

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 263 OF 2017

Gram Panchayat Shilapur
Aurangabad Road and ors.
V/s.

.. Petitioners

The State of Maharashtra and ors.

.. Respondents.

Mr. Sugandh Deshmukh for the Petitioners.

Mr. V.N. Sagare, AGP for the Respondent – State.

Mr. Milind Prabhune i/b Mr. Sarang Aradhye for Respondent No.5.

**CORAM: DR. MANJULA CHELLUR, C.J.
AND M.S.SONAK, J.**

DATE : 22 NOVEMBER 2017.

P.C.

1] Heard Mr. Sugandh Deshmukh, learned counsel for the petitioners, Mr. V.N. Sagare, learned AGP for the respondent – State and Mr. Milind Prabhune i/b. Mr. Sarang Aradhye , learned counsel for respondent No.5.

2] This petition is instituted by Gram Panchayat Shilapur and three others seeking quashing of Government Resolution (GR) dated 6th October 2015 and the Collector's consequential order dated 11th December 2015, in terms of which, the property bearing Gat No.220, admeasuring 40 Hectares situated at village Shilapur, Dist. Nashik has been leased to respondent No.5, i.e., The Central Power Research Institute (CPRI).

3] The only contention raised by Mr. Sugandh Deshmukh, learned counsel for the petitioners is that the State Government before allotting the property to CPRI did not comply with its own GR dated 28th May 2010 in the matter of allotment of gairan (i.e. grazing) lands. He points out that such GR mandates that no allotments shall be made of gairan lands unless the Gram Panchayat or Gram Sabha of the village concerned records its assent to such allotment. Mr. Deshmukh submits that in the present case, there is no such Resolution of Gram Panchayat or Gram Sabha. Instead, he points out that the present petition has been filed by the Gram Panchayat, which is totally opposed to the allotment of the lands to the CPRI.

4] Mr. V.N. Sagare, learned AGP for the respondent – State and Mr. Prabhune, learned counsel for respondent No.5 submit that the Village Panchayat is not the owner of the land, which is subject matter of this petition. They point out that there is no breach of the GR dated 28th May 2010. Because necessary Resolution is available on record and in any case, in exceptional circumstances, and in respect of projects of vital importance like water supply, electricity, defence, law and order, there is ample power vested in the State Government, which is the owner of land in-question to make such allotment. They point out to the credentials of CPRI, which is a Central Institute functioning under the administrative control and supervision of the Ministry of Power, Government of India and its contribution to power supply measures throughout the country. They submit that there is no

breach of any GR and therefore, there is no merit in the contention of the petitioners.

5] By the impugned GR and consequential order dated 11th December 2015, the land in-question has been allotted on lease basis to the CPRI for establishing Central Electrical Testing Laboratory. This means that the allotment of land is not to some private entity, but rather, allotment is to an autonomous institute established and functioning under the supervision of Central Government.

6] In the affidavit filed on behalf of CPRI, it is stated that the CPRI was established by Government of India in 1960 and it became an autonomous body in 1978. CPRI is functioning under the administrative control and supervision of Ministry of Power, Government of India since last 57 years. CPRI has offered valuable services to the Nation in the power sector. There is reference to the main objective for establishment of CPRI and from perusal of the same, there is no dispute that the CPRI is an apex body for initiating and coordinating the Research and Development in the field of electric power supply to the Nation.

7] Both the State Government as well as CPRI in their respect affidavits have stated that there are about 20 major and 500 small/medium scale Electrical Industries in and around Nashik. In addition, there are 200 major and 5000 small/medium scale Electrical Industries in the State of Maharashtra. However, there

was no independent third party testing laboratory in the entire region for the Electrical Industry to address their quality assurance and product development needs. Therefore, the establishment of comprehensive testing laboratory at Nashik for Western Region of the country was felt necessary. The site near Nashik was chosen because there are several industries in Mumbai, Pune and Nashik Regions, which is often referred to as Golden Triangle. The affidavit points out that as of now for want of a comprehensive testing laboratory, the Electrical Industries have to access testing laboratories at either Bhopal or Bangalore to test their products. Apart from inconvenience of access, there is a huge waiting period for inspection and testing of products.

8] Taking into consideration these genuine public interest requirements, the CPRI forwarded a proposal to the Ministry of Power, Government of India to establish a Central Electrical Testing Laboratory at Nashik for the Western Region. The proposal was approved by Ministry of Power on 5th January 2015 with an outlay of Rs.115.30 crores. The choice of site near Nashik was mainly because 40% of Electrical Industry and goods produced by the Electrical Industries come from this Region of Western India. The affidavit states that the CPRI Officials visited various sites, held discussions with local Authorities and other stakeholders and identified the site at Shilapur, which is incidentally quite close to the Nashik Thermal Power Station (NTPS) Eklahare. There were several consultations with stakeholders and details of the same have been set out in the affidavit of the CPRI.

9] The matter of allotment was considered at several levels and ultimately, the Cabinet, taking into consideration the exceptional circumstances that a project of vital importance for the Central/State Government was being established to boost the power sector and the power industry, passed the impugned Resolution dated 6th October 2015. This was followed by Collector's consequential order dated 11th December 2015 actually allotting land to the CPRI.

10] The GR dated 28th May 2010 which is fulcrum of the Petitioners case no doubt provides that proposals for allotment of gairan lands are to be accompanied by Resolutions of Panchayat or Gram Sabha supporting such allotment. However, this by itself, does not, take away the right or power of the Government to allot its own lands for public purposes and projects of vital importance. In any case, the GR dated 28th May 2010, in terms provides that the exceptions can always be carved out where allotment is proposed for projects and vital importance like water supply, electricity supply, defence, law and order etc., and the issue of forwarding such proposal must be decided by the Collector on merits of the proposed allotment.

11] Since, the allotment in the present case, is certainly in respect of project of vital importance concerned with the power supply not only of the State but also the Central Government, the State Government, was well within its rights to make an

exception, as is permitted under the GR dated 28th May 2010 itself in making the allotment of the land to CPRI. There is nothing arbitrary or unreasonable in the allotment made. The Panchayat or the other petitioners really have no serious cause of action to question the allotment on the ground of any breach of GR dated 28th May 2010 or even otherwise.

12] The decision for allotment in the present case, has been taken at the highest level, i.e., State Cabinet. The allotment is not to some private party to establish some private industry or commercial establishment. Instead, the allotment is to CPRI which is a National Institute. The allotment is to enable the CPRI to establish a Central Electrical Testing Lab which was found to be urgently and vitally needed in the Western Region. Taking into consideration of all these factors, there is no case made out to grant the petitioners any relief.

13] We may add that respondent no.5, along with its affidavit has enclosed the Minutes of the Meeting dated 27th July 2013 held between Minister of the State Government and the Officials of CPRI. This minutes indicate that CPRI will initially invest Rs.200 crores and such investment would eventually rise upto Rs.1000 crores. The minutes records that direct and indirect employment will be generated in the Region. The Central Testing Lab would would benefit several industries in the Western Region.

14] Taking into consideration all these factors, we are satisfied that there is no case made out to interfere with the impugned GR dated 6th October 2015 or the Collector's order dated 11th December 2015. The village panchayat, in fact, should welcome and cooperate with the establishment of such project, which is in public interest as well as in the interest of the petitioner panchayat.

15] This petition is therefore, dismissed. There shall however, be no order as to costs.

(CHIEF JUSTICE)

(M.S.SONAK, J.)