkim.

183. Thitup Lachenpa,
S/o Late Kalay Bhutia,
R/o Lachen, Mangan District,
Pin – 737120, Sikkim.

184. Pema Chorab Lachenpa,
S/o Late Kumphel Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

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185. Thakur Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

186. Mondal Bhutia,
S/o Maila Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

187. Tshering Wangdi Lachenpa
S/o Late Thatuk Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

188. Dukda Lachenpa,
S/o Late Norden Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

189. Balay Bhutia,
S/o Thamik Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

190. Thitup Lachenpa,
S/o Late Doting Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

191. Dichen Bhutia,
S/o Pariko Bhutia,
R/o Lachen, Mangan District,
Pin – 737120, Sikkim.

192. Changba Bhutia,
S/o Chuzila Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

193. Kassang Lachenpa,
S/o Late Palden Bhutia,
R/o Lachen, Mangan District,
Pin – 737120, Sikkim.

194. Bandhu Bhutia,
S/o Late Gopa Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

195. Gyami Bhutia,
S/o Sepuko Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

196. Rikpa Bhutia,
S/o Topchen Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

197. Tshering Dorjee Lachenpa,
S/o Late Pempa Ragu Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

198. Dula Palden Bhutia,
S/o Norden Bhutia,
R/o Lachen,
Mangan District,
Pin – 737120, Sikkim.

199. Palden Lepcha,
S/o Late Topgay Lepcha,
R/o Pegong, Chungthang,
Mangan District,
Pin – 737120, Sikkim.

200. Samten Lepcha,
S/o Late Topgay Lepcha,
R/o Choten, Chungthang,
Mangan District,
Pin – 737120, Sikkim.

201. Phuchung Lepcha,
S/o Late Tshering Lepcha,
R/o Pegong, Chungthang,
Mangan District,
Pin – 737120, Sikkim.

202. Pemba Lepcha,
S/o Chinbo Lepcha,
R/o Pegong, Chungthang,
Mangan District,
Pin – 737120, Sikkim.

203. Tashi Lepcha,
S/o Angay Lepcha,
R/o Pegong, Chungthang,
Mangan District,
Pin – 737120, Sikkim.

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204. Norzang Lepcha,
S/o Dukden Lepcha,
R/o Pegong, Chungthang,
Mangan District,
Pin – 737120, Sikkim.

205. Dukpa Lepcha,
S/o Sambuk Lepcha,
R/o Chungthang,
Mangan District,
Pin – 737120, Sikkim.

206. Sonam Palden Bhutia,
S/o Yougay Bhutia,
R/o Pegong, Chungthang,
Mangan District,
Pin – 737120, Sikkim.

207. Doma Lepcha,
W/o Late Thendup Lepcha,
R/o Chungthang,
Mangan District,
Pin – 737120, Sikkim.

208. Pembo Lepcha,
S/o Chinbo Lepcha,
R/o Pegong, Chungthang,
Mangan District,
Pin – 737120, Sikkim.

209. Zeerung Lepcha,
W/o Chuzang Lepcha,
R/o Bop, Chungthang,
Mangan District,
Pin – 737120, Sikkim. … **Respondents**

Petition under Articles 226 and 227 of the Constitution of India

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Appearance:

Mr. S. D. Sanjay, Senior Advocate (through VC) with Ms. Sangita Pradhan, Deputy Solicitor General of India, Ms. Sittal Balmiki and Mr. Amit Kumar Sharma, Advocates for the Petitioner.

Mr. Zangpo Sherpa, Additional Advocate General with Mr. S. K. Chettri, Government Advocate, Mr. Sujan Sunwar, Assistant Government Advocate and Mr. Mohan Sharma, Advocate for the Respondent Nos.1 to 4.
Mr. Sudesh Joshi, Senior Advocate with Mr. Sourav Singh and Mr. Adarsh Gurung, Advocate for the Respondent Nos.5 to 209.

Judgment Reserved on : 15.10.2026
Judgment Pronounced on : 29.10.2026
Judgment Uploaded on : 29.10.2026

JUDGMENT

(A. Muhamed Mustaque, C.J.)

1. The Union Government, along with Defence Estate Officer under the Ministry of Defence of the Government of India, approached this Court with a Writ Petition challenging an Award passed under section 23 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the "LA Act, 2013") by the District Collector of Mangan District, Government of Sikkim.

2. The Indian Army, Ministry of Defence, Government of India, proposed to acquire land covering a total of 102.1189 hectares located in the revenue blocks of Lachen, Lachung and Chungthang, Mangan District, Sikkim. These revenue blocks form a part of the high-altitude Himalayas in India, known for its snow peaks, glacial lakes and vibrant valleys.

3. The Indian Army proposed to acquire the land for the purpose of Construction of a Key Location Places, as it is located close to the international border. The area comes under the restricted and protected zone. Those places are commercially important from the standpoint of tourism but for the restrictions imposed on the use of land, resulting in no transactions, so as to adopt the method of mode of calculation as prescribed under Section 26(1) of the LA Act, 2013.

4. The question in this case, in fact, arises in peculiar circumstances where an Award was passed by the Collector, apparently placing reliance on Section 26(3) of the LA Act, 2013, which permits passing an Award based on the minimum price per unit fixed by the State Government. Thereafter, the Award was passed on 18.01.2023, fixing total compensation at ₹ 564,96,79,834/-.

5. The process of acquisition appears to have been started as early as in the year 2016. As seen from Annexure-P2, dated 19.03.2018, the Collector of Mangan District intimated the Defence Estate Officer about the tentative cost of the land. The tentative market value of the land calculated as per this communication was ₹ 240,22,36,915/-, based on a calculation of ₹ 58.98 per sq. ft. Based on the tentative cost, a proposal for the acquisition was made by the Army after obtaining necessary permission from the Hon'ble President of India. Based on sanction, the preliminary Notification under Section 11(1) of the L.A. Act, 2013, was published on 17.08.2021. It appears that the Collector had fixed the market value of the land at the rate of ₹ 65/- per sq. ft. while issuing the preliminary Notification. Based on this calculation, the Union Government deposited ₹ 230,13,06,465/-. The Union Government apparently had no objection to the tentative cost fixed at the rate of ₹ 65/- per sq. ft.

6. The Collector thereafter, on 02.08.2022, intimated the Defence Estate Officer that he proposed to re-examine the fair compensation. This was in the light of the Notification of the Energy and Power Department, Government of Sikkim, issued on 04.12.2017, where the rate was fixed at ₹ 300/- per sq. ft.

7. As seen from the various communications, land-owners made representations to the Governor of Sikkim as well as the Chief Minister of Sikkim for their intervention for fixing a fair price. Taking account of such intervention as well as the Notification as above, the Collector seems to have negotiated with the land-owners and fixed the rate at ₹ 150/- per sq. ft. This was also approved by the State Government. Accordingly, the Collector intimated the Defence Estate Officer to deposit an additional amount of ₹ 3,34,83,73,369/-.

8. This Court also notes that the Government is also actively involved in this process. The Commissioner-cum-Secretary, Land Revenue & Disaster Management Department, Government of Sikkim, fixed ₹ 150/- per sq. ft. in the note dated 25.05.2022, and this was approved by the Hon'ble Minister concerned as well as the Hon'ble Chief Minister but nothing is seen as an order of the Government.

9. The Defence Estate Officer, on 18.08.2022, requested the Collector to reconsider the decision and to furnish the circle rate/three years sale purchase data of the three blocks concerned. As seen from the communication issued on 07.09.2022, the Defence Estate Officer again requested the Collector to furnish the circle rate or details of three years' sale and purchase data of the area. A follow-up communication to furnish circle rates is also seen on 06.10.2022 as well as on 02.11.2022.

10. On 15.09.2022, the Principal Director, Defence Estates, Eastern Command, Kolkata, set out detailed objections as to the revised calculation proposed by the Collector. It is appropriate to refer to paragraph 7:

> "....
> 7. In this connection kind attention is also drawn towards Govt. of Sikkim notification No. 260 dated 07.05.2018 wherein Block rates of land notified for Chungthang Circle varying from Rs.51/- per sq.ft. to Rs. 61/- per sq.ft. In line of these rates DM Mangan has the conveyed the land value amounting to Rs. 235,97,56,470/- and the same has been paid by DEO Siliguri to State Govt. Now the rates have been revised by DM Mangan @ Rs. 65/- per sq. ft. which will lead to acquisition cost of Rs. 258,04,40,102/- and based on the total cost of acquisition per sq.ft. estimated value of land to be paid to the land owners is approx. Rs. 230/- per sq.ft. Therefore the statement that Rs. 65/- per sq.ft. found too low as compared to rate fixed by Power Grid @ Rs. 300/- is not justified and not relevant here. Further it is also submitted that as per revised rates @ Rs. 150/- sq.ft., total amount arrived by DM Mangan is Rs. 600,46,50,925/- for the notified land i.e. 102.7859 hectares which will actually cost the Deptt. the rate of Rs. 542.92 per sq. ft. which is much higher than the notified rates i.e. eight times the notified rates and the same are much higher than, what has been fixed by Power Grid.
> ....."

It is also appropriate to refer to paragraph 9:

> "..... 9. From the above, following facts has been emerged: (a) Land rates fixed by state Govt. is without any supportive justifiable reasons/analysis.
>
> (b) As per RACTLARR 2013 land rates are to be fixed by the concerned Collector after following due process as specified U/S 26 for determination of land value by the collector therefore fixation of rates by Govt. itself is arbitrary.
>
> (c) Rates fixed by Power Grid is Rs 300/- per sq.ft., whereas rates fixed for the Defence Deptt. is actually costing the Defence Deptt. Rs. 542.92/- sq.ft. Even though Power Grid is commercial body whereas Defence Deptt. is serving in the interest of nation.
>
> (d) Due to arbitrary Rates fixed by the state Govt. a huge burden i.e. approx. 342.0 Crore in excess to the Defence Deptt. than what has been arrived by Collector @ Rs. 65/- per sq.ft. during 2022 itself.
>
> (d) It is also pointed out that during 2018, rates fixed by Collector was Rs. 58/- per Sq.ft. whereas after publication U/S 11 of RFCTLARR rates was fixed @ Rs. 65/- and now in contrary to the procedure laid down U/S 26 of RFCTLARR 2013 rates fixed by Collector has been revised by the State Govt. @ Rs. 150/ per sq.ft. without any basis.
>
> (e) As the subject land is under hiring of Defence Deptt. from the past 50 years therefore cost of immovable properties may be excluded.
> ....."

11. The Collector, on 01.12.2022, issued a clarification with reference to the letter dated 12.09.2022 issued by the Defence Estate Officer. It is appropriate to refer to the reasons for justification of the revised rates as referred to in his communication:

> "..... 4. The rate was increased based on the justification which are as under-
>
> a. The entire region being inhabited by Scheduled Tribes and protected under Notification No. 3069/O.S dated: 24th March 1958 (old laws read with Article 371(f) of the constitution of India) which prohibits any outsider to occupy land in the those areas in order to protect the interest of the indigenous and backward people in North Sikkim. Because of the said notification even people from other districts of the State are not permitted to purchase land in North Sikkim. The entire region has a very limited sale transaction.
>
> b. The availability of private lands is also very limited as most of the lands are categorized as forest lands limiting access to locals. Further, most of the private lands have already been occupied / acquired by different organizations for various developmental projects viz PGICL, Bharatmala etc. and therefore there is a huge scarcity of land in that region and if those landowners are not compensated properly, they will not be able to

> purchase lands in other parts of the state where land rates are much higher than the areas in question.
> c. Almost all the lands which have been proposed to be acquired by the Ministry of Defence, Government of India are their ancestral lands and they have their socio-cultural and emotional aspects attached with those lands.
> d. The entire region is located closer to international border and is strategically important.
>
> On the basis of the justification provided the Government approved the rate of land at Rs 150 per sq ft.
> ....."

12. As seen from the communication dated 17.01.2023 issued by the Principal Director, Defence Estates, Eastern Command, Kolkata, the Defence raised objections as to the revision of rates. It is appropriate to refer to last portion of the paragraph 7 of the letter dated 17.01.2023 written to the Chief Secretary, Government of Sikkim by the Principal Director, Defence Estates, Eastern Command, Kolkata:

> "....
> Here it is pertinent to mention that Govt. of Sikkim notification No. 260 dated 07.05.2018 has fixed Block rates of land notified for Chungthang Circle varying from Rs.51/- per sq.ft. to Rs. 61/- per sq.ft. In line of these rates DC Mangan has conveyed the land value amounting to Rs. 235,97,56,470/- and the same has been paid by DEO Siliguri to State Govt. Thereafter rates have been revised by DC Mangan @ Rs. 65/- per sq. ft. vide their letter No.150/DC(M)/2021-22 dated 07.02.2022 which will lead to acquisition cost of Rs. 258,04,40,102/-. Further in the same year within a gap of six months, the rates have been again revised to Rs. 150/-per sq.ft. resulting in escalating the cost of acquisition to the tune of Rs. 600 Cr. Therefore justification/reason stated by DC Mangan is not in consonance with Section 26 of RFCTLARR 2013 and not tenable.
> ....."

13. The Collector passed an Award on 18.01.2023. In the Award, none of the objections as referred to in the communications issued by the Defence Estate Officer have been adverted to, and, by fixing the land value at ₹ 150/- per sq. ft., calculation of the compensation has been made.

14. This Award is challenged in this Writ Petition, questioning the procedure adopted by the Collector for revising the land cost for determination of the compensation.

15. The Collector who passed the Award is actually an Officer specially designated by the appropriate Government, in this case the Union Government, to perform the functions of the Collector under the L.A. Act, 2013. That means the Collector is the agent of the Government. The Collector, by an Award, in fact offers the compensation to the interested persons who are the claimants, and it is open for the claimant either to accept the offer in the Award or seek a reference in a manner admissible under Section 64 of the L.A. Act, 2013. The Collector, therefore, is not distinct from the appropriate Government, though the Requiring Body may be distinct from the appropriate Government. But the Requiring Body may sometimes be identified by the Government itself, if the acquisition is for the own use of the Government.

16. Thus, this paramount question arises in this matter, whether an Award passed by the Collector, who is representing the appropriate Government as an agent, can be questioned by the appropriate Government itself, as there is no distinct status of the Collector other than being a part of the appropriate Government. There is no provision in the Land Acquisition enactments for a challenge to be raised against the award by any of such authorities. The award in fact amounts to an offer made by the Collector to the claimant on behalf of the Requiring Body/appropriate Government.

17. The reliefs as sought in the Writ Petition perhaps cannot be granted in a way it is sought by a writ of certiorari, inasmuch as one cannot challenge its own order or Award. But a declaratory writ may lie before this Court to avoid enforceability. A delicate question that may arise is that in what circumstances such a writ would lie, that's one of the questions to be answered here.

18. Therefore, the issue may arise for consideration whether this Award is enforceable or it suffers from any vitiating element to declare it unenforceable based on jural postulates that were created by the law. These issues must be considered in light of the procedure delineated under the LA Act, 2013. This statutory framework establishes a jural postulate governing the legal relationships between the appropriate Government or Requiring authority and the Collector, as well as between the Collector and the landholder or claimant.

19. Following elaborate hearings on the above issues involved the matter was reserved for judgment, thereafter the matter was listed on October 26th to address a specific clarification. This arose because the Collector passed an award under Section 23 that includes solatium. Pursuant to the LA Act, 2013, solatium must be granted upon passing the final award under Section 30. Thus, one more issue that arises for consideration is the legality of such a composite award.

20. The jural relationship between the Appropriate Government and the Collector under the LA Act, 2013, is one in which the Collector represents the Appropriate Government in the manner contemplated by the Act in all matters relating to the land sought to be acquired and the measures for rehabilitation and resettlement. This representative relationship, however, does not imply that the Appropriate Government exercises plenary control over the Collector in the discharge of statutory functions. The Collector is vested with independent statutory powers, particularly in determining compensation and taking such other measures as are contemplated under the Act, subject to the limitations and requirements expressly prescribed by its provisions.

21. In determining compensation, the Collector is bound to follow the procedure prescribed under Section 26 and to apply the relevant parameters set out in Sections 28 and 29 of the LA Act, 2013. The inquiry preceding the determination of compensation and the making of the award is essentially administrative in character. In *Surendra Kumar Bhatia* vs. *Kanhaiya Lal and Others*[1], the Hon'ble Supreme Court delineated the principles governing the inquiry into market value and the determination of compensation by the Collector, recognizing it as administrative, rather than judicial, character of such an inquiry.

22. The statutory scheme also permits the authorities concerned to place material and adduce evidence before the Collector to assist in determining the appropriate amount of compensation. Section 95(2) of the LA Act, 2013, contemplates the participation of the local authority or the Requiring Body in adducing evidence for this purpose. Such participation constitutes a statutory mechanism intended to assist the Collector, in the course of the administrative inquiry, in arriving at a fair and appropriate determination of market value. However, as is evident from the proviso to Section 95(2), the local authority or Requiring Body is not entitled, by virtue of that provision, to demand a reference to the Authority under Section 64 for challenging the award.

23. The statutory scheme thus indicates that the initial inquiry and determination of compensation constitute an administrative process, notwithstanding the participation of different governmental authorities and other statutory stakeholders. Such participation must remain directed towards assisting the Collector in the discharge of the statutory function vested in that office; it cannot displace the Collector's responsibility to arrive at a determination in accordance

[1] (2009) 12 SCC 184.

with the Act. It follows that the Collector must duly consider the objections, representations and submissions of the local authority, the Requiring Body or the appropriate Government, as the case may be, on whose behalf the proposed acquisition is initiated, together with the relevant material placed before the Collector by the appropriate Government, the Requiring Body and other Stakeholders. The reasons and conclusions emerging from such consideration need not necessarily be expressly recorded in the award as the inquiry does not partake of a formal adjudicatory determination but retains its administrative character, with the Collector remaining accountable to the appropriate Government in accordance with the statutory scheme. However, the administrative character of the inquiry does not dispense with the Collector's obligations to consider all relevant material and objections in accordance with law. On the contrary, such consideration is essential to ensure that the determination of compensation is lawful, fair and consistent with the statutory scheme.

24. The relationship between the Collector and claimants, however, stands on a totally different footing. The inquiry as contemplated at the stage of considering objections is more quasi-judicial in nature. The Collector is expected to consider the objections and conduct an appropriate inquiry. Consequently, the Collector is not bound by the conclusions reached during the initial stage of inquiry and can form a different opinion regarding the compensation payable after considering the objections of the persons concerned. Such exercise cannot be undertaken without following the procedure applicable to a quasi-judicial inquiry. That means the objections have to be considered in the light of the law governing the determination of compensation as applicable in this particular case, and the Collector must either accept

or reject them for reasons that are duly recorded. The Collector is therefore expected to pass a reasoned order addressing the objections raised by the persons concerned.

25. There is a distinction between the Land Acquisition Act, 1894, and the new enactment of the LA Act, 2013, in regard to the procedures to be followed by the Collector for passing an award. Under the LA Act, 1894, the award contemplated under Section 11 constituted the final determination of compensation and was treated as the final award for the purposes of the Act. Section 15A of the LA Act, 1894, empowered the appropriate Government to call for and examine the record of proceedings before the Collector for the purpose of satisfying itself as to the legality or propriety of the proceedings and to issue appropriate directions before the award was made under Section 11. Once the final award had been made, the Government could not ordinarily reopen the matter by invoking Section 15A.

26. In contrast to the procedure under the LA Act, 1894, the LA Act, 2013, prescribes a different statutory framework for determining compensation and making an award. The first stage of this process is governed by Section 23. At this stage, the Collector determines the market value of the land as on the date of publication of the preliminary notification and considers the other relevant factors specified under the Act. The determination made at this stage may, for the purposes of the present case, be regarded as a preliminary award for determination of total value of land, although the statute does not expressly designate it as a preliminary award. Thereafter, the Collector is required to proceed with the determination and declaration of the final award in accordance with Section 30. In the final award, the Collector must provide for solatium at the rate of 100 percent of the

compensation amount, in accordance with the statutory scheme. Further, as contemplated under Section 30(2) of the LA Act, 2013 the Collector is required to make individual awards specifying the particulars of the compensation payable to each person entitled thereto and the details of payment in accordance with the First Schedule to the Act. This statutory framework indicates that the determination under Section 23 concerns the valuation of the land and the relevant components of compensation, whereas the final award must specify the compensation payable to each individual landholder, together with the applicable solatium and other statutory benefits. Thus, the determination of market value and the making of the final award constitute distinct stages of the statutory process, each of which must comply with the relevant provisions of the LA Act, 2013.

27. Then, the question is whether the Collector is empowered to pass a composite award incorporating both the determination of value as referred to in Section 23 and other aspects referred to in Section 30 of the LA Act, 2013. Although the law does not prohibit such a course but having considered the purport of section 36 which are analogues provision to the section 15A of LA Act, 1984, this Court finds, it would be inappropriate on the part of the Collector to have recourse to passing a composite award. To understand this issue, it is appropriate to refer to Section 36 of LA Act, 2013, which reads as thus:

> "……..
> **36.** Power to call for records, etc.-The appropriate Government may at any time before the award is made by the Collector under section 30 call for any record of any proceedings (whether by way of inquiry or otherwise) for the purpose of satisfying itself as to the legality or propriety of any findings or order passed or as to the regularity of such proceedings and may pass such order or issue such direction in relation thereto as it may think fit:
> Provided that the appropriate Government shall not pass or issue any order or direction prejudicial to any person without affording such person or reasonable opportunity of being heard.
> ……..."

28. This shows that the appropriate Government has the power to satisfy itself as to the legality or propriety of any procedure or finding or order passed, including any finding resulting in an award determining the compensation as per the preliminary award under Section 23. Though Section 36 does not provide for any remedy for individuals or the Requiring authority, considering the nature of power conferred upon the appropriate Government, it is discernible that even a party can invoke such jurisdiction of the Government apart from the *suo motu* power that can be exercised by the Government under Section 36. The Apex Court in *Pune Municipal Corpn.* vs. *State of Maharashtra and Others*[2] laid down the law regarding revisional power of the State Government under Section 34 of the Urban Land (Ceiling and Regulation) Act, 1976 and opined as follows:

> "……
> **24.** We are, however, unable to uphold the said contention. It is true that Section 34 enables the State Government to exercise revisional powers suo motu. That, however, does not mean that a party cannot invoke such jurisdiction. A revision can also be filed by party aggrieved and it can invite the attention of the Revisional Authority as to illegality or impropriety of any order passed under the Act. The revision filed by the landowners, therefore, could not be held to be not maintainable.
> ……"

29. In the light of the legal provision under Section 36, it is *ex facie* to hold that the Collector, after determination of the compensation under Section 23, will have to wait for a reasonable period of time to ensure invocation of the legal remedy under Section 36. If not, section 36 will become otiose and redundant. If a composite award is passed the remedy of the government to invoke section 36 will be foreclosed as the statute itself contemplates passing an award in two different phases, one under Section 23 and one under Section 30 of the LA Act,

[2] (2007) 5 SCC 211.

2013. However, inquiry by the Government will have to confine to the extent well defined contours of revisional power. Its review must strictly remain with the established boundaries of revisional authority, focusing solely on the legality or propriety of the rate-fixation finding in matters like this. Therefore, the Government will have to consider whether the Collector adhered to the requisite procedural framework in determining the rate.

30. This Court has considered in detailed arguments advanced regarding the procedure followed by the Collector for determination of compensation. It is seen from the records, that on 15.09.2022, 30.11.2022, 17.01.2023, 18.01.2023, even before the determination of compensation under Section 23, the Ministry of Defence requested the Government on several occasions, thereafter, on 02.03.2023, 04.05.2023, the Ministry had further requested to reconsider the rates fixed.

31. These communications indicate that the Ministry of Defence was seeking reconsideration of the determination of rate and questioned the legality and propriety of the procedure followed for determination of the compensation. In such a situation, the Government is expected to invoke its power under Section 36 to inquire, after affording opportunity to all concerned, and decide whether determination of rate for awarding compensation by the Collector is in accordance with the stated principles of law and as per the procedure to be followed for determination of the compensation as provided under the LA Act, 2013. The Government had not addressed these issues. It is true that the Collector followed a rate subsequently fixed by the Government after the notification under Section 11 was passed. That does not mean the Government's hands are tied to examine the matter as

inquiry to be conducted under section 36 is quasi judicial inquiry distinct from inquiry related to fixation of rate under administrative act.

32. The award passed by the Collector, insofar as it combines the determination of compensation under section 23 with the award of solatium under section 30, is in opinion of this Court, legally unsustainable and unenforceable, inasmuch as that would foreclose the right of the Union Government to question the determination of the value by the Collector under Section 23. The Government is therefore bound to examine the matter as to the legality and propriety of the determination of compensation by the Collector.

33. The Writ Petition is maintainable in the present case, not for the purpose of seeking a conventional writ of certiorari, but rather for a declaration that the award having been made in a manner that defeats the statutory scheme and in violation of statutory rules as it would foreclose the requiring authority's right to question the legality of determination of rate under section 23 by invoking Section 36. The legal position in this regard is clear. The Hon'ble Supreme Court in *Agra Development Authority* vs. *Special Land Acquisition Officer and Others*[3], referring to violations of procedure, pointed out that the local authority should be given an opportunity to adduce evidence, as referred to under Section 50 of the LA Act, 1894 which is similar to the corresponding provisions under 95 (2) of the LA Act, 2013 and opined that, the Writ Petition was maintainable to the limited extent.

34. There may also be a situation where the Collector acts mala fide or in clear violation of the statutory provisions. In such situations, it cannot be held categorically that a writ petition at the instance of the

[3] (2001) 2 SCC 646.

requiring authority is not maintainable. But, as noted above, the limited scope of the writ at the instance of the requiring authorities, or at instance of the appropriate Government is concerned, can only be by way of declaratory writ to declare that the award is unenforceable for violation of statutory provisions or on account of mala fides. The writ jurisdiction under Article 226, cannot be invoked in a routine manner challenging the award by the Collector, as the law does not contemplate a challenge to an award by such authority. The statutory scheme reserves the right to seek a reference to persons interested, other than the local authority or requiring authority, as seen from the proviso under Section 95(2), of the LA Act.

35. In the present case, since there is a glaring error in passing the composite award, foreclosing the remedy of the requiring authority to question the legality and propriety before the Government, the award has become unenforceable, inasmuch as the award passed can only be treated as a determination of market value under Section 23 and not beyond. The Government will have to examine the legality and propriety of the determination of rate for market value by the Collector under Section 23, after affording an opportunity to all parties concerned, and will have to pass a reasoned order dealing with the objections raised.

36. The earlier determination of the compensation rate by the Government, shall not, by itself, operate as a bar to such reconsideration, as it was an administrative act. The Government can revisit the same invoking section 36 following quasi judicial inquiry by adverting to the procedures prescribed under the LA Act, 2013 for determination of rate or value of the land. Since the date of publication of the preliminary notification under Section 11 is the relevant date for

determination of the market value of the land, the valuation must be assessed with reference to that date and in accordance with the applicable statutory principles.

37. Accordingly, this Court passes the following orders:

(i) The award passed by the Collector shall, for the present purposes, be treated only as a determination under Section 23 of the LA Act, 2013 and not as a final award.

(ii) The Government shall consider the objections raised by the Union Government and the Defence Estate Office concerning the legality and propriety of the rate fixed for determining the compensation under Section 23.

(iii) The aforesaid exercise shall be completed within a period of six weeks. It is reiterated that all concerned persons, including the landholders, shall be afforded an opportunity of hearing, before the Government takes a decision in this matter.

(iv) Thereafter, the Collector shall proceed to pass the final award in accordance with the decision taken by the appropriate Government under Section 36, and the applicable provisions of the LA Act, 2013 including Sections 23 and 30.

38. Accordingly, *WP(C) No. 28 of 2023* is disposed of in the above terms.

39. I.A. No.4 of 2026 dated 26.05.2026 filed by the Petitioner No.4 for placing the requisition as well as the additional affidavit dated 16.10.2026 filed by the Petitioners for placing on record the Collector's Award dated 11.03.2025 are taken on record.

40. Pending Interlocutory Application(s), if any, also stand disposed of.

Chief Justice

Approved for reporting: **Yes**.

ds/ami/arc