

(1)

W. P. Nos. 4750, 4751, 4752
4753 & 4754 of 2015

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

Writ Petition No. 4750 of 2015

District : Aurangabad

Ram s/o. Shridhar Kulkarni,
Age : 50 years,
Occupation : Agriculture,
R/o. Village Chitegaon,
Taluka & District : Aurangabad.

.. Petitioner.
(Original claimant)

versus

1. The State of Maharashtra,
through District Collector,
Aurangabad,
District : Aurangabad.
2. The Maharashtra State Electricity
Transmission Company Ltd.,
Matruchaya, Ground Floor,
Mill Corner, Khadkeshwar Road,
Aurangabad.

.. Respondents.

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With

Writ Petition No. 4751 of 2015

District : Aurangabad

Pandurang s/o. Rambhau Zhinzurde,
Age : 71 years,
Occupation : Agriculture,
R/o. Village Chitegaon,
Taluka & District : Aurangabad.

.. Petitioner.
(Original claimant)

versus

1. The State of Maharashtra,
through District Collector,
Aurangabad,
District : Aurangabad.
2. The Maharashtra State Electricity
Transmission Company Ltd.,
Matruchaya, Ground Floor,
Mill Corner, Khadkeshwar Road,
Aurangabad.

.. Respondents.

.....

With**Writ Petition No. 4752 of 2015**

District : Aurangabad

Arjun s/o. Dhanaji Pawar,
Age : 30 years,
Occupation : Agriculture,
R/o. Village Chitegaon,
Taluka & District : Aurangabad.

.. Petitioner.
(Original claimant)

versus

1. The State of Maharashtra,
through District Collector,
Aurangabad,
District : Aurangabad.
2. The Maharashtra State Electricity
Transmission Company Ltd.,
Matruchaya, Ground Floor,
Mill Corner, Khadkeshwar Road,
Aurangabad.

.. Respondents.

(3)

W. P. Nos. 4750, 4751, 4752
4753 & 4754 of 2015

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With

Writ Petition No. 4753 of 2015

District : Aurangabad

Ganpat s/o. Kishan Zhinzurde,
Age : 48 years,
Occupation : Agriculture,
R/o. Village Chitegaon,
Taluka & District : Aurangabad.

.. Petitioner.
(Original claimant)

versus

1. The State of Maharashtra,
through District Collector,
Aurangabad,
District : Aurangabad.
2. The Maharashtra State Electricity
Transmission Company Ltd.,
Matruchaya, Ground Floor,
Mill Corner, Khadkeshwar Road,
Aurangabad.

.. Respondents.

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With

Writ Petition No. 4754 of 2015

District : Aurangabad

Manohar s/o. Sampatrao Zhinzurde,
Age : 40 years,
Occupation : Agriculture,
R/o. Village Chitegaon,
Taluka & District : Aurangabad.

.. Petitioner.
(Original claimant)

versus

1. The State of Maharashtra,
through District Collector,
Aurangabad,
District : Aurangabad.
2. The Maharashtra State Electricity
Transmission Company Ltd.,
Matruchaya, Ground Floor,
Mill Corner, Khadkeshwar Road,
Aurangabad.

.. Respondents.

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*Mr. S.N. Janakwade, Advocate, for the petitioners.**Mrs. M.A. Deshpande, Asst. Government Pleader, for
respondent no.1.**Mr. S.V. Advant, Advocate, for respondent no.2.*

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**CORAM : S.V. GANGAPURWALA &
A.M. BADAR, JJ.****DATE : 1ST FEBRUARY 2016****COURT'S ORDER** *(Per S.V. Gangapurwala, J.) :*

1. The learned Counsel for the petitioners states that respondent no.2 had erected electricity towers in the lands of the petitioners and during the process, some land of the petitioners, so also, crops and trees standing on the land are affected. The petitioners had moved the District Magistrate and Collector, Aurangabad, seeking compensation under the

provisions of the Maharashtra Electricity Works Licensee Rules 2012, so also Electricity Act 2003. The Collector cum District Magistrate, Aurangabad, decided the said applications after issuing notice to respondent no.2 and determined the quantum of compensation in the year 2014. In spite of the fact that the amount of compensation is quantified, respondent no.2 till date has not made payment of the same. In the present Writ Petitions, the petitioners are seeking direction against respondent no.2 to make payment of compensation as awarded by respondent no.1 vide its judgment.

2. Mr. Advant, the learned Counsel for respondent no.2, strenuously contends that though respondent no.1 has the authority to determine the quantum of compensation, still the said authority has to be exercised in conformity with the Rules and the policy. The State Government vide its resolution dated 1st November 2010 has laid down the manner in which the amount of compensation is to be calculated with reference to the quality of the lands. The said Government Resolution is annexed along with the affidavit in reply. According to the learned Counsel, respondent no.1 has not adhered to the said principles and only on the basis of the valuation obtained from the ready reckoner has determined the compensation amount. The said procedure is unknown to the Rules. Respondent no.1 could not have arrogated to himself the powers to award compensation in a manner otherwise laid down in the Government Resolution dated 1st November 2010. The learned Counsel submits that this Court in writ jurisdiction can consider this aspect. If the payment is to be made by respondent no.2, respondent no.2 would be making the payment from the public money and the same is to be

safeguarded.

3. We have considered the submissions canvassed by the learned Counsel for respective parties. We had asked Mr. Advant, the learned Counsel for respondent no.2, as to whether the order passed by the District Magistrate & Collector, Aurangabad, was assailed. Mr. Advant candidly replied that the same is till now not assailed.

4. It is not disputed that the District Magistrate / Collector has the powers to determine the quantum of compensation. It is also not disputed that the amount of compensation determined by the Collector has not been paid to the petitioners. It is also not disputed that the said order as on the date has become final as it is not assailed though remedy of revision is provided. The lands affected of the petitioners are agricultural lands of agriculturists. The compensation awarded is to the tune of Rs. 1,00,000/- and odd in these matters. There was no impediment for respondent no.2 to pay compensation or if it was aggrieved by the order, to assail the same. It is more than one and half year the order directing respondent no.2 - Company to pay compensation is passed. In absence of the order not being assailed, respondent no.2 ought to have made payment of the said compensation to the petitioners. Respondent no.2 is a State owned Company. Respondent no.2 is expected to be a model litigant. In writ jurisdiction, we cannot certainly determine the amount of compensation. The amount of compensation is already determined which is final.

5. The contention of Mr. Advant, the learned Counsel for

respondent no.2, could have been considered by the revisional court or in case the said judgment would have been assailed. However, as that has not been done, respondent no.2 is under obligation to pay the amount of compensation to the petitioners.

6. Considering the above, respondent no.2 - Company shall make the payment of compensation to the petitioners, as determined by the District Magistrate / Collector, expeditiously and preferably within three months from today.

7. With the above directions, the Writ Petitions are disposed of.
No costs.

(A.M. BADAR)
JUDGE

(S.V. GANGAPURWALA)
JUDGE

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