

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9887 OF 2017

THE ZILLA PARISHAD JALNA
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Shri Tope Sambhaji S.
AGP for Respondents 1 & 2 : Shri Shinde B.A.
Advocate for Respondent 3 : Shri Deshmukh V.S.
h/f Shri Kale A.B.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: July 12, 2018

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PER COURT :-

1. Pursuant to the earlier orders passed by this Court, the learned AGP submits, on instructions, from Shri Harichandra Ananda Gawali, Sub Divisional Officer, present in the Court and on the basis of the affidavit in reply, that the petition of the petitioner / Zilla Parishad can be allowed as it is the State Government, which has to make the payment of compensation to respondent No.3.

2. The sequence of events conveyed by the learned AGP are as follows:-

(a) The LAR proceedings culminated into a judgment

on 1.8.2013, by which enhanced compensation became payable to respondent No.3.

(b) The SDO Shri Gawali forwarded the proposal for payment of enhanced compensation to the Collector for the first time after taking over in 2016, on 28.7.2017.

(c) The proposal was returned by the Collector for defects on 19.8.2017.

(d) Shri Gawali submitted a new proposal on 22.6.2018 and the Commissioner forwarded it to the Government on 14.7.2018.

3. The learned AGP makes a statement, on instructions and the affidavit in reply filed on record, that the entire enhanced compensation with interest, would be paid to the respondent No.3 within four months from today.

4. Considering the above, this petition is allowed in terms of prayer clauses (B) and (C), which read as under:-

“(B) This Honourable Court by issuing writ of certiorari or any other writ in the like nature may kindly quash and set aside impugned order passed on 3.7.2017 below Exhibit 12 in Special Darkhast No.49 of 2014 by the learned Civil Judge Senior Division, Jalna.

(C) This Honourable Court may kindly issue direction to release the property of the Zilla Parishad attached by respondent No.3 under warrant issued by learned Civil Judge Senior Division, Jalna in Special Darkhast No.49 of 2014.”

5. The vehicles of the petitioner shall be released forthwith from the custody of the executing Court. Since these two vehicles [Mahindra Bolero Jeeps - MH 21 L 469 and MH 21 C 5628] have been seized in 21.12.2016, due to the apathy of respondent No.2 SDO, he shall pay an amount of Rs.10,000/- per vehicle for the repairs that would be required to be done as the vehicles stood still for more than one year. This amount shall be paid by him to the petitioner / Zilla Parishad through an account payee cheque from his salary account, within four weeks from today and shall not seek an extension of time.

6. It can be reasonably assumed that the compensation payable to respondent No.3 could have been possible paid by August 2014 as no appeal has been preferred by the State. Since this was not done, though respondent No.3 would be entitled for interest on the enhanced amount from the Government, the interest component from 1.8.2014 till the date Shri Gawali took

the charge as SDO shall be recovered from the salaries of the SDO, namely, Shri N.R.Shelke (1.8.2014 to 26.8.2014), Shri Laxminarayan Mishra (27.8.2014 to 26.6.2015), Shri Sanjay Gaikwad (27.6.2015 to 30.8.2015), again Shri Laxminarayan Mishra (31.8.2015 to 28.4.2016) and Shrikumar Chinchkar (29.4.2016 to 10.5.2016) for the respective periods. Needless to state, the interest as directed from the date Shri Gawali took charge i.e. 11.5.2016, shall be paid to respondent No.3 by him from his personal salary. All such amounts of interest shall be paid within a period of four months from today.

7. Needless to state, the parties will act on this order on the basis of the copy of this order downloaded from the official website of the Bombay High Court.

(RAVINDRA V. GHUGE, J.)

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