

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 3745 OF 2014

Maharashtra State Electricity
Transmission Company Ltd.,
(EHV) Construction Division,
Through its Executive Engineer,
Aurangabad.

...Petitioner

versus

The Collector, Aurangabad
and others.

...Respondents

**WITH
CIVIL APPLICATION NO. 9822 OF 2014
IN
WRIT PETITION NO.3745 OF 2014**

Dhansing Premsing Rathod,
R/o. Thapatitanda, Tq. Paithan,
Dist. Aurangabad and others.

...Applicants

versus

Maharashtra State Electricity
Transmission Company Ltd.,
(EHV) Construction Division,
Through its Executive Engineer,
Aurangabad.

...Respondent

**WITH
CIVIL APPLICATION NO. 10569 OF 2014
IN
WRIT PETITION NO.3745 OF 2014**

Maharashtra State Electricity
Transmission Company Ltd.,
(EHV) Construction Division,
Through its Executive Engineer,
Aurangabad.

...Applicant

versus

The Collector, Aurangabad & Ors.

...Respondents

WITH

WRIT PETITION NO. 3743 OF 2014

Maharashtra State Electricity
Transmission Company Ltd.,
(EHV) Construction Division,
Through its Executive Engineer,
Aurangabad.

...Petitioner

versus

The Collector, Aurangabad
and others.

...Respondents

WITH

WRIT PETITION NO. 3733 OF 2014

Maharashtra State Electricity
Transmission Company Ltd.,
(EHV) Construction Division,
Through its Executive Engineer,
Aurangabad.

...Petitioner

versus

The Collector, Aurangabad
and others.

...Respondent

WITH

CIVIL APPLICATION NO. 8907 OF 2014

IN

WRIT PETITION NO.3733 OF 2014

Kisan s/o Lala Bramhanath,
Age: 45 years, Occ: Agri.,
R/o. Bemblyachiwadi,
Tq. & Dist. Aurangabad & Ors.

...Applicants

versus

Maharashtra State Electricity
Transmission Company Ltd.,
(EHV) Construction Division,
Through its Executive Engineer,
Aurangabad & Ors.

...Respondents

WITH

WRIT PETITION NO. 3796 OF 2014

Maharashtra State Electricity
Transmission Company Ltd.,
(EHV) Construction Division,
Through its Executive Engineer,
Aurangabad.

...Petitioner

versus

The Collector, Aurangabad
and others.

...Respondents

WITH

CIVIL APPLICATION NO. 9556 OF 2014

IN

WRIT PETITION NO. 3796 OF 2014

Kalyan s/o Govind Ghodke,
Age: 44 years, Occ: Agri.,
R/o. Pardari,
Tq. & Dist. Aurangabad
and another.

...Applicants

versus

Maharashtra State Electricity
Transmission Company Ltd.,
(EHV) Construction Division,
Through its Executive Engineer,
Aurangabad and others.

...Respondents

WITH

CIVIL APPLICATION NO. 9559 OF 2014

IN

WRIT PETITION NO. 3796 OF 2014

Shankar Kalu Rathod,
Age: 51 years, Occ: Agri.,
R/o. Pardari,
Tq. & Dist. Aurangabad
and others.

...Applicants

versus

Maharashtra State Electricity
Transmission Company Ltd.,
(EHV) Construction Division,
Through its Executive Engineer,
Aurangabad and others.

...Respondents

WITH**WRIT PETITION NO. 3741 OF 2014**

Maharashtra State Electricity
Transmission Company Ltd.,
(EHV) Construction Division,
Through its Executive Engineer,
Aurangabad.

...Petitioner

versus

The Collector, Aurangabad
and others.

...Respondents

WITH**CIVIL APPLICATION NO. 758 OF 2015****IN****WRIT PETITION NO. 3741 OF 2014**

Babu s/o Rodaman Chavan,
Age: 55 years, Occ: Agri.,
R/o. Nirgudi (B.),
Tq. Khultabad,
Dist,. Aurangabad & Ors.

...Applicants

versus

Maharashtra State Electricity
Transmission Company Ltd.,
(EHV) Construction Division,
Through its Executive Engineer,
Aurangabad and others.

...Respondents

WITH**WRIT PETITION NO. 3744 OF 2014**

Maharashtra State Electricity
Transmission Company Ltd.,
(EHV) Construction Division,
Through its Executive Engineer,
Aurangabad.

...Petitioner

versus

The Collector, Aurangabad
and others.

...Respondents

**WITH
CIVIL APPLICATION NO. 9573 OF 2014
IN
WRIT PETITION NO. 3744 OF 2014**

Kailash s/o Bala Bodkhe,,
Age: 45 years, Occ: Agri.,
R/o. Vadod Bajar, Tq. Phulambri,
Dist,. Aurangabad & Ors.

...Applicants

versus

Maharashtra State Electricity
Transmission Company Ltd.,
(EHV) Construction Division,
Through its Executive Engineer,
Aurangabad and others.

...Respondents

**WITH
CIVIL APPLICATION NO. 9959 OF 2014
IN
WRIT PETITION NO. 3744 OF 2014**

Rambhau s/o Rakhmaji Didore,
Age: 65 years, Occ: Agri.,
R/o. Vadod Bajar, Tq. Phulambri,
Dist,. Aurangabad & Ors.

...Applicants

versus

Maharashtra State Electricity
Transmission Company Ltd.,
(EHV) Construction Division,
Through its Executive Engineer,
Aurangabad and others.

...Respondents

.....

Mr. S. V. Adwant, Advocate for petitioner.
Mr. Ajay Shinde, Advocate for respondent Nos. 3 to
5,7,8,10,11,13,15,17 to 19,22,23,24,26,59,62, 68,70,73,76,78,80,97,

99, 100, 103 to 117, 120 to 125, 128,129,132 to 137, 139 to 141, 143,144, 145 to 147, 162,164 to 174, 177 to 179, 181 to 193, 196,199,200, 211 to 215, 217,221,222,231,234,236,245,247 & 251 in W.P. No. 3745/2014 and for applicants in C.A. No. 9822/2014.

Mr. D. M. Shinde, Advocate for respondent Nos. 3, 4, 6 & 7 in W.P. No. 3733/2014 and for applicants in C. A. No. 8907/2014.

Mr. U. B. Bilolikar, Advocate for respondent Nos. 4, 6 in W. P. No. 3796/2014 and for respondent Nos. 3 to 6 in W. P. No. 3744/2014 and for applicants in C. A. Nos. 9556/2014 & 9573/2014.

Mr. A. M. Mamidwar, Advocate for respondent Nos. 7, 12 & 13 in W. P. No. 3796/2014,for respondent Nos. 4, 8 & 9 in W. P. No. 3741/2014 and for respondent No 7 in W. P. No. 3744/2014 and for applicants in C. A. Nos. 9559/2014, 758/2015 & 9959/2014.

Mr. S. P. Daund, A.G.P. for respondent/State.

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CORAM : N.W. SAMBRE, J.

DATE : 18TH MARCH, 2015

ORAL ORDER :

. All these petitions are at the behest of the petitioner- Maharashtra State Electricity Transmission Company Limited, Aurangabad.

2. The petitioner-Company has questioned the legality and validity of the orders dated 25/03/2014 (in W.P. Nos. 3745/2014, 3733/2014, 3796/2014 and 3741/2014), 03/03/2014 (in W.P. Nos. 3743/2014 and 3744/2014), passed by the Maharashtra Electricity Regulatory Commission and the orders dated 12/08/2013 (in W.P. Nos. 3745/2014), 03/09/2013 (in W.P. Nos. 3733/2014, 3796/2014, 3741/2014, 3743/2014 and 3744/2014) passed by the District

Collector, Aurangabad, whereby the compensation ordered to be paid to the respondents-land holders, are impugned.

3. Learned Counsel for the respondents-land holders, in whose favour both the impugned orders are passed, has raised preliminary objection based on the judgment of the Apex Court in the matter of **H.P. Electricity Regulatory Commission vs. H. P. State Electricity Board** reported in **2006(9) SCC 233**, so as to canvass that there is an alternate remedy available to the petitioner under Section 111 of the Electricity Act, 2003.

4. While countering the above referred submissions, Mr. Adwant, learned Counsel for the petitioner would urge that bar of alternate remedy will not be attracted in the present case, as according to him, there is violation of principles of natural justice.

5. In addition to above, he would urge that what is provided before the Commission is a Revision and it is illogical to conclude that against the order of revisional authority, an appeal lies to the Appellate Tribunal under Section 111 of the Electricity Act, 2003 (hereinafter shall be referred as 'the Act' for the sake of brevity). So as to canvass the said contention, he has sought to rely upon the scope of revisional and appellate jurisdiction.

6. Having considered the above referred contentions, it is required to be noted that the procedure to be followed while determining the compensation to be paid to the land owners, whose lands are affected because of the activities of the petitioner, State Government has framed rules i.e. Maharashtra Electricity Work of Licensees Rules, 2012. Sub-rule (2), (3) and (4) of Rule 3 of the said Rules reads thus :

“(2) When making an order under sub-rule(1), the District Collector or the officer so authorized, as the case may be, shall fix after considering the representations of the concerned persons, if any, the amount of compensation, which should in his opinion be paid by the licensee to the owner of occupier.

(3) Every order made by a District Collector or an authorized office, under sub-rule (1) shall be subject to revision by Commission.

(4) Nothing contained in this rule shall affect the powers conferred upon any licensee under section 164 of the Act.”

7. Rule 13 of the said Rules reads thus :

“13. Determination and payment of compensation to affected persons -

(1) Where the licensee makes default in complying with any of the provisions of these rules, he shall make full compensation for any loss or damage incurred by reasons thereof to the person affected, as may be determined by the District Collector or by any other officer authorised by the State Government in this behalf, if not agreed mutually between the parties concerned.

(2) Where any difference and dispute arises as to the amount of compensation determined under sub-rule(1), the matter shall be determined by the Commission.”

8. A conjoint reading of the provisions of Section 67(2), (3) and (4) of the Act with that of Rules referred supra, this Court is of the opinion that the remedy of appeal is available to the present petitioner. In view thereof, the writ petitions stand dismissed.

9. Time consumed by the petitioner in prosecuting present petitions shall be taken into account while dealing with the issue of delay by the appellate authority.

10. If the appeal is filed within four weeks from today, the amount deposited by the petitioner shall be transmitted to the Tribunal upon intimation to that effect by the petitioner to this Court with the copy thereof to learned Counsel for respondents-land owners.

11. Failure to file appeal within time stipulated, intimation to that effect referred supra, shall entitle the present respondents to withdraw the amount deposited before this Court.

12. In view of dismissal of present writ petitions, civil applications do not survive, hence disposed of accordingly.

[N.W. SAMBRE, J.]