

BEFORE
MANIPUR LOKAYUKTA

3rd Floor, Directorate Complex, 2nd M.R., North AOC, Imphal

COMPLAINT CASE NO. 1 OF 2022

In the matter between:

Lanranglung Gondaimei aged about 46 years, S/o Meidinglung Gondaimei, Chairman Makhuam/Marangching Village, P.O. & P.S. Noney, Noney District, Manipur- 795159.

... *Complainant*

1. Shri Amrstrong Pame, IAS, S/o Heitung Pame, a resident of New Impa Village, Tousem Sub-Division, Tamenglong District, Manipur.
2. Shri P. Sana Singh, Retired MCS, S/o (L) P. Ibohal Singh resident of Meitei Langol Lairembi Leikai P.O. & P.S. Lamphel, Imphal West, Manipur.
3. Shri Robertson Asem, MCS, S/o Asem Dorendro Singh, resident of Ningthoukhong Oknarel Leikai, P.O. Ningthoukhong, P.S. Bishnupur, Bishnupur District, Manipur.
4. Shri Thuakulung Gangmei, S/o Late Makhuamchang Gangmei resident of Makhuam/Marangching Village, P.O. & P.S. Noney.
5. Shri Kh. Lovejoy, S/o Kh. Majoreng resident of Pungmon (Pungmonchingchen) P.O. & P.S. Noney, Noney District, Manipur- 795159.

..... *Respondents*

BEFORE

Mr. Justice T. Nandakumar Singh, Hon'ble Chairperson
Mr. Ameising Luikham, Hon'ble Member

For the Complainant : Mr. Th. Ibohal Singh, Ld. Senior Counsel assisted by Mr. L.N. Ngamba, Advocate.

For the Respondent No. 1: Mr. P. Ibomcha Singh, Advocate,

For the Respondent No. 2: Mr. Th. Modhu Singh, Senior Advocate assisted by Mr. Henba Thokchom, Advocate.

For the Respondent No. 3: Mr. Irom Lalitkumar Singh, Ld. Senior Advocate assisted by Mr. Irom Denning, Advocate.

For the Respondent No. 4 & 5: Mr. N. Suresh Meetei, Advocate.

DATE OF ORDER : 29.01.2024

JUDGMENT AND ORDER

[1] Heard Mr. Th. Ibohal Singh, learned Senior Counsel assisted by Mr. L.N. Ngamba, Advocate appearing on behalf of the Complainant, Mr. P. Ibomcha Singh, learned counsel appearing for Respondent No. 1, Mr. Henba Thokchom, learned counsel appearing for the Respondent No. 2, Mr. Irom Lalitkumar Singh, Ld. Senior Advocate assisted by Mr. Irom Denning, Advocate for Respondent No. 3 and Mr. N. Suresh Meetei, learned counsel for Respondent Nos. 4 and 5.

[2] In the nature of the present case and also on consideration of the Preliminary Inquiry Report submitted on 11.05.2023 (hereinafter referred to as Preliminary Inquiry Report dated 11.05.2023) by the Inquiry Officer in the present case, it would be pertinent to consider the historical background of Lokayukta and also the aim and object for establishing the Lokayukta. The historical background of establishment of Lokayukta is more fully discussed by the Hon'ble Supreme Court in **Justice Chandrashekaraiyah vs. Janekere C. Krishna & Ors. (2013) 3 SCC 117**. Para Nos. 18, 19 and 20 of the SCC in Justice Chandrashekaraiyah's case (supra) is quoted hereunder:

"18. The President of India vide Notification No. 40/3/65-AR(P) dated 5-1-1966 appointed the Administrative reforms Commission for addressing "Problems of Redress of Citizens' Grievances" inter alia with the object for ensuring the highest standards of efficiency and integrity in the public services, for making public administration a fit instrument for carrying out the social and economic policies of the Government and achieving social and economic goals of development as also one responsive to people. The Commission was asked to examine the various issues including the problems of redress of citizens' grievances. One of the terms of reference specifically assigned to the Commission required it to deal with the problems of redress of citizens' grievances, namely:

- (1) the adequacy of existing arrangements for redress of grievances; and***
- (2) the need for introduction of any new machinery for special institution for redress of grievances.***

The Commission after elaborate discussion submitted its report on 14-10-1966 to the Prime Minister vide Letter dated 20-10-1966.

19. The Commission suggested that there should be one authority dealing with complaints against the administrative acts of Ministers or Secretaries to Government at the Centre and in the States and another authority in each State and at the Centre for dealing with complaint against administrative acts of other officials and all these authorities should be

independent of the executive, the legislative and the judiciary.

20. The Commission, in its report, has stated as follows:

"21. We have carefully considered the political aspect mentioned above and while we recognise that there is some force in it, we feel that the Prime Minister's hands would be strengthened rather than weakened by the institution. In the first place, the recommendations of such an authority will save him from the unpleasant duty of investigation against his own colleagues. Secondly, it will be possible for him to deal with the matter without the glare of publicity which often vitiates the atmosphere and affects the judgment of the general public. Thirdly, it would enable him to avoid internal pressures which often help to shield the delinquent. What we have said about the Prime Minister applies mutatis mutandis to the Chief Minister.

Cases of corruption

23. Public opinion has been agitated for a long time over the prevalence of corruption in the administration and it is likely that cases coming up before the independent authorities mentioned above might involve allegations or actual evidence of corrupt motive and favoritism. We think that this institution should deal with such cases as well, but where the cases are such as might involve criminal charge or misconduct cognizable by a court, the case should be brought to the notice of the Prime Minister or the Chief Minister, as the case may be. The latter would then set the machinery of law in motion after following appropriate procedures and observing necessary formalities. The present system of Vigilance Commissions wherever operative will then become redundant and would have to be abolished on the setting up of the institution.

Designation of the authorities of the institution

24. We suggest that the authority dealing with complaints against Ministers and Secretaries to Government may be designated 'Lokpal' and the other authorities at the Centre and in the States empowered to deal with complaints against other officials may be designated 'Lokayukta'. A word may be said about our decision to include Secretaries' actions along with those of Ministers in the jurisdiction of the Lokpal.

We have taken this decision because we feel that at the level at which Ministers and Secretaries function, it might often be difficult to decide where the role of one functionary ends and that of the other begins. The line of demarcation between the responsibilities and influence of the Minister and Secretary is thin; in any case much depends of their personal equation and personality and it is most likely that in many a case the determination of responsibilities of both of them would be involved.”

[3] The main purpose for establishing Lokayukta is to deal with the matter of corruption in the administration and also whether the cases are such as might involve criminal charge or misconduct, cognizable by the Court. The Manipur Lokayukta Act, 2014 was enacted to provide for the establishment of a body of Lokayukta for the state of Manipur to inquire into the allegations of corruption against certain public functionaries and for matters connected therewith or incidental thereto.

[4] The present judgment and order, as provided under Section 20 (3) of the Manipur Lokayukta Act, 2014, is only for deciding as to whether there exists a *prima facie* case and proceed with one or more actions namely : (a) investigation by any agency; (b) initiation of the departmental proceedings or any other appropriate action against the concerned public servants by the competent authority; and (c) closure of the proceedings against the public servant and to proceed against the complainant under section 47. Such being the situation, we are expressing our considered recommendations taking into consideration of the Preliminary Inquiry Report dated 11.05.2023 submitted by the Inquiry Officer, written comment of the complainant, written comments of the respondents to the finding(s) of the preliminary inquiry against the respondents in the Preliminary Inquiry Report as well as the comment of the competent authority as provided under section 20 (2) of the Manipur Lokayukta Act, 2014 on the allegations made in the complaint basing on the materials, information and documents collected during the preliminary inquiry

and also the oral submissions of the parties at length, on the finding(s) of the Inquiry Officer to the allegations and assertions contained in the complaint filed by the complainant against the respondents. We also have taken extreme care so that the complainant and the respondents would have ample opportunity to put up their case before us.

[5] The concise fact of the complaint against the Respondents on which the allegations is based is that fund for an amount of Rs. 36,83,62,250.72 (Rupees thirty six crore eighty three lakh sixty two thousand two hundred fifty and seventy two paisa only), provided for compensation of the lands and standing properties belonging to the villagers of Marangching affected by the construction of Railways Track from chainage No. 98080 to 105419 (137.09 acre) of Jiribam to Toupul in the Makhum/Marangching Village of the then Tamenglong District and now Noney District, Manipur, has been siphoned out by the Respondent Nos. 4 and 5 by hatching a conspiracy with the respondent No. 1, Shri Armstrong Pame, the then Deputy Commissioner of D.C./Tamenglong and other respondents.

[6] Manipur Lokayukta after careful consideration of the complaint and supporting documents passed an order dated 22.04.2022 for the reasons, mentioned therein that there exists a prima facie case for preliminary inquiry against the respondent by the Inquiry Wing of Manipur Lokayukta. Accordingly, the Director (Inquiry), Manipur Lokayukta was directed to conduct a preliminary inquiry to find out as to whether there exists a prima facie case for investigation and further directed to entrust the present case for conducting the Preliminary Inquiry for the purpose stated above to any of the police officers attached to the Inquiry Wing of Manipur Lokayukta. In the said order dated 22.04.2022, Manipur Lokayukta also mentioned the power and jurisdiction of Manipur Lokayukta as provided under Sections 22 , 28 and 29 of the Manipur Lokayukta Act, 2014 and also mentioned that the complaint is in

proper form. For easy reference the order of the Manipur Lokayukta dated 22.04.2022 is reproduced hereunder :

"COMPLAINT CASE NO. 1 OF 2022

22.04.2022

[1] Perused the office note dated 18.04.2022 of the Deputy Registrar, Manipur Lokayukta. We have also perused the complaint filed by one Lanranglung Gondamei against (i) Shri Armstrong Pame, IAS; (ii) Shri P. Sana Singh Retired MCS; (iii) Shri Robertson Asem, MCS; (iv) Shri Thuankulung Gangmei; and (v) Shri Kh. Lovejoy. The complaint is in proper form and also bears a Court Fee Stamp of Rupees Five and the complainant has deposited a sum of Rs. 1000/- by way of Demand Draft. The complaint is properly verified and supported by duly sworn affidavit in proper form. The complaint also contains a statement in concise form of facts on which the allegation is based.

[2] The concise statement of fact on which allegation is made against the respondents in the complaint is that fund for an amount of Rs. 36,83,62,250.72 (Rupees thirty six crores eighty three lakhs sixty two thousand two hundred fifty and seventy two paise) only, provided for compensation of the lands and standing properties belonging to the villagers of Marangching affected by the construction Railways Track from chainage No. 98080 to 105419 (137.09 acre) of Jiribam to Toupul in the Makhuam/Marangching Village of the then Tamenglong District and now Noney District, Manipur, has been siphoned out by the Respondent Nos. 4 and 5 by hatching a conspiracy with the respondent No. 1, Shri Armstrong Pame, the then Deputy Commissioner of D.C./Tamenglong and other respondents.

[3] The complainant is an active leader of Makhuam/Marangching Village. It is also stated that there are many disputes in different Courts regarding the ownership as claimed by the few individuals in respect of hill tracks in Makhuam/Marangching against the Khullakpa and Khunbu, who defended the

case on the ground that the village lands belong to a common ownership of Makhuam/Marangching Village. It is also stated that in and around 2010, some individuals started to claim to be having a separate village in the name of Pungmon Village in the north-eastern portion of the said land of Makhuam/Marangching village and also claiming to have a separate village in the name of Kharam Pallen Village in respect of a portion of village land of Makhuam/Marangching village but neither the Government of Manipur nor the office of the Deputy Commissioner, Tamenglong has granted or recognised as separate village before initiation of the land acquisition for construction of railway tracks. Many individuals including Chairman/Khullakpa or khunbu of Makhuam/Marangching village filed different Civil Suits for declaration of their title or ownership of the village land which include the said land acquired for construction of railway track in the different competent Civil Courts and High Court and also several complaint before Judicial Magistrate and Chief Judicial magistrate involving the disputes of ownership of the said land acquired for construction of railway track. Some of the Civil Suits filed in the Civil Courts are :

- (i) Civil Suit being Original Suit No. 1 of 2011 filed by one Gaihoulung Riamei against (a) Thuankulung Gangmei, S/o (L) Makhomchang of Marangching Village Part III, (b) P.G. Gaikhulung S/o Late keibonung, a pastor of Makhaum/Marangching;**
- (ii) Civil Suit being O.S. No. 5 of 2010/10 of 2011 filed by (a) GD Lungaiphun, (b) GD Selgonglung and (c) Meingamlung Gondamei against (a) Thuankulung Gangmei, (b) Gaisuilung Gonmei, (c) Hougamlung Gangmei, (d) Gaigonlung, (e) Thaingam Gondamei and (f) Meithanlung;**

- (iii) **Suit being O.S. No. 6 of 2013/5 of 2014 filed by Kh. Majoreng in the Court of Civil Judge (Sr. Division), Tamenglong against (a) State of Manipur, (b) The D.C./Tamenglong, (c) Shri B. Kungamang of Pungmonchingchen and (d) GD Meithanlung of Marangching; and**
- (iv) **Suit being O.S. No. 24 of 2014/2 of 2015 filed by Rangla Umsophun of Kharam Pallen against (a) The State of Manipur, (b) DC, Senapati, (c) DC, Tamenglong, (d) Kh. Majoreng of Pungmonchingchen and (e) GD Meithanlung of Makhuam/Marangching.**

[4] In spite of the pending of the number of cases before the competent Civil Court, the Respondent No. 2, Shri P. Sana Singh, on the pressure and instigation of some vested individuals, submitted a false, fabricated, vexatious and malicious fake survey report being No. SDO/TML/212/LA-RLY/13 dated 05.02.2015 regarding a purported demarcation of a portion of the land in Makhuam/Marangching village which was to be acquired for laying down of railway tracks, from chainage No. 98080 to 105419 (137.09 acre). One Mr. Dithon Riamei of Makhuam/Marangching Part – III, filed a representation dated 12.03.2015 addressed to the Secretary (Revenue), Government of Manipur and DC(LA), Tamenglong against the illegal (i) recommendation dated 06.02.2015 of the Deputy Commissioner, Tamenglong under his letter No. DC (TML) 11/370 RLY 09 (TUPUL-IMPHAL) and (ii) preliminary notification No. 4/24/LA/2014-Com(REV)21-02-2015 of the Government, issued under Section 11(1) of RFCTLARR Act, 2013 notifying that the land measuring 137.09 acres describing for the construction of new B.G. railway line between Tupul to Imphal, section of Jiribam-Imphal Project showing the name of Thuankulung Gangmei as the undisputed owner. In spite of the on-going and

pendency of the land disputes and the objections between the village leaders and headmen on one side and few villagers on the opposite side regarding the measurement etc., the then Deputy Commissioner/LA, Tamenglong, Shri B. John T Lantinkhuma IAS, on the ground of the necessity to complete urgently, issued an award being No. DC(TML)/11/370(RLY)09(Tupul-Imphal) dated 21.03.2017. In the remark column of the said award it is clearly mentioned that "the ownership of the land is under dispute in the Hon'ble Court and payment of compensation shall be made as per the decision of the Court". In the said award dated 21.03.2017 prepared by then Deputy Commissioner/LA, Tamenglong, Shri B. John T Lantinkhuma IAS, particulars of the cases pending regarding the ownership of the land before the competent court are not mentioned. It is an undisputed fact that numbers of Title Suits/Civil Suits regarding the ownership of the land acquired for construction of railway track are pending before different Courts between different parties.

[5] Under Section 33 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter refer to as 'Resettlement Act of 2013'), an award could be corrected by the Collector by an order only for correcting any clerical or arithmetical mistakes in either of the awards or errors arising therein either on his own motion or on the application of any person interested or local authority and also that no correction which is likely to affect prejudicially any person shall be made unless such person has been given a reasonable opportunity of making representation in the matter. For easy reference, Section 33 of the Resettlement Act of 2013 is reproduced hereunder :

*"33. Corrections to awards by Collector.–
(1) The Collector may at any time, but not later than six months from the date of award or where he has been required under the provisions of this Act to make a reference to the Authority under section 64, before the making of such reference, by order, correct any clerical or arithmetical mistakes in either of the awards or errors*

arising therein either on his own motion or on the application of any person interested or local authority:

Provided that no correction which is likely to affect prejudicially any person shall be made unless such person has been given a reasonable opportunity of making representation in the matter.

(2) The Collector shall give immediate notice of any correction made in the award so corrected to all the persons interested.

(3) Where any excess amount is proved to have been paid to any person as a result of the correction made under subsection (1), the excess amount so paid shall be liable to be refunded and in the case of any default or refusal to pay, the same may be recovered, as prescribed by the appropriate Government."

[6] Respondent No. 1, Mr. Armstrong Pame, IAS purportedly exercising his power under Section 33 of the Resettlement Act of 2013 illegally and whimsically corrected the said award dated 21.03.2017 by passing virtually new compensatory award dated 15.06.2017 wherein he drastically change the contents of the earlier award dated 21.03.2017 and also replaced the observation in the Remark column of the earlier award dated 21.03.2017 by the new observation, which reads as :

"The ownership of the land is under dispute and in the Court of Civil Judge (Senior Division) Tamenglong vide Original Suit No. 8 of 2016 in Namronlung Gondaimei & 3 ors Vs The State of Manipur. Payment of compensation shall be made as per the decision of the Court."

[6.1] Respondent No. 1 had no power and jurisdiction to correct the earlier award dated 21.03.2017 by passing a new Compensatory Award Order dated 15.06.2017 and it is also really surprising

as to how he changed the observation in the Remark Column of the earlier Award dated 21.03.2017 in the manner quoted above. Further, on the very next day i.e. 16.06.2017, Respondent No. 1 passed another Compensation Award dated 16.06.2017 awarding compensations to the tune of Rs. 36,83,62,250.72/- in favour of Respondent Nos. 4 and 5. Cheques were issued hastily after passing the Compensation Award dated 16.06.2017. After knowing quite well that money had already been withdrawn by the Respondent Nos. 4 and 5, Respondent No. 1, Mr. Armstrong Pame, in order to save himself from illegal act of misappropriation of the said huge amount of money by Respondent Nos. 4 and 5, wrote a letter to the bank to freeze the account of Respondent Nos. 4 and 5. It is alleged in the complaint that the accused/respondents had committed offences punishable under Sections 420, 120-B IPC, Sections 13(1)(a)(b), 13(2) of the P.C. Act read with Sections 84, 85 and 87 of the Resettlement Act of 2013.

[7] On careful consideration of the concise statement of fact basing on which allegations are made against the respondents in the present complaint and supporting documents, we are of the considered view that there exists a prima facie case for Preliminary Inquiry against the Respondents by our Inquiry Wing. Accordingly, for the reasons above stated, Director (Inquiry), Manipur Lokayukta is directed to conduct a Preliminary Inquiry to find out as to whether there exists a prima facie case for investigation. Director (Inquiry), Manipur Lokayukta may entrust the present case for conducting the Preliminary Inquiry for the purpose above stated to any of the police officers attached to the Inquiry Wing of Manipur Lokayukta.

[8] It is made clear that Director (Inquiry), Manipur Lokayukta and his team while conducting the inquiry shall especially keep in view of Sub-sections (1), (2), (3), (4) of Section 20, Section 22, Section 26, Section 28, Section 29, Section 32, Section 36 and other provisions of the Manipur Lokayukta Act, 2014.

[8.1] Section 22 of Manipur Lokayukta Act, 2014 provides the power to ask any public servant or any

other person to furnish information or produce documents relevant to such preliminary inquiry. Section 26 of Manipur Lokayukta Act, 2014 provides Manipur Lokayukta the power to search and seize any document which, in its opinion, shall be useful for, or relevant to, any investigation under this Act, which may be secreted in any place. Section 28 of Manipur Lokayukta Act, 2014 provides Manipur Lokayukta, for the purpose of conducting any preliminary inquiry or investigation, to utilize the services of any officer or organization or investigation agency of the State Government. And, the officer or organization or agency whose services are utilized may, subject to the direction and control of the Lokayukta, – (a) summon and enforce the attendance of any person and examine him; (b) require the discovery and production of any document; and (c) requisition any public record or copy thereof from any office. Section 29 of Manipur Lokayukta Act, 2014 provides Lokayukta to authorise his officer, by order in writing, to provisionally attach such property for a period not exceeding ninety days from the date of the order. Section 32 of Manipur Lokayukta Act, 2014 provides that Lokayukta may recommend to the State Government for transfer or suspension of such public servant from the post held by him till such period as may be specified in the order. Under Section 36 of Manipur Lokayukta Act, 2014, an application can be made to a Special Court by an officer of the Lokayukta authorized in this behalf that any evidence is required in connection with the preliminary inquiry or investigation into an offence or proceeding under this Act and he is of the opinion that such evidence may be available in any place in a contracting State, and the Special Court, on being satisfied that such evidence is required in connection with the preliminary inquiry or investigation into an offence or proceeding under this Act, may issue a letter of request to a court or an authority in the contracting State competent to deal with such request to -- (i) examine the facts and circumstances of the case; (ii) take such steps as the Special Court may specify in such letter of request; and (iii) forward all the evidence so taken or collected to the Special Court issuing such letter of request.

[8.2] Attention of the Inquiry Officer is invited to Section 20(3) and 20(7) of the Manipur Lokayukta Act, 2014 which speak of more than one report and this provision is especially relevant for the Lokayukta to exercise its powers under Chapter VIII (Powers of Lokayukta).

[9] The Inquiry Officer shall also look into the other provisions of Manipur Lokayukta Act, 2014 for exercising his power and jurisdiction for conducting a proper Preliminary Inquiry and shall submit the same within the period prescribed under Section 20(2) and 20(4) of the Manipur Lokayukta Act, 2014.

[10] Deputy Registrar, Manipur Lokayukta is directed to furnish a copy of the order along with a copy of the complaint and other relevant documents to the Director (Inquiry), Manipur Lokayukta within 3 (three) days.

***Sd/-
MEMBER***

***Sd/-
CHAIRPERSON"***

[7] Against the said order of the Manipur Lokayukta dated 22.04.2022 passed in the present complaint case, the Respondent No. 1, Shri Amrstrong Pame, IAS filed a Writ Petition being W.P. (C) No. 846 of 2023 before the Hon'ble High Court of Manipur for quashing the said order of the Manipur Lokayukta dated 22.04.2022 and also for quashing the proceeding taken up by the Manipur Lokayukta in the present case i.e. Complaint Case No. 1 of 2022 in respect of Respondent No. 1, Shri Amrstrong Pame, IAS and also to pass any order as deem fit by Hon'ble High Court of Manipur. Hon'ble High Court of Manipur had finally disposed of the said writ petition i.e. W.P. (C) No. 846 of 2023 by passing a final order dated 14.12.2023 in W.P. (C) No. 846 of 2023 declining to grant relief viz. (i) for quashing the order of Manipur Lokayukta dated 22.04.2022 and (ii) also for quashing any proceeding of the Complaint Case No. 1 of 2022, however with certain direction. The certain directions, amongst others, is that the petitioner is given liberty to file a supplementary/

additional written statement over and above the earlier written statement filed by him before the Lokayukta in connection with the Complaint Case No. 1 of 2022 pending before the Lokayukta within a period of ten days from today. For easy reference, the said final order of the Hon'ble High Court of Manipur dated 14.12.2023 passed in W.P.C. No. 846 of 2023 is reproduced hereunder:

"IN THE HIGH COURT OF MANIPUR

AT IMPHAL

WP(C) No. 846 of 2023

Armstrong Pame ... Petitioner

Vs.

The Manipur Lokayukta & ors. ... Respondents

B E F O R E

HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH

14-12-2023

Heard Mr. Serto T. Kom, learned counsel appearing for the petitioner and Mr. M. Rarry, learned counsel appearing for the respondents.

In all fairness, Mr. Serto T. Kom, learned counsel submitted that the petitioner may be given ten days' time to file an additional written statement over and above the earlier written statement filed by him before the Lokayukta in Complaint Case No. 1 of 2022 pending before the Lokayukta and by giving such liberty, the present writ petition may be closed. The learned counsel further prays that liberty may be given to the petitioner to approach this court again if he is aggrieved by any order passed by the Lokayukta in connection with the said complaint case.

Mr. M. Rarry, learned counsel appearing for the respondents submitted that under the Lokayukta Act, specific time has been stipulated for completion of the proceeding before the Lokayukta and that not more than ten days' time be given to the petitioner to file a supplementary written statement.

Taking into consideration the statements made by the learned counsel appearing for the parties, this writ petition is disposed of with the following directions:-

- (i) The petitioner is given liberty to file a supplementary/ additional written statement over and above the earlier written statement filed by him before the Lokayukta in connection with the Complaint Case No. 1 of 2022 pending before the Lokayukta within a period of ten days from today; and***
- (ii) Needless to mention here that if the petitioner is aggrieved by the order passed by the Lokayukta in connection with the said complaint case, he is at liberty to approach this court again for redressing his grievances.***

With the aforesaid directions, the present writ petition is disposed of.

JUDGE"

[8] The Respondent No. 1 had not only filed his written comment/written statement to the Preliminary Inquiry Report dated 11.05.2023 but also had filed the supplementary/additional written comment as permitted by the Hon'ble High Court of Manipur vide its order dated 14.12.2023 passed in W.P. (C) No. 846 of 2023 on 26.12.2023. In the written comment, the Respondent No. 1 had taken a hyper-technical point that even if he was allowed to submit all his case before the Inquiry Officer and had given his statement before the Inquiry Officer, he was not given the opportunity/chance to explain his case as provided under Section 20 (2) of the Manipur Lokayukta Act, 2014. In the present case, for abundant opportunity of being heard and also for compliance of the principal of natural justice, the Respondent No. 1 was again given the chance to file his comment/written statement to the Preliminary Inquiry Report while considering the preliminary Inquiry report for making appropriate decision under Section 20 (3) of the Manipur Lokayukta Act, 2014. In the present case in hand, there is no further development or collection of material

evidence after submitting the Preliminary Inquiry Report dated 11.05.2023 by the Inquiry Officer and also no fresh right is accrued to the Respondent No. 1 before consideration of the Preliminary Inquiry Report by the Manipur Lokayukta under Section 20 (3) of the Manipur Lokayukta Act, 2014. In other words, the Manipur Lokayukta while considering the Preliminary Inquiry Report submitted by the Inquiry Officer has given ample opportunity to the Respondent No. 1 to submit his written comment as well as written statement to the Preliminary Inquiry report dated 11.05.2023 and accordingly, he had filed 2(two) comments i.e. written comment and additional written comment dated 06.09.2023 and 26.12.2023 respectively. The Respondent No. 1 also filed another Writ petition being W.P. (C) No. 671 of 2023 against Manipur Lokayukta and others on the main ground that chance to file comment of Respondent No. 1 to the materials, information, documents collection by the Inquiry Officer on the allegations made in the Complaint was not made available to him and the Preliminary Inquiry Report should be submitted only after getting the comment of the Respondent No. 1. As stated above, the Manipur Lokayukta while proceeding the present complaint for taking a decision under Section 20 (3) of the Manipur Lokayukta Act, 2014 had given ample opportunity to the Respondent No. 1 to file his comment and also additional comment to the Preliminary Inquiry Report. There is no penal consequences under section 22 (3) of the Manipur Lokayukta Act, 2014 that in the failure to call comment by the Inquiry Officer from the concerned Government Officials to the materials, information and documents collected during the course of preliminary inquiry, the Preliminary Inquiry Report submitted by the Inquiry Officer will be null and void. The purpose of Section 20 (2) and Section 20 (3) of the Manipur Lokayukta Act, 2014 is only to give ample opportunity to the Government officials to submit his comment to the materials, information, documents collected during the course of preliminary inquiry by the inquiry officer. In the present case, there is no denial of natural

justice to the Respondent No. 1 by Manipur Lokayukta. Considering all these matters, Manipur Lokayukta passed an order, no doubt, a day-to-day order, dated 06.10.2023. For easy reference, order dated 06.10.2023 passed in Complaint Case No. 1 of 2022 is reproduced hereunder :

"BEFORE
MANIPUR LOKAYUKTA
3rd Floor, Directorate Complex, 2nd M.R., North AOC, Imphal

COMPLAINT CASE NO. 1 OF 2022

In the matter between:

Lanranglung Gondaimei aged about 46 years, S/o Meidinglung Gondaimei, Chairman Makhuam/ Marangching Village, P.O. & P.S. Noney, Noney District, Manipur- 795159.

... Complainant

- 1. *Shri Armstrong Pame, IAS, S/o Heitung Pame, a resident of Now Impa Village, Tousem Sub-Division, Tamenglong District, Manipur.***
- 2. *Shri P. Sana Singh, Retired MCS, S/o (L) P. Ibohal Singh resident of Meitei Langol Lairembi Leikai P.O. & P.S. Lamphel, Imphal West, Manipur.***
- 3. *Shri Robertson Asem, MCS, S/o Asem Dorendro Singh, resident of Ningthoukhong Oknarel Leikai, P.O. Ningthoukhong, P.S. Bishnupur, Bishnupur District, Manipur.***
- 4. *Shri Thuakulung Gangmei, S/o Late Makhuamchang Gangmei resident of Makhuam/Marangching Village, P.O. & P.S. Noney.***

5. **Shri Kh. Lovejoy, S/o Kh. Majoreng resident of Pungmon (Pungmonchingchen) P.O. & P.S. Noney, Noney District, Manipur-795159.**

..... Respondents

BEFORE

**Mr. Justice T. Nandakumar Singh, Hon'ble Chairperson
Mr. Ameising Luikham, Hon'ble Member**

For the Complainant : Mr. Th. Ibohal Singh, Ld. Senior Counsel assisted by Mr. L.N. Ngamba, Advocate.

For the Respondent No. 1: Mr. P. Ibomcha Singh, Advocate,

For the Respondent No. 2: Mr. Th. Modhu Singh, Advocate.

For the Respondent No. 3: Mr. Irom Lalitkumar Singh, Ld. Senior Advocate assisted by Mr. Irom Denning, Advocate.

For the Respondent No. 4 & 5: Mr. N. Suresh Meetei, Advocate.

DATE OF ORDER : 06.10.2023

ORDER (ORAL)

[1] All the parties are represented by their respective counsels.

[2] It has been brought to our notice that Respondent No. 1, Shri Armstrong Pame had filed a Writ Petition being W.P.(C) No. 671 of 2023 against (1) the Manipur Lokayukta, (2) Shri P. Shanker Singh, MPS (Inquiry Officer of Manipur Lokayukta), (3) Shri Lanranglung Gondaimei (Complaint of the present case), (4) Shri P. Sana Singh, Retired MCS (Respondent No. 2 of the present case), (5) Shri Robertson Asem, MCS (Respondent No. 3 of the present case), (6) Shri Thuankulung Gangmei (Respondent No. 4 of the present

case), (7) Shri Kh. Lovejoy (Respondent No. 5 of the present case).

[3] Mr. P. Ibomcha, learned counsel appearing for the Respondent No. 1 (Shri Armstrong Pame), who is the Writ Petitioner of W.P.(C) No. 671 of 2023 placed a copy of the Writ Petition before us. At a glance, it appears that the main crux of the Writ Petition is regarding opportunity of filing comment under Section 20 (2) of the Manipur Lokayukta Act, 2014 to the materials, information and documents collected during the inquiry. Therefore, it is alleged in the Writ Petition that there is non-compliance of Section 20 (2) of the Manipur Lokayukta Act, 2014. It is the admitted case of all the parties that the Inquiry Officer before submitting the Preliminary Inquiry report called the comment to the materials, information and documents collected during the inquiry from the competent authority and the competent authority has already filed the comment. During the course of the inquiry, the statement of the writ petitioner (Shri Armstrong Pame) was recorded. Only after completing the procedure, the Inquiry Officer submitted the Preliminary Inquiry Report.

[4] In the present case, we have taken extreme care to see whether the principle of natural justice has been duly complied with or not. The Inquiry Officer, during the course of inquiry, recorded the statement of Shri Armstrong Pame (Writ Petitioner) regarding the allegation of the Complainant that Shri Armstrong Pame (Writ Petitioner) after making conspiracy with Respondent No. 4, Shri Thuankulung Gangmei and Respondent No. 5, Shri Kh. Lovejoy in the complaint had misappropriated and embezzled a huge amount to the tune of several cores of Rupees from the public exchequer. It is worthwhile to know that Respondent No. 1, Shri Armstrong Pame (Writ Petitioner) without making any objection as to the procedure of conducting the preliminary inquiry had filed his written comment to the Preliminary Inquiry Report submitted by the Inquiry Officer. The aim and object of Section 20 (2) and Section (3) of Manipur Lokayukta Act, 2014 is crystal clear that at least opportunity of being heard should be made available to all the accused before the Court take any decision as to whether there exists prima facie case for investigation or not. Therefore, there is a subjective compliance of Section 20 (2) and (3) of the Manipur Lokayukta Act, 2014 in the present case.

[5] In the present case, it appears that Shri Armstrong Pame, Respondent No. 1/Writ Petitioner has voluntarily waived his chance to raise objection to the procedure and proceeding of the Preliminary Inquiry as he has filed his comment to the Preliminary Inquiry Report under Section 20 (3) of the Manipur Lokayukta Act, 2014 without demeanour. Therefore, we are of the considered view that there is substantive compliance of the requirement of giving opportunity of being heard to all the parties as provided under Section 20 (2) and (3) of the Manipur Lokayukta Act, 2014 in compliance of the principle of natural justice.

[6] We are also of the considered view that the requirement provided under Section 20 (2) of the Manipur Lokayukta Act, 2014 is only directory inasmuch as there is no provision of penal consequence if the process prescribed under Section 20 (2) of the Manipur Lokayukta Act, 2014 is not complied with rigorously. Over and above, in the present case, the requirement for giving opportunity of filing comment to the Preliminary Inquiry Report has already been made available to the Respondent No. 1 (Writ Petitioner of W.P.(C) No. 671 of 2023), Shri Armstrong Pame vide our order dated 31.07.2023 passed in the present complaint. The relevant portion i.e. para no. 4.1 of our order dated 31.07.2023 is reproduced hereunder :

"[4.1] As provided under Section 20 (3) of the Manipur Lokayukta Act, 2014, we have to decide, after giving opportunity of being heard to the respondents, whether there exists a prima facie case and proceed with one or more of the actions mentioned in sub-para (3) of Section 20 of the Manipur Lokayukta Act, 2014. Accordingly, Deputy Registrar, Manipur Lokayukta is directed to issue notice, returnable on or before 21.08.2023, to the respondents i.e. (i) Shri Armstrong Pame, IAS, S/o Heitung Pame, a resident of New Impa Village, Tousem Sub-Division, Tamenglong District, Manipur; (ii) Shri P. Sana Singh, Retired MCS, S/o (L) P. Ibohal Singh resident of Meitei Langol Lairembi Leikai P.O. & P.S. Lamphel, Imphal West, Manipur; (iii) Shri Robertson Asem, MCS, S/o Asem Dorendro Singh, resident of Ningthoukhong Oknarel Leikai, P.O. Ningthoukhong, P.S. Bishnupur, Bishnupur District, Manipur; (iv) Shri Thuankulung Gangmei, S/o Late Makhuamchang Gangmei resident of

Makhuam/Marangching Village, P.O. & P.S. Noney; and (v) Shri Kh. Lovejoy, S/o Kh. Majoreng resident of Pungmon (Pungmonchingchen) P.O. & P.S. Noney, Noney District, Manipur – 795159, for submission of their comment, if any, to the Preliminary Inquiry report, for taking appropriate decision as provided under Section 20 (3) of the Manipur Lokayukta Act, 2014.”

[7] The Respondent No. 1 appeared before Manipur Lokayukta through his counsel on 18.09.2023 and filed his comment to the Preliminary Inquiry Report. Now the question raised before the Hon’ble High Court of Manipur in W.P. (C) No. 671 of 2023 is if the opportunity of being heard is denied to the Writ Petitioner/Respondent No. 1. Denial of the fair proceeding alleged in the Writ Petition is only on the ground that opportunity of being hear/opportunity of filling comment to the Preliminary Inquiry report was not made available to the Writ Petitioner. In the present case, opportunity had already been made available to the Respondent No. 1 and he also voluntarily filed his comment to the Preliminary Inquiry Report. We are of the considered view that there is no denial on fair procedure to the Writ Petitioner. It is equally well settled law that fairness cannot be a one way street, therefore, fairness should not only be to the Respondent No. 1 /Writ Petitioner but also to the Manipur Lokayukta while conducting its statutory duties and exercising its statutory power for conducting inquiry on the complaint alleging misappropriation or embezzlement of huge amount of money from the public exchequer to the tune of Rs. 36 crores. Reference: Haryana Financial Corporation & Anr. Vs. Jagadamba Oil Mills and Anr. (2002) 3 SCC 496. Para no. 9 of the SCC in Jagdamaba Oil Mills’ case (supra) is reproduced hereunder:

“In matters like the present one, fairness cannot be a one-way street. Corporations borrow money from the Government or other Financial Corporations and are required to pay interest thereon. Where the borrower has no genuine intention to repay and adopts pretexts and ploys to avoid payment, he cannot make the grievance that the Corporation was not acting

fairly, even if requisite procedures have been followed."

[8] It is also fairly settled law that in the absence of any penal consequences is provided for failure to strictly comply with the procedure prescribed therein, it will be only directory. Reference: (1) Sharif-Ud-Din vs. Adbul Gani Lone(1980 1 SCC 403 (2) State of Uttar Pradesh and Ors. Vs. Babu Ram Upadhya AIR 1961 SC 751 (3) Kailash vs. Nanhku & Ors. (2005) 4 SCC 480, (4) Ajit Singh & Ors. Vs. State of Punjab & Anr. (1983) 2 SCC 217.

Para No.9 of the SCC in Sharif-Ud-Din's case (supra) is reproduced hereunder:

"9. The difference between a mandatory rule and a directory rule is that while the former must be strictly observed, in the case of the latter substantial compliance may be sufficient to achieve the object regarding which the rule is enacted. Certain broad propositions which can be deduced from several decisions of courts regarding the rules of construction that should be followed in determining whether a provision of law is directory or mandatory may be summarized thus: The fact that the statute uses the word 'shall' while laying down a duty is not conclusive on the question whether it is a mandatory or directory provision. In order to find out the true character of the legislation, the court has to ascertain the object which the provision of law in question has to subserve and its design and the context in which it is enacted. If the object of a law is to be defeated by non-compliance with it, it has to be regarded as mandatory. But when a provision of law relates to the performance of any public duty and the invalidation of any act done in disregard of that provision causes serious prejudice to those for whose

benefit it enacted and at the same time who have not control over the performance of the duty, such provision should treated as a directory one.

Para no. 29 of the AIR in Babu Ram Upadhyā's case (supra) is reproduced hereunder:

"29. The relevant rules of interpretation may be briefly stated thus: When a statute uses the word "Shall" prima facie, it is mandatory, but the Court may ascertain the real intention of the legislature by carefully attending to the whole scope of the statute. For ascertaining the real intention of the Legislature the Court may consider, inter alia, the nature and the design of the statute, and the consequences which would follow from construing it the one way or the other, the impact of other provisions whereby the necessity of complying with the provisions in question is avoided, the circumstance, namely, that the statute provides for a contingency of the non-compliance with the provisions, the fact that the non-compliance with the provisions, the fact that the non-compliance with the provisions is or is not visited by some penalty, the serious or trivial consequences that flow therefrom, and, above all, whether the object of the legislation will be defeated or furthered."

Para no. 35 of the SCC in Kailash' Case (supra) is reproduced hereunder:

"35. The court took into consideration the Statement of Objects and Reasons and the legislative intent behind providing a time-frame to file reply and held: (i) that the provision as framed was not mandatory in nature as no penal consequences are prescribed if

the extended time exceeds 15 days, and; (ii) that the provision was directory in nature and could not be interpreted to mean that in no event whatsoever the reply of the respondent could be taken on record beyond the period of 45 days."

Para no. 8 of the SCC in Ajit Singh's case (supra) is reproduced hereunder:

"8.... This rule is interpretation was reaffirmed recently in Municipal Corporation of Greater Bombay v. B.E.S.T. workers' Union ((1973) 3 SCR 285). In order to ascertain whether Rule 9 (2) is mandatory or directory, the setting in which it is placed, the purpose underlying the provision, the object sought to be achieved would help in determining whether it is mandatory or directory. As we have pointed out above the Rule 9 (2) was an enabling provision conferring power on the State Government to put a person appointed by direct recruitment on a probation of maximum period or two years and no consequence of failure to comply with the same is provided in the relevant rules, the provision appears to be directory...."

[9] It is no longer res integra that any Rule of procedure are to be construed not to frustrate or obstruct the holding of enquiry under the substantive provision. Reference: Dr. Mahachandra Prasad Singh vs. chairman, Bihar Legislative Council & Ors. (2004) 8 SCC 747. Para 16 of the SCC in Dr. Mahachandra's case (supra) is reproduced hereunder:

"16... A defaulting legislator, who has otherwise incurred the disqualification under Paragraph 2, would be able to get away by taking the advantage or even a slight or insignificant error in the petition and thereby asking the Chairman to dismiss the petition under

sub-rule (2) of Rule 7. The validity of the Rules can be sustained only if they are held to be directory in nature as otherwise, on strict interpretation, they would be rendered ultra vires."

Therefore, the procedure prescribed under Section 20 (2) and (3) of the Manipur Lokayukta Act, 2014 should not be construed to frustrate or obstruct the holding of enquiry by the Manipur Lokayukta in the Complaint for misappropriation and embezzlement of several crores of Rupees from the public exchequers under the substantive provision under the Manipur Lokayukta Act, 2014.

[10] It is also fairly settled law that defective investigation need not necessarily lead to rejection of the case of prosecution case. Reference: (1) Visveswaran vs. State (2003) 6 SCC 73, and (2) Kashinath Mondal vs. State of West Bengal (2012) 7 SCC 699.

Para no. 12 of the SCC in Visveswaran's case (supra) is reproduced hereunder:

"12.... The ground realities are to be kept in view. It is also required to be kept in view that every defective investigation need not necessarily result in the acquittal. In defective investigation, the only requirement is of extra caution by courts while evaluating evidence. It would not be just to acquit the accused solely as a result of defective investigation. Any deficiency or irregularity in investigation need not necessarily lead to rejection of the case of prosecution when it is otherwise proved."

Para no. 19 of the SCC in Kashinath Mondal's case (supra) is reproduced hereunder:

"19. There is some substance in the grievance of the learned counsel for the appellant that the investigating agency also did not obtain fingerprints from the place of incident. But, it is well settled

that remissness and inefficiency of the investigating agency should be no ground to acquit a person if there is enough evidence on record to establish his guilt beyond reasonable doubt.”

[11] It is also equally well settled law that any person can be impleaded as an accused if sufficient material is available in the course of investigation of an FIR. Therefore, the investigation of a complaint case alleging misappropriation and embezzlement of huge amount of public money to the tune of Rs. 36 crores cannot be set aside only on the excuse that there is a simple technical loophole in the course of conducting preliminary inquiry. The question that is to be considered is if the technical loophole will amount to complete denial of fair proceeding to the accused. In the present case, as we have stated above, we have taken extreme care to follow the principle of natural justice. The stage of the present case is at the stage of considering as to whether prima facie material has been made out for investigation or not. In other word, investigation has not yet started. Shri Armstrong Pame, Respondent No. 1 (Writ Petitioner) will have all the opportunity to submit his case. Respondent No. 1 of the present case/Writ Petitioner, Shri Armstrong Pame has already waived his chance to raise objection as to non-availability of the opportunity to file his comment to the Preliminary Inquiry Report under Section 20 (2) of the Manipur Lokayukta Act, 2014 as he voluntarily, without any objection, has filed his comment to the Preliminary Inquiry Report as per our order dated 31.07.2023 on 18.09.2023.

[12] We are not making any observation as to the merit of the Writ Petition i.e. W.P. (C) No. 671 of 2023, we are not even competent to decide the merit of the Writ Petition filed before the Hon'ble High Court of Manipur. Over and above, we have all the due respect to the highest judicial authority of the State/highest judicial authority of the State i.e. High Court.

[13] List this case on 11.10.2023.

[14] Registry is directed to furnish a copy of this order to the learned counsels appearing for the parties.”

***Sd/-
MEMBER***

***Sd/-
CHAIRPERSON”***

[9] The High Court of Manipur did not pass any interim order nor any gave any direction to the Manipur Lokayukta not to proceed with Complaint Case No. 1 of 2022 in W.P.(C) No. 671 of 2023.

[10] In the instant case, the 3 (three) important points to be decided are as under:

- 1) Whether the Respondent No. 1 has power and jurisdiction under RFCTLARR Act of 2013 to modify the Award No. DC (TML)11/370(RLY)09(TUPUL-IMPHAL) dated 21.03.2017 made by the District Collector (LA), Tamenglong under Section 23 of RFCTLARR Act of 2013 by making 2 (two) subsequently amended Awards being (i) No. DC(TML)11/370(RLY)09(TUPUL-IMPHAL) dated 15.06.2017 and (ii) No.DC(TML)11/370(RLY)09(TUPUL-IMPHAL) dated 16.06.2017?;
- 2) Whether the 2 (two) amended Awards dated 15.06.2017 and 16.06.2017 were made by the Respondent No. 1 in post-haste in collusion with Respondent Nos. 4 and 5 for enjoyment of the compensation?
- 3) Whether there is material evidence, either direct or circumstantial evidence, for committing offences punishable under the Prevention of Corruption Act, 1988 and Indian Penal Code by the Respondent No. 1, Mr. Armstrong Pame, IAS ?

[11] The relevant sections of RFCTLARR Act of 2013 which are required to be taken into consideration in the present case are as under :

"4. Preparation of Social Impact Assessment study.

Preparation of Social Impact Assessment study.-(1) Whenever the appropriate Government intends to acquire land for a public purpose, it shall consult the concerned Panchayat, Municipality or Municipal Corporation, as the case may be, at village level or ward level, in the affected area and carry out a Social Impact Assessment study in consultation with them, in such manner and from such date as may be specified by such Government by notification.

(2) The notification issued by the appropriate Government for commencement of consultation and of the Social Impact Assessment study under sub-section (1) shall be made available in the local language to the Panchayat, Municipality or Municipal Corporation, as the case may be, and in the offices of the District Collector, the Sub-Divisional Magistrate and the Tehsil, and shall be published in the affected areas, in such manner as may be prescribed, and uploaded on the website of the appropriate Government:

Provided that the appropriate Government shall ensure that adequate representation has been given to the representatives of Panchayat, Gram Sabha, Municipality or Municipal Corporation, as the case may be, at the stage of carrying out the Social Impact Assessment study:

Provided further that the appropriate Government shall ensure the completion of the Social Impact Assessment study within a period of six months from the date of its commencement.

(3) The Social Impact Assessment study report referred to in sub-section (1) shall be made available to the public in the manner prescribed under section 6.

(4) The Social Impact Assessment study referred to in sub-section (1) shall, amongst other matters, include all the following, namely:—

(a) assessment as to whether the proposed acquisition serves public purpose;

(b) estimation of affected families and the number of families among them likely to be displaced;

(c) extent of lands, public and private, houses, settlements and other common properties likely to be affected by the proposed acquisition;

(d) whether the extent of land proposed for acquisition is the absolute bare- minimum extent needed for the project;

(e) whether land acquisition at an alternate place has been considered and found not feasible;

(f) study of social impacts of the project, and the nature and cost of addressing them and the impact of these costs on the overall costs of the project vis-a-vis the benefits of the project:

Provided that Environmental Impact Assessment study, if any, shall be carried out simultaneously and shall not be contingent upon the completion of the Social Impact Assessment study.

(5) While undertaking a Social Impact Assessment study under sub-section (1), the appropriate Government shall, amongst other things, take into consideration the impact that the project is likely to have on various components such as livelihood of affected families, public and community properties, assets and infrastructure particularly roads, public transport, drainage, sanitation, sources of drinking water, sources of water for cattle, community ponds, grazing land, plantations, public utilities such as post offices, fair price shops, food storage godowns, electricity supply, health care facilities, schools and educational or training facilities, anganwadis, children parks, places of worship, land for traditional tribal institutions and burial and cremation grounds.

(6) The appropriate Government shall require the authority conducting the Social Impact Assessment study to prepare a Social Impact Management Plan, listing the ameliorative measures required to be undertaken for addressing the impact for a specific component referred to in sub-section (5), and such measures shall not be less than what is provided under a scheme or programme, in operation in that area, of the Central Government or, as the case may be, the State Government, in operation in the affected area."

"11. Publication of preliminary notification and power of officers.—(1) Whenever, it appears to the appropriate Government that land in any area is required or likely to be required for any public purpose, a notification (hereinafter referred to as preliminary notification) to that effect along with details of the land to be acquired in rural and urban areas shall be published in the following manner, namely:—

(a) in the Official Gazette;

(b) in two daily newspapers circulating in the locality of such area of which one shall be in the regional language;

(c) in the local language in the Panchayat, Municipality or Municipal Corporation, as the case may be and in the offices of the District Collector, the Sub-divisional Magistrate and the Tehsil;

(d) uploaded on the website of the appropriate Government;

(e) in the affected areas, in such manner as may be prescribed.

(2) Immediately after issuance of the notification under sub-section (1), the concerned Gram Sabha or Sabhas at the village level, municipalities in case of municipal areas and the Autonomous Councils in case of the areas referred to in the Sixth Schedule to the Constitution, shall be informed of the contents of the notification issued under the said sub-section in all cases of land acquisition at a meeting called especially for this purpose.

(3) The notification issued under sub-section (1) shall also contain a statement on the nature of the public purpose involved, reasons necessitating the displacement of affected persons, summary of the Social Impact Assessment Report and particulars of the Administrator appointed for the purposes of rehabilitation and resettlement under section 43.

(4) No person shall make any transaction or cause any transaction of land specified in the preliminary notification or create any encumbrances on such land from the date of publication of such notification till such time as the proceedings under this Chapter are completed:

Provided that the Collector may, on the application made by the owner of the land so notified, exempt in special circumstances to be recorded in writing, such owner from the operation of this sub-section:

Provided further that any loss or injury suffered by any person due to his wilful violation of this provision shall not be made up by the Collector.

(5) After issuance of notice under sub-section (1), the Collector shall, before the issue of a declaration under section 19, undertake and complete the exercise of updating of land records as prescribed within a period of two months."

"12. Preliminary survey of land and power of officers to carry out survey.—For the purposes of enabling the appropriate Government to determine the extent of land to be acquired, it shall be lawful for any officer, either generally or specially authorised by such Government in this behalf, and for his servants and workmen,—

- (f) to enter upon and survey and take levels of any land in such locality;**
- (g) to dig or bore into the sub-soil;**
- (h) to do all other acts necessary to ascertain whether the land is adapted for such purpose;**
- (i) to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon; and**
- (j) to mark such levels, boundaries and line by placing marks and cutting trenches and where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle:**

Provided that no act under clauses (a) to (e) in respect of land shall be conducted in the absence of the owner of the land or in the absence of any person authorised in writing by the owner:

Provided further that the acts specified under the first proviso may be undertaken in the absence of the owner, if the owner has been afforded a reasonable opportunity to be present during the survey, by giving a notice of at least sixty days prior to such survey:

Provided also that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so."

"13. Payment for damage.—The officer so authorised under section 12 shall at the time of entry under section 12 pay or tender payment for any damage caused, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector or other chief revenue officer of the district, and such decision shall be final."

"15. Hearing of objections.—(1) Any person interested in any land which has been notified under sub-section (1) of section 11, as being required or likely to be required for a public purpose, may within sixty days from the date of the publication of the preliminary notification, object to—

- (k) the area and suitability of land proposed to be acquired;**
- (l) justification offered for public purpose;**
- (m) the findings of the Social Impact Assessment report.**

(2) Every objection under sub-section (1) shall be made to the Collector in writing, and the Collector shall give the

objector an opportunity of being heard in person or by any person authorised by him in this behalf or by an Advocate and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, either make a report in respect of the land which has been notified under sub-section (1) of section 11, or make different reports in respect of different parcels of such land, to the appropriate Government, containing his recommendations on the objections, together with the record of the proceedings held by him along with a separate report giving therein the approximate cost of land acquisition, particulars as to the number of affected families likely to be resettled, for the decision of that Government.

(3) The decision of the appropriate Government on the objections made under sub-section (2) shall be final."

"16. Preparation of Rehabilitation and Resettlement Scheme by the Administrator.—(1) Upon the publication of the preliminary notification under sub-section (1) of section 11 by the Collector, the Administrator for Rehabilitation and Resettlement shall conduct a survey and undertake a census of the affected families, in such manner and within such time as may be prescribed, which shall include—

(n) particulars of lands and immovable properties being acquired of each affected family;

(o) livelihoods lost in respect of land losers and landless whose livelihoods are primarily dependent on the lands being acquired;

(p) a list of public utilities and Government buildings which are affected or likely to be affected, where resettlement of affected families is involved;

(q) details of the amenities and infrastructural facilities which are affected or likely to be affected, where resettlement of affected families is involved; and

(r) details of any common property resources being acquired.

(2) The Administrator shall, based on the survey and census under sub-section (1), prepare a draft Rehabilitation and Resettlement Scheme, as prescribed which shall include particulars of the rehabilitation and resettlement entitlements of each land owner and landless whose livelihoods are primarily dependent on the lands being acquired and where resettlement of affected families is involved—

(i) a list of Government buildings to be provided in the Resettlement Area;

(ii) details of the public amenities and infrastructural facilities which are to be provided in the Resettlement Area.

(3) The draft Rehabilitation and Resettlement scheme

referred to in sub-section (2) shall include time limit for implementing Rehabilitation and Resettlement Scheme.

(4) The draft Rehabilitation and Resettlement scheme referred to in sub-section (2) shall be made known locally by wide publicity in the affected area and discussed in the concerned Gram Sabhas or Municipalities.

(5) A public hearing shall be conducted in such manner as may be prescribed, after giving adequate publicity about the date, time and venue for the public hearing at the affected area:

Provided that in case where an affected area involves more than one Gram Panchayat or Municipality, public hearings shall be conducted in every Gram Sabha and Municipality where more than twenty-five per cent. of land belonging to that Gram Sabha or Municipality is being acquired:

Provided further that the consultation with the Gram Sabha in Scheduled Areas shall be in accordance with the provisions of the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (40 of 1996).

(6) The Administrator shall, on completion of public hearing submit the draft Scheme for Rehabilitation and Resettlement along with a specific report on the claims and objections raised in the public hearing to the Collector."

"19. Publication of declaration and summary of Rehabilitation and Resettlement.-(1) When the appropriate Government is satisfied, after considering the report, if any, made under sub-section

(2) of section 15, that any particular land is needed for a public purpose, a declaration shall be made to that effect, along with a declaration of an area identified as the -resettlement area]] for the purposes of rehabilitation and resettlement of the affected families, under the hand and seal of a Secretary to such Government or of any other officer duly authorised to certify its orders and different declarations may be made from time to time in respect of different parcels of any land covered by the same preliminary notification irrespective of whether one report or different reports has or have been made (wherever required).

(2) The Collector shall publish a summary of the Rehabilitation and Resettlement Scheme along with declaration referred to in sub-section (1):

Provided that no declaration under this sub-section shall be made unless the summary of the Rehabilitation and Resettlement Scheme is published along with such declaration:

Provided further that no declaration under this sub-section shall be made unless the Requiring Body deposits an amount, in full or part, as may be prescribed by the appropriate Government toward the cost of acquisition of the land:

Provided also that the Requiring Body shall deposit the amount promptly so as to enable the appropriate Government to publish the declaration within a period of twelve months from the date of the publication of preliminary notification under section 11.

(3) In projects where land is acquired in stages, the application for acquisition itself can specify different stages for the rehabilitation and resettlement, and all declarations shall be made according to the stages so specified.

(4) Every declaration referred to in sub-section (1) shall be published in the following manner, namely:—

(a) in the Official Gazette;

(b) in two daily newspapers being circulated in the locality, of such area of which one shall be in the regional language;

(c) in the local language in the Panchayat, Municipality or Municipal Corporation, as the case may be, and in the offices of the District Collector, the Sub-Divisional Magistrate and the Tehsil;

(d) uploaded on the website of the appropriate Government;

(e) in the affected areas, in such manner as may be prescribed.

(5) Every declaration referred to in sub-section (1) shall indicate,—

(a) the district or other territorial division in which the land is situated;

(b) the purpose for which it is needed, its approximate area; and

(c) where a plan shall have been made for the land, the place at which such plan may be inspected without any cost.

(6) The declaration referred to in sub-section (1) shall be conclusive evidence that the land is required for a public purpose and, after making such declaration, the appropriate Government may acquire the land in such manner as specified under this Act.

(7) Where no declaration is made under sub-section (1) within twelve months from the date of preliminary notification, then such notification shall be deemed to have been rescinded:

Provided that in computing the period referred to in this sub-section, any period or periods during which the proceedings for the acquisition of the land were held up on account of any stay or injunction by the order of any Court shall be excluded:

Provided further that the appropriate Government shall have the power to extend the period of twelve months, if in its opinion circumstances exist justifying the same:

Provided also that any such decision to extend the period shall be recorded in writing and the same shall be notified and be uploaded on the website of the authority concerned."

"21. Notice to persons interested.—(1) The Collector shall publish the public notice on his website and cause public notice to be given at convenient places on or near the land to be taken, stating that the Government intends to take possession of the land, and that claims to compensations and rehabilitation and resettlement for all interests in such land may be made to him.

(2) The public notice referred to in sub-section (1) shall state the particulars of the land so needed, and require all persons interested in the land to appear personally or by agent or advocate before the Collector at a time and place mentioned in the public notice not being less than thirty days and not more than six months after the date of publication of the notice, and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests, their claims to rehabilitation and resettlement along with their objections, if any, to the measurements made under section 20.

(3) The Collector may in any case require such statement referred to in sub-section (2) to be made in writing and signed by the party or his agent.

(4) The Collector shall also serve notice to the same effect on the occupier, if any, of such land and on all such persons known or believed to be interested therein, be entitled to act for persons so interested, as reside or have agents authorised to receive service on their behalf, within the revenue district in which the land is situated.

(5) In case any person so interested resides elsewhere, and has no such agent, the Collector shall ensure that the notice shall be sent to him by post in letter addressed to him at his last known residence, address of place or business and also publish the same in at least two national daily newspapers and also on his website."

"22. Power to require and enforce the making of statements as to names and interests.—(1) The Collector may also require any such person to make or deliver to him, at a time and place mentioned (such time not being less than thirty days after the date of the requisition), a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the nature of such interest, and of the rents and profits, if any, received or receivable on account thereof for three years next preceding the date of the statement.

(2) Every person required to make or deliver a statement under this section shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code (45 of 1860)."

"23. Enquiry and land acquisition award by Collector.—On the day so fixed, or on any other day to which the enquiry has been adjourned, the Collector shall proceed to enquire into the objections (if any) which any person interested has stated pursuant to a notice given under section 21, to the measurements made under section 20, and into the value of the land at the date of the publication of the notification, and into the respective interests of the persons claiming the compensation and rehabilitation and resettlement, shall make an award under his hand of—

- (a) the true area of the land;**
- (b) the compensation as determined under section 27 along with Rehabilitation and Resettlement Award as determined under section 31 and which in his opinion should be allowed for the land; and**
- (c) the apportionment of the said compensation among all the persons known or believed to be interested in the land, or whom, or of whose claims, he has information, whether or not they have respectively appeared before him."**

"25. Period within which an award shall be made.—The Collector shall make an award within a period of twelve months from the date of publication of the declaration under section 19 and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse:

Provided that the appropriate Government shall have the power to extend the period of twelve months if in its opinion, circumstances exist justifying the same:

Provided further that any such decision to extend the period shall be recorded in writing and the same shall be notified and be uploaded on the website of the authority concerned."

"30. Award of solatium.—(1) The Collector having determined the total compensation to be paid, shall, to arrive at the final award, impose a –Solatium amount equivalent to one hundred per cent. of the compensation amount.

Explanation.—For the removal of doubts it is hereby declared that solatium amount shall be in addition to the compensation payable to any person whose land has been acquired.

(2) The Collector shall issue individual awards detailing the particulars of compensation payable and the details of payment of the compensation as specified in the First Schedule.

(3) In addition to the market value of the land provided under section 26, the Collector shall, in every case, award an amount calculated at the rate of twelve per cent. per annum on such market value for the period commencing on and from the

date of the publication of the notification of the Social Impact Assessment study under sub-section (2) of section 4, in respect of such land, till the date of the award of the Collector or the date of taking possession of the land, whichever is earlier."

"33. Corrections to awards by Collector.—(1) The Collector may at any time, but not later than six months from the date of award or where he has been required under the provisions of this Act to make a reference to the Authority under section 64, before the making of such reference, by order, correct any clerical or arithmetical mistakes in either of the awards or errors arising therein either on his own motion or on the application of any person interested or local authority:

Provided that no correction which is likely to affect prejudicially any person shall be made unless such person has been given a reasonable opportunity of making representation in the matter.

(2) The Collector shall give immediate notice of any correction made in the award so corrected to all the persons interested.

(3) Where any excess amount is proved to have been paid to any person as a result of the correction made under sub-section (1), the excess amount so paid shall be liable to be refunded and in the case of any default or refusal to pay, the same may be recovered, as prescribed by the appropriate Government."

"37. Awards of Collector when to be final.—(1) The Awards shall be filed in the Collector's office and shall, except as hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area and market value of the land and the assets attached thereto, solatium so determined and the apportionment of the compensation among the persons interested.

(2) The Collector shall give immediate notice of his awards to such of the persons interested who are not present personally or through their representatives when the awards are made.

(3) The Collector shall keep open to the public and display a summary of the entire proceedings undertaken in a case of acquisition of land including the amount of compensation awarded to each individual along with details of the land finally acquired under this Act on the website created for this purpose."

"64. Reference to Authority.—(1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Authority, as the case may be, whether

his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable, the rights of Rehabilitation and Resettlement under Chapters V and VI or the apportionment of the compensation among the persons interested:

Provided that the Collector shall, within a period of thirty days from the date of receipt of application, make a reference to the appropriate Authority:

Provided further that where the Collector fails to make such reference within the period so specified, the applicant may apply to the Authority, as the case may be, requesting it to direct the Collector to make the reference to it within a period of thirty days.

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made—

(a) person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 21, or within six months from the date of the Collector's award, whichever period shall first expire:

Provided further that the Collector may entertain an application after the expiry of the said period, within a further period of one year, if he is satisfied that there was sufficient cause for not filing it within the period specified in the first proviso."

[12] In the present case, it appears that the Respondent No. 1 has lost sight of the provisions of RFCTLARR Act of 2013 and had acted in such a manner that he, being the officer having good service record, has the power which are not conferred to him under the above mentioned provisions of RFCTLARR Act of 2013 to modify/amend the Award dated 21.03.2017 made by his predecessor, District Collector (LA), Tamenglong. District Collector (LA), Tamenglong under Section 23 of the RFCTLARR Act of 2013, who is not an officer inferior to him i.e. Respondent NO. 1, who is also the District Collector (LA), Tamenglong.

[13] The fact which are relevant and not disputed for deciding the present case, in concise, are that

[13.1] The Deputy Chief Engineer, CON-II, N.F. Railway, Imphal vide letter No. W/207/CON/J-I/Imphal (Tupul-Imphal) dated 20/03/2013 requested the District Collector (LA), Tamenglong to take up land acquisition proceedings as per the land Acquisition Act, 1894, for a land measuring 156.448 hectares (Approx) of land between Railway Chainage 0.0 to 11.445 Km. The District Collector (LA), Tamenglong vide letter No. DC(TML)11/370(RLY)09 (Tupul-Imphal) dated 6.07.2013 had requested the Commissioner (Revenue) for issue of Notification u/s 4 of the LA Act, 1894 for acquiring the land lying between Railway Chainage No. 0.000 Km to 11.445 Kms between Tupul to Imphal for an area measuring 156.448 Hectare (386.591 Acres) approx. The Commissioner (Revenue), Government of Manipur vide Notification No. 4/18/LA/2013-Com(Rev) dated 30.07.2013, had notified under Section 4(1) of the L.A. Act, 1894 that the land scheduled below is likely to be needed for a public purpose i.e., construction of new B.G. Railway Line between Tupul to Imphal at Makhuam, Pungmon and Tupul village in Tamenglong District.

SCHEDULE OF LAND

DISTRICT:	TAMENGLONG
VILLAGES:	MAKHUAM, PUNGMON AND TUPUL
SUB-DIVISION:	TAMENGLONG AND NUNGBA
TOTAL AREA:	156.448 hectares (386.591 acres) APPROX

[13.2] The District Collector (LA), Tamenglong vide Order No. DC(TML)11/370(RLY)09(TUPUL-IMPHAL) dated 04.08.2014 constituted a

committee of the relevant departments for data collection and for initiating land acquisition process under the New Land Acquisition Act, 2013 i.e. Right to Fair Compensation and transparency in Land Acquisition, rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'RFCTLARR Act of 2013'). After collection and compilation of the requisite data, a report was submitted to the Secretary (revenue), Govt. of Manipur by the District Collector (LA), Tamenglong vide letter No. DC(TML)11/370(RLY)09(TUPUL-IMPHAL) dated 08.08.2014. However, with the enforcement of RFCTLARR Act of 2013, it was felt that fresh land acquisition be initiated. Consequently, vide Order No. DC(TML)11/370(RLY)09(TUPUL-IMPHAL) dated 04.08.2014, a committee comprising of the officials from different departments was constituted for collection of data for initiating land acquisition under the RFCTLARR Act of 2013. The Revenue department issued a notification under section 4 (1) of the RFCTLARR Act of 2013 vide Notification No. 4/24/LA/2014-Com(Rev) dated 13.11.2014 that the State Government intends to acquire 143.07 acres of land for a public purpose i.e. construction of New Broad Gauge Railway Line from Tupul to Imphal (Tamenglong portion) by the N.F. Railways and for the conduct of the Social Impact Assessment study by the Social Impact Assessment Unit. After conducting field survey and demarcation, the Sub-Divisional Officer, Tamenglong had submitted survey report vide letter No. SDO/Tml/212/LA-Rly/13 dated 5th Feb, 2015 the partial content of which are reflected below:-

A) Land:-

- (i) Initially, the area of land intended to be acquired by the N.F. Railway was 143.07 acres (from chainage 98080 to 105540) however it has been reduced to 137.09 acres (from chainage 98080 to 105419) after shortening 121 m (105419-105540) at Pungmon Village side. The

deduction in length of the Railway line was made as per the joint discussion held with the N.F. Railway and the survey team.

(ii) The break-up of the above 137.09 acres of land is shown below:-

(a) Makhuam (Marangjing) Village	:- 37.88 acres
(b) Pugmon & Kharam Pallen (disputed)	:- 99.21 acres
Total Area	:- 137.09 acres

B) Standing Trees, crops, building, rehabilitation and resettlement.

(i) Trees :- The assesment of standing trees is to be made under Section 12 of the Act of the RFCTLARR Act, 2013.

(ii) Crops :- -do-

(iii) Buildings :- No building in the proposed area

(iv) Rehabilitation :- Nil (No dwelling house in the proposed area)

(v) Resettlement :- -do-

[13.3] The said report dated 05.02.2015 of the Respondent No. 2 was submitted by the District Collector (LA), Tamenglong vide letter No.DC(TML)11/370(RLY)09(TUPUL-IMPHAL) dated 06.02.2015, with a proposal to the Secretary (Revenue), Govt. Of Manipur for notification u/s 11 of the RFCTLARR Act, 2013 alongwith details of the land measuring 137.09 acres. On receipt of the said letter of the District Collector (LA), Tamenglong dated 06.02.2015 for notification under section 11 of the RFCTLARR Act of 2013, the Secretary (Revenue), Government of Manipur issued a Notification dated 21.02.2015 under section 11(1) of the RFCTLARR Act, 2013 for the proposed area of 137.09 acres with further instruction to the concerned SDO, SDC and staff to take steps under the provisions of section 12 read with

section 13 of the RFCTLARR Act, 2013 and to submit report to the Collector (LA), Tamenglong. Under the same Notification dated 21.02.2015, the Additional District Magistrate, Tamenglong had been appointed as the Administrator under Section 43 of the RFCTLARR Act, 2013 for the purposes of rehabilitation. For easy reference the said Notification dated 21.02.2015 is reproduced hereunder :

**"GOVERNMENT OF MANIPUR
SECRETARIAT: REVENUE DEPARTMENT**

**NOTIFICATION
Imphal, the 21st February, 2015**

No. 4/24/LA/2014-Com(Rev): The Governor of Manipur is pleased to notify under Section 11(1) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 that the land measuring 137.09 acres of land described in the schedule given below are likely to be needed for a public purposed i.e. construction of New B.G. Railway line between Tupul to Imphal Section of Jiribam-Imphal Project, Tamenglong portion at Village Makhuam (Marangjing), Kharam Pallen and Pungmon in Tamenglong District to provide rail connectivity to the capital town of Imphal, Manipur State for carrying essential commodities and development of transportation system and the Additional District Magistrate, Tamenglong has been appointed as Administrator under section 43 of the said Act for the purposes of rehabilitation and resettlement.

SCHEDULE OF LAND

**District: Tamenglong
Tehsil: Tamenglong
Village: Makhuam (Marangjing), Kharam Pallen and Pungmon.**

Sl. No.	Name of Village	Name of affected land owner	Affected area in acre	Classification of land
1.	Makhuam (Marangjing) (Undisputed)	Thuankulung Gangmei S/o Late Makhuamchang Gangmei	37.88 acres	Jhum land
2.	Kharam Pallen (undisputed)	R. Umsophun S/o (L) R. Rengslnong	8.14 acres	Jhum land
3.	Kharam Pallen (undisputed)	(a) G.D Meithanglung S/o (L)		

		Pousangal of Makhuam		
		(b) G.D.Selgonglung S/o (L) Lanjei of Makhuam		
		(c) Gaibi Gangmei S/o (L) Namkhaolung of Makhuam	13.97 acres	Jhum land
		(d) Pougongthui Gangmei S/o (L) Namkhaolung of Makhuam		
		(e) Thonguang Gangmei S/o (L) Namkhaolung of Makhuam		
4.	Pungmon (undisputed)	Kh. Lovejoy S/o Majoreng Khumba of Pungmon	77.10 acres	Jhum land
		Total	137.09 acres	

2. Further, the Governor of Manipur is also pleased to authorize the concerned Sub-Divisional Officer (s), Sub-Deputy Collector(s) and staff under their control to take steps under the provisions of section 12 read with section 13 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and to submit report to the Collector (LA), Tamenglong.

**By orders & in the name of Governor,
Sd/-**

(K. Radhakumar Singh)

Secretary (Revenue), Govt. Of Manipur.

Imphal, the 21st February, 2015

Memo No. 4/24/LA/2014-Com(Rev)''

[14] Any person interested in the land mentioned in the Notification dated 21.02.2015 issued under Section 11 (1) of the RFCTLARR Act of 2013 may file objection. The District Collector (LA), Tamenglong wrote a letter dated 23.03.2015 to SDO, Tamenglong, Respondent No. 2 regarding the objection against awarding land ownership to irrelevant individuals and the Under Secretary, Revenue, Manipur requested the D.C. Tamenglong for re-

examination. The SDO, Tamenglong, Respondent No. 2 submitted his report to DC, Tamenglong regarding the Court cases i.e. OS No. 6 of 2013, Civil Judge Senior Div., Manipur West NO. 24 of 2014, Civil Judge Senior Div., Senapati.

[15] After the said of Preliminary Notification dated 21.02.2015 under Section 11 of the RFCTLARR Act of 2013, wherein the details of the land to be acquired and the names of the landowners are mentioned in the Schedule of Land, various stakeholders have complained the DC, Tamenglong Office as well as the SDO Office about the ownership of the land and also to the field survey report dated 05.02.2015 submitted by the Respondent No. 2 to the DC, Tamenglong giving details of the affected land and owners which are to be acquired for construction of New BG Railway line within Tamenglong District asking the competent authority to carry out the preliminary survey of the land to be acquired under Section 12 (a) to € of the RFCTLARR Act of 2013. Thereafter, the District Collector (LA), Tamenglong District issued a Notification being No. DC(TML)11/370(RLY)09(Tupul-Imphal) on 07.007.2015 for conducting a field survey of the land from 10th July, 2015 to 15th July, 2015 as per the provision of Section 12 of the RFCTLARR Act of 2013 by a Committee mentioned in the said Notification. The said Notification of field survey dated 07.07.2015 issued after the said preliminary notification under Section 11 (1) of the RFCTLARR Act of 2013 is reproduced hereunder :

"FIELD SURVEY ORDERS BY DC TML

***Notification
Tamenglong the 7th July, 2015***

NO.DC(TML)11/370(RLY)09(Tupul-Imphal): Consequent upon the publication of the preliminary Notification under sub-section (1) of section 11 of the Right to Fair Compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement Act, 2013 by the Collector (Land Acquisition).

Tamenglong, the field survey of the land likely to be affected by the acquisition of land for construction of New B.G. Railway line between Tupul to Imphal section of Jiribam-Imphal project, Tamenglong portion at Village Makhum (Marangjing), Kharam Pallen and Pungmon will be conducted from 10th July, 2015 to 15th July, 2015 as per the provision of section 12 of the aforesaid Act by the committee consisting of Officers/ Deputed Officers of various Departments as detailed below:-

<i>Sl No.</i>	<i>Designation</i>	<i>Department/ Organization</i>	<i>Work</i>
<i>1.</i>	<i>The SDO/Tamenglong</i>	<i>Revenue</i>	<i>- Team leader</i>
<i>2.</i>	<i>Representatives of the NF Railway deputed by Dy. CE/Con/Imphal</i>	<i>NF Railway</i>	<i>- Member</i>
<i>3.</i>	<i>The DFO (WFD), Tamenglong or his authorized representative.</i>	<i>Forest Deptt.</i>	<i>- Member</i>
<i>4.</i>	<i>The D.O (H&SC), Tamenglong or his authorized representative.</i>	<i>Horticulture and Soil Conservation.</i>	<i>- Member</i>
<i>5.</i>	<i>The D.A.O/ Tamenglong or his authorized representative.</i>	<i>Agriculture</i>	<i>- Member</i>
<i>6.</i>	<i>Landowners concerned.</i>		<i>- Member</i>

This survey is for the purpose of preparation of Rehabilitation and Resettlement Scheme under section 16(1) of the Right to Fair Compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement Act, 2013. All concerned are, therefore, requested to extend co-operation to the survey team.

***(M.LUIKHAM)
District Collector (LA), Tamenglong Dist"***

[16] On 13.07.2015, a joint inquiry and survey headed by team leader, Shri P. Sana Singh, SDO, Tamenglong (Respondent No. 2) was conducted. After the said survey, Respondent No. 2 submitted a report to the DC, Tamenglong as per the notification dated 07.07.2015. But the said report of the Respondent No. 2 was not accepted by the then DC, Tamenglong with the remark as "improper". Again, the DC, Tamenglong under his letter dated 30.07.2015 directed the SDO, Tamenglong, Respondent No. 2 to submit the

survey report latest by 10.08.2015 with the remarks that SDO had taken a lackadaisical approach which was regrettable.

[17] The Respondent No. 2 was the SDO, Tamenglong from 12.08.2013 to 19.08.2015 and the Respondent No. 3, Shri Robertson Asem, MCS was the SDO, Tamenglong from 29.08.2015 to 05.06.2017. On 19.03.2016, Respondent No. 3, submitted a report on the survey under Section 12 of the RFCTLARR Act of 2013. The operative portion of which is reproduced under:

"Dated 19.03.2016: the then SDO, TML (Shri Robertson Asem) to DC, TML submitted report of survey under section 12 of the Act, a portion of which is reproduced below:

******It may be mentioned that Shri Langanglung Gondamei, Chairman of Makhuam Baptist Church (RNBA) and Shri Namronlung Gondamei, Khullak of Marangjing village have submitted representation with claims being landowners of the affected area at Marangjing village. The later has also submitted a copy of orders of the Hon'ble High Court of Manipur dated 10.08.2015 which directs that the land acquisition proceedings vide notification dated 21.02.2015 shall be subject to the outcome of W.P.(C) No. 354 of 2015. Shri Thuankulung Gangmei has also submitted his claim being the sole and legitimate land owner (copies enclosed).***

The survey reports (in original) of the forest department and Horticulture & Soil Conservation department vide letter no. 1/42/WFD/2013-14(valuation) at dated 10.03.2016 & No. DO (H&SC)-TML/1-28/14 dated 16.03.2016 respectively are also enclosed herewith for favour of further necessary action from your end."

[18] Notification dated 14.03.2016 under Section 15 of the RFCTLARR Act of 2013 was notified for submitting claims and objections regarding the proposed acquisition of land as per the preliminary notification dated 21.02.2015 in writing to the District Collector (LA), Tamenglong on or before 21.03.2016.

The hearing under Section 15 of the RFCTLARR Act of 2013 was conducted on 22.03.2016 in the office chamber of the then DC, Tamenglong, Shri M. Luikham, IAS and there was further hearing on 30.04.2016. After the hearing of the objections as required under Section 15 of the RFCTLARR Act of 2013, the District Collector (LA), Tamenglong made a recommendation having seven pages with members present signed in 3 (three) sheets. The relevant portion of the said recommendations is reproduced hereunder:

"The details of the landowners as described in the notification no. 4/25/LA-2014-COM(REV) dated 21.02.2015 of Revenue department is being objected and contested in the court of law. Accordingly, the Hon'ble High Court of Manipur has passed an order on 10.08.2015 in c/w W.P (C) no. 354 of 2015, which reads as follows:- 'The land acquisition proceeding vide notification dated 21.02.2015 shall be subjected to the outcome of the Writ Petition' in view of the facts and circumstances mentioned above, those person having interest in land and present in the hearing were advised that the final outcome and verdict of the Hon'ble Court may have to be awaited. Accordingly, the genuine landowners may be able to avail the compensatory payment for land, crops and trees etc. as per the survey conducted, assessment and valuation subject to the approval of the recommendation of compensation by the State Govt. In the meantime, further land acquisition proceedings under sec 19 of the RTFCTLARR Act, 2013 may be proceeded accordingly."

[20] After completing all the procedures required under Section 12 to 18 of RFCTLARR Act of 2013, the Commissioner (Revenue), Government of Manipur issued a notification/declaration being No. 4/24/LA/2014-Com(Rev) on 18.08.2016 under Section 19 (1) of the RFCTLARR Act of 2013 that the land

measuring 137.09 acres is under acquisition. The said Notification dated 18.08.2016 is reproduced hereunder :

**"GOVERNMENT OF MANIPUR
SECRETARIAT: REVENUE DEPARTMENT**

NOTIFICATION/DECLARATION

Imphal, the 18th August, 2016

No. 4/24/LA/2014-Com(Rev): Whereas, it appears to the Government that a total of 137.09 acres of land is required in 3(three) villages namely 1) Makhuam (Marangching), 2) Kharam Pallen & 3) Pungmon (Pungmonchingchen) in Tamenglong District for a public purpose i.e. construction of New B.G. Railway line between Tupul and Imphal (Tamenglong portion).

2. Therefore, declaration under section 19(1) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 is made that land measuring 137.09 acres is under acquisition for the above said project in 3(three) villages in Tamenglong District and the details of land schedule are appended here below:

SCHEDULE OF LAND

District:- Tamenglong

Sub-Division:- Tamenglong

Circle :- Tamenglong

***Village :- Makhuam(Marangching),Kharam Pallel
and Pungmon(Pungmonchingchen)"***

Sl No.	Name of the Village	Affected Area (in acre)	Classification of land	Name of affected land owner/ Claimants/Counter Claimants and their nature of claims as per the report of D.C., Tamenglong	Remark
1.	Makhuam (Marangching)	37.88 acres	Jhum land	<p>1.) Thuankulung Gangmei, S/o Late Makhuamchang Gangmei of Makhuam (Marangching) village claims as the owner of 37.88 acres of land falling between chainage 98080 and 100540 (By producing Order passed in Judcl.Misc.No. 13 of 2012 dated 21/04/2012</p> <p>1) Langanglung Gondaime, Chairman Makhuam Baptist Churches (RNBA) claims that 1.2085 acres of land falling between Chainage 98080 and 98530 belongs to Makhuam Baptist Churches (RNBA).</p> <p>2) Namronlung Gondaime, S/o (L) Poulothui Gondaime of Makhuam (Marangching) Village, Khullakpa claims that land measuring 36.6715 acres lying between Chainage 98530 and 100540 belongs to Makhuam (Marangching) Village</p> <p>(Disputed)</p>	The ownership of the land is under dispute and in the Hon'ble Court and payment of compensation shall be made as per the decision of the Court.

2.	Makhuam (Marangching) Kharam Pallen and Pungmonchingchen (Name of village Disputed).	22.11 acres	Jhum land	Case in connection with dispute pending in the Hon'ble Court.	1) Meithuanlung Gangmei, S/o (L) Mathiukung Gangmei of Makhuam (Marangching) village claims that 99.22 acres of land lying Chainage between 100540 and 105419 is in Makhuam village, hence it belongs to the villagers of Makhuam (Marangching) village.	The ownership of the land is under dispute and in the Hon'ble Court and payment of compensation shall be made as per the decision of the Court.
3.	Pungmon (Pungmonchingchen) village and Makhuam (Marangching) (Name of village disputed)	77.10 acres	Jhum land	1) Kh.Lovejoy S/o Majoreng of Pungmon (Pungmonchingchen) village claims as the owner of 77.10 acres falling Chainage between 102560 and 105419 by producing affidavit and documents. (Disputed)		
Total area =		137.09 acres				

3. This declaration is made after hearing of objection of persons interested and due enquiry as provided under section 15 of the Right to Fair Compensation and Transparency in Land Acquisition and Resettlement Act, 2013 (30 of 2013). The numbers of families likely to be resettled due to land acquisition is nil as per the report of the Collector, Land Acquisition, Tamenglong District.

4. A plan of the land may be inspected in the office of the Collector, Land Acquisition, Tamenglong District on any working day.

**By orders & in the name of
Governor,**

Sd/-

(K. Radhakumar Singh)

**Commissioner (Revenue), Govt. of
Manipur.**

[20] After the said notification dated 18.08.2016, the DC, Tamenglong issued a notice dated 14.10.2016 under sub section (2) and (3) of Section 21

of the RFCTLARR Act of 2013 that all persons having interest in the said land to appear personally or by agent or advocate before the DC, LA in the official chamber of the DC, LA, TML on 16th Nov, 2016. The District Collector (LA), Tamenglong after hearing the objections under sections 21 to 22 of the RFCTLARR Act of 2013 on 16.11.2016 issued the minutes of the hearing with respect to the compensation amount on 29.11.2016 and mentioned that regarding the ownership/titleship of the land. In the said minutes it was mentioned that to whom the award should be made will be on the basis of the Hon'ble Court verdict of the different Hon'ble Court. On 13.02.2017, North East Frontier Railways deposited Rs. 44,91,51,816/- (Rupees forty four crore ninety one lakh fifty one thousand eight hundred and sixteen) only as payment towards the compensation amount for land acquisition.

[21] Deputy Collector (LA), Tamenglong after completing all the procedure as provide under Sections 15 to 22 of the RFCTLARR Act of 2013 made the award under Section 23 of the RFCTLARR Act of 2013 vide an Compensatory Award Orders dated 21.03.2017. The said Award dated 21.03.2017 is quoted hereunder:

**"GOVERNMENT OF MANIPUR
OFFICE OF THE DISTRICT COLLECTOR (LA): TAMENGLONG
DISTRICT, MANIPUR
-----**

**COMPENSATORY AWARD ORDERS
Tamenglong, the 21st March, 2017.**

No. DC(TML)11/370(RLY)09(TUPUL-IMPHAL): Whereas, vide letter No.W/207/CON/J-I/Imphal (Tupul-Imphal) dated 20/03/2013, the Deputy Chief Engineer, CON-II, N.F. Railway, Imphal had requested the District Collector to take up land acquisition proceedings as per the land Acquisition Act, 1894, for a land measuring 156.448

hectares (Approx) of land between Railway Chainage 0.0 to 11.445 Km.

2. Whereas, the District Collector vide letter No. DC(TML)11/370(RLY)09 (Tupul-Imphal) dated 06.07.2013 had requested the Commissioner (Revenue) for issue of Notification u/s 4 of the LA Act, 1894 for acquiring the land lying between Railway Chainage No. 0.000 Km to 11.445 Kms between Tupul to Imphal for an area measuring 156.448 Hectare (386.591 Acres) approx.

3. Whereas, vide Notification No. 4/18/LA/2013-Com(Rev) dated 30.07.2013, the Commissioner (Revenue), Govt. of Manipur had notified under Section 4(1) of the L.A. Act, 1894 that the land scheduled below is likely to be needed for a public purpose i.e., construction of new B.G. Railway Line between Tupul to Imphal at Makhuam, Pungmon and Tupul villages in Tamenglong District.

SCHEDULE OF LAND

DISTRICT: TAMENGLONG

VILLAGES: MAKHUAM, PUNGMON AND TUPUL

SUB-DIVISION: TAMENGLONG AND NUNGBA

TOTAL AREA: 156.448 hectares (386.591 acres) APPROX

4. Whereas, vide Order No.DC(TML)11/370(RLY)09(TUPUL-IMPHAL) dated 4.8.2014 of the District Collector (LA), Tamenglong, a committee consisting of relevant departments- Revenue, Forest, N.F. Railway, Public Works Department, Horticulture and Soil Conservation, District Agriculture Office, District Fisheries Office was constituted for data collection for initiating land acquisition under the New Land Acquisition Act, 2013 (Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013);

5. Whereas, after collection and compilation of the requisite data, a report was submitted to the Secretary (Revenue), Govt. of Manipur by the District Collector (LA), Tamenglong vide letter No. DC(TML)11/370(RLY)09(TUPUL-IMPHAL) dated 8.8.2014, along with the duly filled Form-A furnished by the team of officers with a request for issue of Notification under Section 4(1) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013;

6. Whereas, with the enforcement of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 on 1st January, 2014, it is imperative that fresh land acquisition be initiated;

7. Consequently, vide Order No.DC(TML)11/370(RLY)09(TUPUL-IMPHAL), dated 4th August, 2014 a committee comprising of officials from the departments of Revenue, Forest, Horticulture, Agriculture, Fisheries etc was

constituted for collection of data for initiating land acquisition under the RFCTLARR Act, 2013;

8. On submission of duly filled Form-A by the survey team, the District Collector (LA), Tamenglong had sent a proposal to Secretary, Revenue of issue of Notification under Section 4 of the Right to Fair Compensation & Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 vide letter No. DC(TML)11/370(RLY)09(TUPUL-IMPHAL) dated 8th August, 2014;

9. The Revenue Department had issued Notification under Section 4(1) of RFCTLARR Act, 2013 vide Notification No.4/24/LA/2014-Com(Rev) dated 13.11.2014 that the State Government intends to acquire 143.07 acres of land for a public purpose i.e. construction of New Broad Gauge Railway Line from Tupul to Imphal (Tamenglong portion) by the N.F. Railways and for the conduct of the Social Impact Assessment study by the Social Impact Assessment Unit;

10. A committee comprising of relevant department – Revenue, Forest, N.F. Railway, Public Works Department, Horticulture and Soil Conservation, District Agriculture Office, District Fisheries Office was constituted for field demarcation and ascertaining the details of the affected land/standing properties/crops etc. vide Order No. DC(TML)11/370(RLY)09(TUPUL-IMPHAL) dated 27th January, 2015;

11. Whereas, after the conduct of field survey and demarcation, the Sub-Divisional Officer, Tamenglong had submitted survey report vide letter No. SDO/Tml/212/LA-Rly/13 dated 5th Feb, 2015 the partial content of which are reflected below:-

A) Land:-

(i) Initially, the area of land intended to be acquired by the N.F. Railway was 143.07 acres (from chainage 98080 to 105540) however it has been reduced to 137.09 acres (from chainage 98080 to 105419) after shortening 121 m (105419-105540) at Pungmon Village side. The deduction in length of the Railway line was made as per the joint discussion held with the N.F. Railway and the survey team.

(ii) The break-up of the above 137.09 acres of land is shown below:-

(a) Makhuam (Marangjing) Village	:- 37.88 acres
(b) Pugmon & Kharam Pallen (disputed):-	99.21 acres
Total Area	:- 137.09 acres

B) Standing Trees, crops, building, rehabilitation and resettlement.

(i) Trees :- The assessment of standing trees is to be made under Section 12 of the Act of the RFCTLARR Act, 2013.

(ii) Crops :- -do-

(iii) Buildings :- No building in the proposed area

(iv) Rehabilitation :- Nil (No dwelling house in the proposed area)

(v) Resettlement :- -do-

12. The District Collector (LA), Tamenglong vide letter No.DC(TML)11/370(RLY)09(TUPUL-IMPHAL) dated 06.02.2015, had submitted a proposal to the Secretary (Revenue), Govt. Of Manipur for notification u/s 11 of the RFCTLARR Act, 2013 alongwith details of the land measuring 137.09 acres:-

13. Whereas, vide notification bearing No. 4/24/LA/2014-Com(Rev) dated 21.02.2015 of the Revenue Department, the Secretary (Revenue), Govt. of Manipur had issued Notification under section 11(1) of the RFCTLARR Act, 2013 of the proposed area of 137.09 acres with further instruction to the concerned SDO, SDC and staff to take steps under the provisions of section 12 read with section 13 of the RFCTLARR Act, 2013 and to submit report to the Collector (LA), Tamenglong. Under the same notification, the Additional District Magistrate, Tamenglong has been appointed as the Administrator under Section 43 of the RFCTLARR Act, 2013 for the purposes of rehabilitation;

14. Whereas, consequent upon the publication of the preliminary Notification under sub-section (1) of section 11 of the RFCTLARR Act, 2013 by the Revenue Department, Government of Manipur, the DC (LA), Tamenglong vide Notification No.DC(TML)11/370(09(TUPUL-IMPHAL) dated 07.07.2015, had issued an Order for field survey under the provision of section 12 of the aforesaid Act by the committee consisting of relevant departmental officers viz:- (i) SDO/Tamenglong (ii) N.F. Railway (iii) DFO (Forest) (iv) DO (H&SC) (v) DAO (Agri) (vi) DO (H&SC), (vii) Land owners concerned;

15. Whereas, the survey, u/s 12 of the RFTCLAAR Act, 2013 for the aforementioned areas was done from 19th January to 21st January, 2016 by a committee consisting of Officers of various Department viz- SDO/Tamenglong (Team Leader), N.F. Railway, Imphal DFO (WFD), DO (H&SC), DAO (Agriculture). Accordingly, the SDO/Tamenglong vide letter No.SDO/(TML)/11/370(RLY)/Tupul-Imphal dated 19.03.2016 had submitted the report of the survey conducted u/s 12 of the RFTCLARR Act, 2013 at Marangjing (Makhuam), Pungmon and Kharam Pallen with the following observations regarding the land area and its owners:-

Sl. No.	Villages	Name of the affected landowners	Class of land	Chainage	Affected area (In Acres)
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1.	Makhuam (Marangjing)	Thuankulung Gangmei S/o (L) Makhuamchang Gangmei.	Jhum Land	98080 to 100540	37.88
2.	Disputed area between Marangjing, Kharam Pallen & Pungmon	Disputed	Jhum land	100540 to 102560	22.11
3.	Pungmon	Kh. Lovejoy S/o majoreng Khumba	Jhum land	102560 to 105419	77.10
			Total		137.09 Acres

16. Whereas, under Section 15 of the RFCTLARR Act, 2013, a notice was issued to all concerned whereby any claims and objection regarding the proposed acquisition of land may be submitted in writing to the District Collector (LA), Tamenglong on or before 21.03.2016, that any such claim and objections will be heard in the court of the District Collector (Land Acquisition), Tamenglong at 11.00 a.m. on 22nd March, 2016 which was widely published in the (i) Sangai Express, Imphal (ii) The Cham, Tamenglong on 16th March, 2016.

17. Whereas, in pursuance to the notice for hearing of the claims and objections vide No. DC(TML)11/370(RLY)09(Tupul-Imphal) dated 14th March, 2016, hearing was conducted in the Court of the District Collector (LA), Tamenglong 22nd March, 2016 at 11.00 a.m.;

18. Whereas, vide Notification No. 4/24/LA/2014-Com(Rev) dated 17.03.2016 the Commissioner (Revenue), Govt. Of Manipur had extended the time of land acquisition for a period of 6 (six) month w.e.f. from 21.02.2016 beyond the specified period of 12 (twelve) months for declaration under section 19(1) from the date of publication of preliminary notification under section 11(1) of the said Act.

19. Whereas, vide letter No. DC(TML)11/575/NH-37-LA/2015 dated 14.07.2016, the Addl. Deputy Commissioner/Administrator (LA), Tamenglong had issued a certificate certifying that the scheme of Rehabilitation and Resettlement under the RFCTLARR Act, 2013 is not applicable and therefore, may be exempted in this particular case of land acquisition;

20. Whereas, vide this office letter No. DC(TML)11/370(RLY)09(Tup-Imp) dated 01.08.2016, the District Collector (LA), Tamenglong have submitted a proposal to the

Commissioner (Revenue), Govt. Of Manipur to take a decision under the provision of section 15(3) and consider publication of declaration under section 19 of the Right to Fair Compensation and Transparency in Land Acquisition and Resettlement Act, 2013;

Further, vide letter of even number dated 01/08/2016, the DC(LA)/Tamenglong had also submitted a proposal to the Commissioner (Revenue), Govt. of Manipur seeking approval for fixation of land at the rate of Rs. 10/- (rupees ten) per square feet for acquisition of land (137.09 acres) for construction of Jiribam-Tupul-Imphal New B.G. Railway lines;

21. Whereas, vide letter No.DC(TML)11/370(RLY)09(Tupul-Imphal) dated 01.08.2016, the DC(LA)/Tamenglong, have submitted the estimate amount for payment of compensations related to the acquisition of 137.09 Acres of land, the details of which is given below:-

Sl. No.	Particulars	Amount
1	As per the Minimum Guidance Value of the state Govt. the rate of land for interior areas of Tamenglong district is Rs. 10/sq.ft. Further, Govt. Notification No.4/12/LA/2014-Com(Rev) dt. 03.08.2015 orders that the market value of land shall be multiplied by a factor of 2 (two) in payment of compensation for projects which are at a distance of 10 km. Or more from urban areas. Therefore the rate of land will be 10x2 i.e. Rs. 20/sq.ft. Area to be acquired in 137.09 acres, which is 59,71,640 sq. ft. Therefore 20 x 59,71,640=11,94,32,800/-	Rs. 11,94,32,808.00
2.	Horticulture	Rs. 4,83,09,645.19
3.	Forest	Rs. 4,72,44,377.15
	Total	Rs. 21,49,86,830.34

**1. Total value of Land and standing properties.
Rs. 21,49,86,830.34p**

2. Add 100% solatium on the market value of land and standing properties Rs. 21,49,86,830.34p

**3. Add 12% per annum on the market value of land @ Rs. 10/sq.ft. from the date of publication of section 11 on 21.02.2015 (Rs.71,65,968 for 1 year and Rs. 53,74,476 for 7 months till November, 2016)
Rs. 1,25,40,444**

4. 1.5 % administrative charges Rs. 66,37,111.57

Total:- Rs. 44,91,51,816.25

Grand Total Rounded upto Rs. 44,91,51,816.00

The assessment and valuation of the land measuring 137.09 Acres as submitted by Sub-Division Officer, Tamenglong i.e. Rs. 11,94,32,808.00 (Rupees Eleven Crore ninety lakh, Thirty two thousand, eight hundred and eight); the assessment and valuation of horticulture trees as prepared and submitted by District Officer (Horticulture & Soil Conservation), Tamenglong i.e. Rs. 4,83,09,645.19 (Rupees Four Crore, Eighty Three Lakh, Nine Thousand, Six Hundred Forty Five and Nineteen Paisa) and the assessment and valuation of forest trees etc prepared and submitted by Forest Department, Tamenglong i.e., Rs. 4,72,44,377.15 (Rupees Four Crores, Seventy Two Lakhs, Forty Four Thousand, Three Hundred Seventy Seven and Fifteen Paisa) only is appended as in Annexure-1.

The amount was subject to change and approval regarding fixation of value of land by the Government. The N.F. Railway was also requested to make budgetary provision for the compensation amount.

22. Whereas, vide letter No.4/24/LA/2014-Comp(Rev) dated 22.09.2016 of the Revenue Department, Govt. of Manipur had conveyed the approval of the Government for the proposed estimated amount Rs. 44,91,51,816/- (Rupees forty-four lakhs, ninety-one-thousand, fifty-one-thousand, eight hundred and sixteen) only in respect of payment of compensation related to the acquisition of land measuring 137.09 acres for construction of New B.G. Railway line between Tupul and Imphal at Makhuaam (Marangching), Kharam Pallen and Pungmon (Pungmonchingchen) villages. This was issued with the concurrence of Finance Department, Government of Manipur vide their U.O. No. 18/2016-17/FC(4-N P/9) dated 20.09.2016.

23. Whereas, vide notification No.4/24La/2014-Com(Rev) dated 18.08.2016, of the Revenue Department, Govt. of Manipur, Declaration u/s 19(1) of the RFCTLARR Act, 2013 was made that land measuring 137.09 acres under acquisition for the above said project in 3 (three) village in Tamenglong District and the details of land schedule and declaration are appended here below:-

SCHEDULE OF LAND

District : Tamenglong
Sub Division :Tamenglong
Circle : Tamenglong
Village : Makhuaam (Marangjing), Kharam Pallen, Pungmon (Pungmon Chingchen).

Sl. No.	Name of Village	Affected Area	Classification of land	Name of land owners/claimants and their nature of claims as per the report of DC, Tamenglong		Remarks
1.	Makhuam (Marangjing)	37.88 Acres	Jhum land	1. Thuankulung Gangmei S/o (L) Makhuamchang Ganmei Claims ownership of 37.88 acres of land falling with chainage 98080 and 100540 (By producing order passed in Judl. Misc Case No. 13 of 2012 dated 21.01.2012	2. Langanglung Gondaime, Chairman, Makhuam Baptist Church (RNBA) claims that 1.2085 acres of land falling between chainage 98080 and 98530 belongs to Makhuam Baptist Churches (RNBA) 3. Namronlung Gondaime S/o (L) Poulothui Gondaime, Khullakpa of Makhuam Village claims that land measuring 36.6715 acres lying between chainage 98530 and 100540 belongs to Makhuam village.	The ownership of the land is under dispute and in the Hon'ble Court and payment of compensation on shall be made as per the decision of the court.
2.	Makhuam (Marangjing) Kharam Pallen and Pungmonching chen	22.11 Acres	Jhum land	Case in connection with land dispute pending in the Hon'ble Court.	Meithuanlung Gangmei, S/o (L) Mathiukung Gangmei of Makhuam	

	<i>(Name of village disputed)</i>				<i>(Marngjing village claims that 99.22 Acres of land lying between chainage No. 100540 and 105419 is in Makhuam village hence it belongs to the villagers to the villagers of Makhuam (Marangjing) village.</i>
3.	<i>Pungmon (Pungmonc hingchen) village and Makhuam (Marangjing) (Name of village disputed)</i>	<i>77.10 Acres</i>	<i>Jhum loand</i>	<i>Kh. Lovejoy S/o Kh. Majoreng of Pungmon (Pungmonching chen) village claims as the owner of 77.10 acres falling between chainage No. 102560 and 105419 by producing affidavits and documents</i>	

24. Whereas, vide Notification No.DC(TML)11/370(RLY)09(TUP-IMP)-P-2 dated 14th October, 2016 the undersigned had notified under subsection (2) and (3) of Section 21 of the FCTLARR Act, 2013, that all persons having interest in the land are required to appear personally or by agent or advocate before the Collector to state the nature of their respective interests in land and claim of compensation to be made in writing and signed by the party or his agent or by advocate before the District Collector, Tamenglong in the official chamber of District Collector Tamenglong on 16th November, 2016 at 11:00 a.m. and to state in writing and signed by the party or his agent.

Further, under sub section (1) and (2) of Section 22 of the said Act, the Collector may also require any such person to make or deliver to him a statement containing the name of every other person possession any interest in the land or any part hereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the nature of such interest, and of the rents and profits, if any, received or receivable on account thereof for three years next preceding the date of statement, every person required to make or deliver a statement under this section shall be deemed to be legally bound to do so within the meaning of section 175 and 176 of the Indian Penal Code;

25. Whereas, taking into consideration the foregoing facts and circumstances and on computation of the compensation amount, the undersigned hereby announced the Award of Rs. 44,91,51,816 (Rupees Forty Four Crores, Ninety One Lakh, Fifty One Thousand, Eight Hundred and Sixteen) only as per the provisions given under section 23 of the said Act. Payment of compensation will be made subject to the outcome of the Hon'ble Courts verdict as to who should be compensated.

This Award is given under my hand and seal on this day the 21st March, 2017.

***(B. JOHN TLANGTINKHUMA)
DISTRICT COLLECTOR(LA), TAMENGLONG.
Tamenglong, 21st March, 2017
Memo No. DC(TML)11/370(RLY)09(Tup-Imp)***

Copy to:

- 1. Secretary to the Hon'ble Chief Minister, Manipur.***
- 2. Staff Officer to Chief Secretary, Govt. of Manipur.***
- 3. The Commissioner (Revenue), Govt. of Manipur.***
- 4. The Addl. Deputy Commissioner/Administrator (LA), Tamenglong.***
- 5. The Sub Divisional Officer, Tamenglong.***
- 6. The Deputy Chief Engineer/Con/Imphal,N.F. Railway, Silchar.***
- 7. The Concerned Land owners.....***
- 8. Relevant File.***

***Sd/-
(B. JOHN TLANGTINKHUMA)
DISTRICT COLLECTOR(LA), TAMENGLONG."***

[22] The Award dated 21.03.2017 made by the District Collector (LA). Tamenglong under Section 23 of the RFCTLARR Act of 2013 cannot be modified or amended by the succeeding District Collector (LA), Tamenglong, Respondent No. 1, save and except, certain correction of clerical or arithmetical mistakes in either of the awards or errors arising therein either on his own motion or on the application of any person interested or local authority. In other words, the District Collector (LA), Tamenglong can only correct the type of typographical errors/mistakes in the Award dated 21.03.2017 mentioned under Section 33 of the RFCTLARR Act of 2013 on the following conditions :

- (i) no correction which is likely to affect prejudicially any person shall be made unless such person has been given a reasonable opportunity of making representation in the matter;
- (ii) the Collector shall give immediate notice of any correction made in the award so corrected to all the persons interested; and

- (iii) the correction should not be later than 6 (six) months from the date of the Award.

[23] On careful perusal of Section 33 of the RFCTLARR Act of 2013, it is clear that the correction of an Award by the District Collector (LA), Tamenglong will be confined to only clerical or arithmetical mistakes either in the Award or error arising herein under the three conditions mentioned therein, which has been discussed above. For easy reference, Section 33 of the RFCTLARR Act of 2013 is reproduced hereunder:

"33. Corrections to awards by Collector.—(1) The Collector may at any time, but not later than six months from the date of award or where he has been required under the provisions of this Act to make a reference to the Authority under section 64, before the making of such reference, by order, correct any clerical or arithmetical mistakes in either of the awards or errors arising therein either on his own motion or on the application of any person interested or local authority:

Provided that no correction which is likely to affect prejudicially any person shall be made unless such person has been given a reasonable opportunity of making representation in the matter.

The Collector shall give immediate notice of any correction made in the award so corrected to all the persons interested.

Where any excess amount is proved to have been paid to any person as a result of the correction made under subsection (1), the excess amount so paid shall be liable to be refunded and in the case of any default or refusal to pay, the same may be recovered, as prescribed by the appropriate Government."

[24] The different stages of the proceeding of the land acquisition mentioned in the RFCTLARR Act of 2013 had already been discussed in

extensio in the above paras and also the relevant Sections have been quoted above.

[25] Respondent No. 1, after he was posted as Deputy Commissioner, Tamenglong District/ District Collector (LA), Tamenglong from May, 2018 had taken up steps for modifying or amending the said Award dated 21.03.2017, made under Section 33 of the RFCTLARR Act of 2013 by his predecessor basing on the report dated 05.02.2015 submitted by Respondent No. 2 to the then District Collector (LA), Tamenglong which is before the preliminary notification dated 21.05.2015 under Section 11 of RFCTLARR Act of 2013 and also another letter of the then District Collector (LA), Tamenglong dated 17.04.2015 to the Secretary, Revenue, Government of Manipur, which is also before the notification dated 18.08.2016 under Section 19(1) of the RFCTLARR Act of 2013, amended the Award dated 21.03.2017 made under Section 23 of the RFCTLARR Act of 2013. The utility of the said 2 (two) reports are over after the issuance of notification dated 18.08.2016 under Section 19 (1) of the RFCTLARR Act of 2013 and thereafter many proceedings had been taken up under the relevant provisions of the RFCTLARR Act of 2013 and resulted to making of the Award dated 21.03.2017 under Section 23 of the RFCTLARR Act of 2013. In other words, the Respondent No. 1 has no power and jurisdiction to amend the Award dated 21.03.2017 basing on the said two letters/reports and also on the purported development of facts, save and except, the type of errors mentioned in Section 33 of the RFCTLARR Act of 2013. The modification of the Award dated 21.03.2017 by making 2 (two) amended Awards dated 15.06.2017 and 16.2017 are not acceptable for four vital defects i.e.

- (i) amending of the Award dated 21.03.2017 by making the said two amended Awards dated 15.06.2017 and 16.06.2017 are not

the type of clerical error or arithmetical error mentioned under Section 33 of the RFCTLARR Act of 2013;

- (ii) no proper notice to the persons which are prejudicially affected by the corrected Award was issued;
- (iii) no immediate notice after amended or corrected award dated 21.03.2017 to persons which will likely to be effected by the amended award were issued; and
- (iv) the Respondent No. 1 has no jurisdiction to modify the Award dated 21.03.2017.

[26] Over and above, the said corrected/amended award dated 16.06.2017 cannot be given effect until the procedure prescribed under Section 37 of the RFCTLARR Act of 2013 are fulfilled. For easy reference Section 37 of the RFCTLARR Act of 2013 is reproduced hereunder:

"37. Awards of Collector when to be final.—(1) The Awards shall be filed in the Collector's office and shall, except as hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area and market value of the land and the assets attached thereto, solatium so determined and the apportionment of the compensation among the persons interested.

(2) The Collector shall give immediate notice of his awards to such of the persons interested who are not present personally or through their representatives when the awards are made.

(3) The Collector shall keep open to the public and display a summary of the entire proceedings undertaken in a case of acquisition of land including the amount of compensation awarded to each individual along with details of the land finally acquired under this Act on the website created for this purpose.

[27] So far as the Respondent No. 2 and 3 are concerned, the Inquiry Officer in his Preliminary Inquiry Report dated 11.05.2023 had made a report that they perform their duties as per the order of the District Collector (LA), Tamenglong. In other words, there is no adverse finding against the Respondent Nos. 2 and 3. The portion of the Preliminary Inquiry Report in respect of the Respondent Nos. 2 and 3 are reproduced hereunder:

"(2) Shri P. Sana Singh, Retired MCS the then SDO TML; his roles are:

(a) Team leader of field survey orders given by DC TML dated 4.8.2014

(b) Team leader of field survey order by DC TML orders dated 27.01.2015

(c) Team leader of the field survey dated the 7th July, 2015

***(d) Submission of the above field survey reports to DC TML
In addition to this, it is mentioned in the report given by Shri P Sana Singh that "list of land owners stated/mentioned in the notification dated 22.02.2015 is tentative and not final. Actual field survey to settle the matter is not yet started and being awaited." It can be inferred that he has performed his duty as per orders.***

(3) Shri Robertson Asem, MCS after taking charge as the then SDO TML; his role in the land acquisition process are summed here as follows:

(a) Team leader of the field survey dated 12th January, 2016

(b) Submission of survey report dated 19.03.2016 to the Deputy Commissioner/Collector (LA), Tamenglong

(c) He participated in the Public hearing conducted in DC TML office chamber in this regard."

[28] On application of mind to the Preliminary Inquiry Report and also the materials available on record, we are of the considered view that there is no material for not accepting the report of the Inquiry Officer in the case of the Respondent Nos. 2 and 3.

[29] The Respondent No. 1 in his written comment dated 16.09.2023 had taken the ground for justification for amending the Award dated 21.03.2017 by two subsequent Awards dated 15.06.2017 and 16.06.2017 that the Award dated 21.03.2017 had been corrected in good faith. The relevant portion of para 4 of his written comment dated 16.09.2023 read as follows:

"4. COMPENSATION AWARD dt. 15.06.2017 & 16.06.2017 were issued in good faith:

That the Respondent No. 1 humbly submits that even assuming but not admitting that the abovementioned compensation Award dt. 15.06.2017 and 16.06.2017 are illegal, even then the same were issued in good faith so as to clear the decks for the progress of the project which was stalled as it has always been the nature of the Respondent No. 1 to expedite the completion of pending projects as already stated at para 2 of this comments and for which he received recognition/awarded by various national and international forums."

[30] There is no material or evidence or documents either in the Preliminary Inquiry Report dated 11.05.2023 or any record available with Manipur Lokayukta to point out that Respondent No. 1 has wrongfully enjoyed the financial benefit in issuing the two amended Awards dated 15.06.2017 and 16.06.2017 and also there is no prima facie materials for committing offences under the Prevention of Corruption Act, 1988 and Indian Penal Code but the fact remains that there are procedural irregularity and lack of jurisdiction in making the two amended Awards dated 15.06.2017 and 16.06.2017.

[31] In the above factual backdrops, we have to take the decision under Section 20 (3) of the Manipur Lokayukta Act, 2014, which provides that Lokayukta should take any of the following actions namely,

- (a) investigation by any agency;
- (b) initiation of the department proceedings or any other appropriate action against the concerned public servants by the competent authority; and
- (c) closure of the proceedings against the public servant and to proceed against the complainant under section 47.

[32] We deem it proper to leave this case to the Administrative Department for, if necessary, taking any decision deems appropriate.

[33] In the result, Complaint case is closed with the above observation.

[34] Registry is directed to furnish a copy of this order to

- (i) the Administrative Secretary, Department of Personnel, Government of Manipur;
- (ii) the Director (Inquiry), Manipur Lokayukta;
- (iv) the Inquiry Officer of the present case; and
- (v) all the parties of this case.

Sd/-
MEMBER

Sd/-
CHAIRPERSON