GAHC030001972026

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

Case No. : WP(C)/31/2026

The Northeast Frontier Railway and Anr.
R/b The General Manager, N.F. Railway, Maligaon, Guwahati

VERSUS

The State of Mizoram and 121 Ors.
R/b Secretary to the Govt. of Mizoram, Land Revenue and Settlement Department, Aizawl, Mizoram - 796001

Advocate for the Petitioner : Mr. Sanjay Kumar Medhi

Advocate for the Respondent : Addl. AG/GA, Mizoram for R 1&2

BEFORE
HON'BLE MR. JUSTICE KALYAN RAI SURANA

For the petitioner : Mr. S.K. Medhi, CGC.
For respondents : Mr. Lalfakawma, (R-3 to 122).
: Mrs. Vanneihsiami, GA (R-1 and 2).

Date on which judgment is reserved : 15.09.2026

Date of pronouncement of judgment : 18.09.2026

Whether the pronouncement is of the operative part of the judgment? : No

Whether the full judgment has been Pronounced? : Yes

ORDER

(CAV)

Heard Mr. S.K. Medhi, learned CGC for the petitioners. Also heard Mrs. Vanneihsiami, learned Govt. Advocate for respondent nos. 1 and 2 and Mr. Lalfakawma, learned counsel for the private respondent nos. 3 to 122.

2) By filing this writ petition under Article 226 of the Constitution of India, the petitioners have assailed (i) letter under Memo No. LA Case 1/2019-DC(K)/6 dated 27.07.2019 (Annexure-C); and (ii) letter under Memo No. LA Case 1/2019-DC(K)/140 dated 14.01.2022 (Annexure-D), which were both issued by the District Collector, Kolasib District, Kolasib (respondent no.2).

3) By the letter dated 27.07.2019, the District Collector, Kolasib District had forwarded calculation of land value at the rate of Rs.25/- per square feet along with 30% solatium on the market value and interest @ 12% per annum of the market value under Section 23 (1A) of the Land Acquisition Act, 1894 in favour of Lalthafamkima and 119 (one hundred nineteen) others together with calculation of interest payment under Section 28 and 34 of the Land Acquisition ACT, 1894 was also included as per Court order at the rate of 9% per annum from the date of taking possession and 15% per annum for every subsequent year beyond the expiry of one year upto payment of land value by NF Railway, Accordingly, the Deputy Chief Engineer/Con/Bairabi at Silchar, was directed to deposit a total assessed amount of Rs.36,00,82,397/- and 2% contingency fund of Rs.77,01,648/-, total Rs.36,72,84,045/- (Rupees Thirty six crore seventy two lakh eighty four thousand forty five only) to the District Collector at the earliest for compliance of the Court order.

4) By letter dated 14.01.2022, the District Collector, Kolasib District had forwarded the calculation of interest under Section 34 of the Land Acquisition Act, 1894 at the rate of 9% per annum for one year from the date of taking possession and 15% per annum for every subsequent year beyond the expiry of one year up to payment of land value by the NF Railway.

5) The learned counsel for the respondent nos. 3 to 122 has raised preliminary objection as to the maintainability of this writ petition on three grounds. Firstly, the delay of more than 7 (seven) years in filing the writ petition has not been explained. Secondly, the order of the Reference Court and subsequently by the District Collector, Kolasib, have not been put to challenge and thus, had attained finality. Thirdly, as the statutory remedy of appeal is available under Section 54 of the Land Acquisition Act, 1894, a writ petition ought not to be entertained.

6) Accordingly, the learned counsel for the private respondents have been heard first as preliminary objection was raised by him. His submissions are summarised as under: -

a. On delay, it was submitted that both the impugned letters dated 25.07.2019 and 14.01.2022 begin with intimation to the NF Railway that pursuant to the order of the District Collector dated 08.07.2019, the calculation was made, which was being forwarded. Thus, the present writ petition was filed after a delay of more than 6 years from the date of order of the District Collector and communication dated 25.07.2019.

b. On the second point, it was submitted that the learned Additional District Judge-I, Aizawl, had disposed of L.A. Case No. 1/2019 vide

judgment and order dated 07.06.2019, thereby remanding the matter back to the District Collector, Kolasib. Pursuant to the said order dated 07.06.2019, the District Collector, Kolasib District had passed the order dated 08.07.2019. Thus, it was submitted that the order dated 07.06.2019, passed by the learned Additional District Judge-I, Aizawl, in L.A. Case No. 1/2019, as well as the order dated 08.07.2019, passed by the District Collector, Kolasib District have not been assailed, and those orders have attained finality. Therefore, it has been submitted that challenge to the consequential letters dated 25.07.2019 and 14.01.2022 could not be maintainable. In support of his submissions, reliance is placed on the following case of *Edukanti Kistamma (Dead) through LRs. & Ors. v. S. Venkatareddy (Dead) through LRs. & Ors., (2010) 1 SCC 756*.

c. On the third point it was submitted that the Land Acquisition Act, 1894, provided for appeal and therefore, as statutory remedy has not been availed, this writ petition cannot be used to render the appellate provision as nugatory. It was also submitted that from the stand taken in the affidavit-in-reply filed by the petitioner, it is apparent that the learned standing counsel for the petitioners had given advise for filing an appeal, yet, by not filing an appeal, which is the statutory remedy, this writ petition has been filed by the petitioners. In this regard, the case of *Bimal Baishya & Ors. v. The State of Assam & Ors., W.P.(C) No. 3459/2026, decided on 26.06.2026*, was cited.

7) Per contra, the learned CGC had submitted that due to inadvertence and oversight, the order dated 08.07.2019, which was required to

be assailed in this writ petition was left out and therefore, the petitioners may be allowed to file an application for amendment of the writ petition so that the said order can be put to challenge. It was stated that the said order was passed on an erroneous assumption by the District Collector that there was a clear direction to proceed with instruction. Accordingly, it was submitted that merely because such a relief was granted for some similarly land affected persons in another case, directions contained in the impugned letters dated 25.07.2019 and 14.01.2022 were issued without considering or deciding the legal issues involved. It was submitted that the entitlement of the private respondents, if any, under Section 28 of the Land Acquisition Act, 1894, was neither decided by the Reference Court nor decided by the District Collector, Kolasib District, but the Reference Court had remanded the matter back to the District Collector. It was submitted that the District Collector, Kolasib had wrongly calculated interest under Section 34 of the Land Acquisition Act, 1894, without considering the fact that (i) in respect of land under Part-B Kawnpui, the original award passed under Section 11 was paid on 31.05.2013, which was before taking possession of the land on 24.01.2014; (ii) in respect of land under Part-C Hortoki, the original award passed under Section 11 was paid on 15.12.2012, which was before taking possession of the land on 13.03.2013, and (iii) in respect of land under Part-A Bairabi, the original award passed under Section 11 was paid on 06.07.2012, which was before taking possession of the land on 03.04.2013. It was further submitted that the District Collector, Kolasib had send assessment of compensation including interest under Section 28 of the Land Acquisition Act, 1874 vide letter dated 25.07.2019, which was also duly paid on 29.04.2021. It was further submitted that by various judicial pronouncements, it has been held by the Supreme Court of India and by several High Courts that award of interest

under Section 34 of the Land Acquisition Act, 1894, was outside the award. Thus, it was submitted that the impugned letters were not sustainable on facts and in law and thus, those two letters can be assailed in this writ petition. It was also submitted that a similar issue has been raised by the NF Railways in one Intra-Court appeal, being W.A. No. 8/2024, which has been transferred before the Principal Seat, which is pending for disposal and accordingly, it was submitted that this case may be adjourned pending decision by the Division Bench. In support of his submissions, reliance was placed on the following cases, viz., (i) *Prem Nath Kapur & Anr. v. National Fertilizers Corporation of India Ltd. & Ors., (1996) 2 SCC 71: (1995) 0 Supreme(SC) 1237*, (ii) *Shree Vijay Cotton & Oil Mills Ltd. V. State of Gujarat, (1991) 1 SCC 262*, (iii) *Sham Lal Narula v. Commissioner of Income Tax, Punjab, etc., AIR 1964 SC 1878: (1964) 0 Supreme(SC) 129*, and (iv) *State of Maharashtra v. Kailash Shiva Rangari, F.A. No. 251/2023, decided by Bombay High Court on 18.04.2016*.

8) Having heard the learned CGC for the petitioner and the learned counsel for the private respondents, considered the materials available on record.

9) The preliminary objections as to maintainability are based on three grounds, which are discussed hereunder.

10) *Delay in filing writ petition:*

a. In respect of the issue of delay in filing the writ petition, it is seen that the two impugned letters were issued on25.07.2019and 14.01.2022 respectively. However, this writ petition was filed on 01.04.2026. Thus, from 25.07.2019, the writ petition was filed after 6 years, 8 months, 6 days (or 2441 days). However, from 14.01.2022,

the date of the second letter under challenge, the delay is 4 years, 2 months, 17 days (or 1537 days).

b. It is seen that though there was no explanation for the delay in the writ petition, it is only after preliminary issue of maintainability was raised by the private respondents, which was recorded in the order dated 24.08.2026, passed by this Court, the petitioners had filed their affidavit-in-reply on 10.09.2026, and tried to explain the delay.

c. In the affidavit-in-reply, the petitioners have made reference to the following - (i) District Collector's order dated 08.07.2019; (ii) legal opinion dated 29.08.2019; (iii) letter dated 14.10.2019; (iv) letter dated 28.10.2019; (v) sanction memorandum dated 29.04.2021; (vi) legal opinion dated 20.05.2022, (vii) letter dated 16.09.2025; (viii) railway e-noting dated 25.09.2025; (ix) letter dated 09.10.2025; and (x) order dated 06.11.2025, passed by the Division Bench in W.A. No.8/2024.

d. Be that as it may, even without referring to the contents thereof, it is seen that the decision taking was lingered at a leisurely pace, thereby allowing the right of the respective private respondents to attain finality. Merely because few letters were written in a span of more than $6^{1}/_{2}$ years, cannot be construed to mean that the petitioners had been diligent in assailing the letters dated 25.07.2019 and 14.01.2022.

e. The petitioners were duly intimated of their liability to pay a sum of Rs.36,72,84,045/- to the persons who were the petitioners in L.A. Case No. 1/2019-DC(K)/S, which was decided by the learned Addl. District

Judge-I, Aizawl. But, instead of taking a prompt decision, the officials of the petitioners allowed more than 6 years to lapse before filing this writ petition and rather, it gives the impression that the concerned officials had shown no sense of urgency in the matter. Thus, the explanation of delay, by referring to 10 (ten) correspondence in a span of 6 years, 8 months, 6 days (or 2441 days) is utterly vague and is not sufficient for the Court to hold that the petitioners had exercised due diligence with promptness.

f. Therefore, in the opinion of the Court, as the delay and laches in approaching the Court is not found sustainable, the Court is inclined to hold that the writ petition would not be maintainable on account of a very vague explanation for delay and laches.

g. The Supreme Court of India, in the case of *Scooters India & Ors. v. Vijai E.V. Eldred, (1998) 6 SCC 549*, had held that in the absence of a cogent explanation for the delay the High Court should have dismissed on the ground of laches alone. The said decision squarely applies to the facts of this case.

11) *Failure to challenge the award dated 08.07.2019, passed by the District Collector, Kolasib:*

a. The judgment and order dated 07.06.2019, passed by the learned Additional District Judge-I, Aizawl, in L.A. Case No. 1/2019, was the basis for the District Collector, Kolasibto pass the order dated 08.07.2019. The said order dated 08.07.2019, passed by the District Collector, Kolasib, had not been put to challenge.

b. Therefore, the objection by the respondent nos. 3 to 122 is found sustainable on facts and in law because without assailing the award dated 08.07.2019, the challenge to the consequential letters by which the calculation was communicated, is not sustainable.

c. In this regard, the decision of the Supreme Court of India, in the case of *Edukanti Kistamma (Dead) through LRs. & Ors. (supra)*, where it has been held that – "*It is a settled legal position that challenge to consequential order without challenging the basic order/ statutory provision on the basis of which the order has been passed cannot be entertained*." The said ratio is found to apply under the facts and circumstances of this case.

12) *Availability of alternative remedy:*

a. The learned counsel for the petitioners had submitted that the learned Addl. District Judge-I, Aizawl, had remanded the matter without any directions, but the District Collector, Kolasib, assumed that directions has been passed to decide the claim for interest under Section 28 and 34 of the Land Acquisition Act, 1894.

b. In this case, the private respondents had initially not challenged the Award No. 1 of 2012 and had not filed any reference.

c. However, some other land holders, who were similarly situated as the private respondents, had filed reference under Section 18 of the 1894 Act. The said Reference were registered as L.A. Case No. 6/2017 and L.A. Case No. 1/2019, which were disposed of by judgment and award dated 02.05.2019. Thereafter, those land holders had submitted an

application under Section 28A of the Land Acquisition Act, 1894 before the District Collector, Kolasib and the said authority had granted relief of enhancement of rate of land at the rate of Rs.25/- per square feet and in addition, compensation for damaged crops with interest under Section 23 (1-A) and Solatium under Section 28 and 34 of the Land Acquisition Act, 1894 were awarded.

d. Thereafter, the private respondents in this case had claimed similar benefit, which was considered and a reference was made, which was registered as L.A. Case No. 1/2019. By order dated 07.06.2019, the learned Addl. District Judge-I, Aizawl, held that application under Section 28-A of the Land Acquisition Act, 1894 cannot be considered in reference under Section 18 of the said Act, however, it was observed in the said order that the applicants (i.e. the private respondents) who are similarly situated with those land owners who had filed reference cases, are entitled to the benefit of the award if application under Section 28-A is made within a period of three months as stipulated therein. Accordingly, it was ordered that the application of the private respondents, referred to the said learned Court by the District Collector, Kolasib District, vide letter no. F.15012/11/2015/ 28-A-DC(K) dated 09.05.2019, be sent back to the District Collector, Kolasib. It was further ordered that the District Collector, Kolasib, on receipt of the said order, shall process the applications of the private respondents made under Section 28-A of the Land Acquisition Act, 1894 in accordance with law.

e. Thus, on return of the applications by the learned Addl. District

Judge-I, Aizawl, the District Collector, Kolasib, had passed the order dated 08.07.2019, allowing reliefs. Therefore, in the considered opinion of the Court, since orders and award passed by the District Collector, Kolasib, would be enforceable as a decree and in view of the provisions of Section 53 of the Land Acquisition Act, 1894, which makes the CPC applicable in Courts under the Act and moreover, Section 54 of the Act provides for appeal, an appeal would lie against the re-determination made under Section 28-A.

f. The award may be assailed on any grounds as the petitioners may be so advised, but under Section 54 of the Land Acquisition Act, 1894, provision for appeal has been provided for. The said provision of Section 54 of the Land Acquisition Act, 1894, is extracted below:-

> "***S. 54*** *: Appeals in proceedings before Court:-*
>
> *Subject to the provisions of the Code of Civil Procedure, 1908 (5 of 1908), applicable to appeals from original decrees, and notwithstanding anything to the contrary in any enactment for the time being in force, an appeal shall only lie in any proceedings under this Act to the High Court from the award, or from any part of the award, of the Court and from any decree of the High Court passed on such appeal as aforesaid an appeal shall lie to the 2[Supreme Court] subject to the provisions contained in section 110 of the Code of Civil Procedure, 1908, and in Order XLIV thereof.]"*

g. Thus, it is seen that that Section 54 provides that "*an appeal shall only lie in any proceedings under this Act to the High Court from the award or any part of the award*.

h. Therefore, though the orders for re-determination under Section 28-A and interest under Section 34 have been interpreted by judicial pronouncements to be not a part of the original award, yet the re-

determination under Section 28-A and calculation of interest under Section 34 are a part of the proceedings before the District Collector, Kolasib, but the said authority is a Revenue Court, and orders passed under those provisions fasten financial liability against the acquiring authority, the challenge to the same would be maintainable under Section 54 of the Land Acquisition Act, 1894.

i. Therefore, the petitioners had a statutory remedy available to file an appeal against the award/ order dated 08.07.2019, which was not availed.

j. In the considered opinion of the Court, the contents of the two impugned letters may appear to the petitioners to be incorrect or grossly wrong. But the fact remains that it is only a calculation in terms of the re-determination under Section 28-A and intimation to pay interest under Section 34. Therefore, even if it is assumed that those communications or the order dated 08.07.2019, are not sustainable on facts or in law, this Court in exercise of writ jurisdiction cannot start examining all orders against which statutory remedy for filing appeal is provided for.

k. It is reiterated at the cost of repetition that merely because the petitioners think that the contents of the letters dated 25.07.2019 and 14.01.2022 is grossly illegal, but without challenging the re-determination of compensation under Section 23-A and direction to pay interest both under Section 28 and 34 of the Land Acquisition Act, 1894, vide order dated 08.07.2019, as held hereinbefore, collateral challenge to the order dated 08.07.2019, by assailing the said two

letters/ communications dated 25.07.2019 and 14.01.2022is impermissible.

l. Therefore, on statutory appellate provision having been provided for in the Land Acquisition Act, 1894, the Court is inclined to hold that under the facts of this case this is not a fit case where the present writ petition should be entertained. Rather, it is provided that if so advised, the petitioner may avail statutory remedy that is available to them.

13) In view of above, the cases cited by the learned counsel for the petitioner cannot be applied at this stage in view of alternative statutory remedy available to the petitioner.

14) Thus, the preliminary objection to maintainability of this writ petition is sustained. Consequently, this writ petition is dismissed. However, the parties shall bear their own cost.

15) Before parting with the records, the Court is inclined to provide that in the event the petitioners are advised to file an appeal, and they file a statutory appeal within a period of 45 (forty five) days from the date of this order, as per the provisions of Section 14 of the Limitation Act, 1963, the learned appellate Court having jurisdiction, shall consider the period of time from 01.04.2026 (the date when this writ petition is filed) to 45 (forty five) days from the date of this order to be time spent by the petitioner before the Court which is disinclined to exercise jurisdiction.

JUDGE

Comparing Assistant