

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

**WRIT PETITION NO. 9764 OF 2018 WITH
WRIT PETITION NO.11722 OF 2018 WITH
WRIT PETITION NO. 11723 OF 2018 WITH
WRIT PETITION NO. 11724 OF 2018 WITH
WRIT PETITION NO. 11726 OF 2018 WITH
WRIT PETITION NO. 11727 OF 2018**

**MAHARASHTRA STATE ELECTRICITY TRANSMISSION CO
LTD THROUGH EXECUTIVE ENGINEER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for the Petitioners : Shri D. P. Palodkar
AGP for Respondent Nos. 1 to 3 : Shri S. R. Yadav - Lonikar
Advocate for Respondent Nos. 4 to 17 : Shri P. P. Uttarwar

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 28th MARCH, 2019.

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PER COURT :

1. In all these petitions, the petitioner Company is aggrieved by the identical orders passed by the Maharashtra Electricity Regulatory Commission dated 29/11/2016, 29/11/2016, 28/11/2016, 18/11/2016, 28/11/2016, 24/11/2016, by which, the claims for compensation towards permanent damage to the agricultural land, raised by the agriculturists who are the respondents herein, are remitted to the District Collector for quantifying the compensation.

2. The learned Advocate for the petitioner Company, in all these matters which are identical in nature, submits that the Honourable Apex Court has delivered a judgment in the matter of *Power Grid Corporation of India Limited Versus Century Textiles and Industries Limited and others, (2017) 5 SCC 143*, concluding in paragraph Nos. 26, 27, 28 and 29 that the recourse available to the agriculturists is to prefer a civil suit before the District Court for quantifying / assessing the compensation amounts keeping in view the provisions of the Telegraph Act, 1885, Electricity Act, 2003 and the Rules under the Works of Licensees Rules, 2006.

3. It is further pointed out that the learned Division Bench of this Court at Aurangabad, has delivered a judgment on 04/08/2017 in the matter of *Power Grid Corporation of India Limited Vs. State of Maharashtra and another*, Writ Petition No. 9315/2015 and connected Writ Petitions. The learned Advocate hastens to add that the learned Division Bench of this Court was dealing with the issue of transfer/shifting of the location for erecting the transmission towers.

4. He further points out an order passed by this Court dated 21/01/2019 in the matter of *Power Grid Corporation of India Limited Vs. The State of Maharashtra and others* in Writ Petition Nos. 14315/2018 and connected matters, by which, the disputes were referred to the District Court.

5. The learned Advocate appearing on behalf of the respondent agriculturists submits that the judgment delivered by the Honourable Apex Court in the matter of *Century Textiles (supra)*, indicates in paragraph No. 28 that where State Governments have introduced certain guidelines for deciding the issue of compensation, such companies or the litigants can approach the said forum as per the guidelines.

6. The learned AGP rightly points out that there are two aspects involved in such cases. Firstly, where the District Collector or a Committee, as the case may be, has assessed the compensation amounts and the agriculturists are dissatisfied leading to the raising of a dispute as regards enhancement in compensation. Such matters would then be tenable before the District Court. The second is when such compensation

amounts have not been decided by the District Collector and in which case, the matter will first have to go to the District Collector.

7. *Insofar* as the facts of these cases are concerned, it is apparent from the pleadings of the petitioner company below paragraph No. 5 that compensation for the damage caused to the crop at various stages as like preparation of the foundation, erection of the towers and laying of the electrical wires which is also understood as stringing of the wires, has been paid. There is no dispute that the compensation paid at these stages is towards the loss caused for the crops. This aspect is pointed out from paragraph No. 16 of the earlier order of the District Collector. It was recorded by the District Collector, which appears at page 17 of the paper book, that this petitioner company does not have the power to cause acquisition of land and therefore, it does not have the authority to quantify compensation for occupying the ground area in any agricultural field belonging to the agriculturists.

8. The above fact situation, *ex-facie* would indicate that the

quantification of compensation for the land, which is permanently occupied under the tower, has not been crystalized.

9. Paragraph No. 28 in the Century Textile Mills Ltd. (supra), reads thus :-

"28. These are sufficient reasons to allow Civil Appeal No. 10951 of 2016 preferred by the Power Grid by setting aside those directions. Ordered accordingly. We make it clear that if the writ petitioner feels that it is entitled to any compensation, the appropriate course of action is to file a suit before the District Judge concerned for this purpose. It would also be apt to point out at this stage that the Central Government has framed guidelines dated 15/10/2015 in this behalf which inter alia provide that the issue of compensation may be resolved having regard to the mode and manner of assessment of compensation as per the said guidelines. Therefore, it would always be open to the writ petitioner to avail the remedy as per the said guidelines."

10. It is, therefore, obvious that the Honourable Apex Court has observed that though generally an aggrieved person can approach the District Judge by filing a suit for claiming such

compensation, the Central Government has framed guidelines dated 15/10/2015 in this context which *inter alia* provide that the issue of compensation may be resolved having regard to the mode and manner of assessment of compensation as per the guidelines.

11. The learned Advocate for the respondent agriculturists points out the introduction of such guidelines by the State of Maharashtra vide G.R. dated 31/05/2017, by which, the District Collector is mandated to form a committee comprising of the SDO as Chairman with the Deputy Superintendent of Land Records, Taluka/District Agricultural Officer and Representative of the Company, as its members. The guideline numbers 3.2 and 3.3 indicate that the assessment as regards compensation can be made by such committee and if such compensation is not acceptable to the agriculturists or any party, such aggrieved person can approach the District Collector by filing an Appeal.

12. In the light of the the judgment of the Honourable Apex Court in *Century Textiles (supra)* and of the learned Division

Bench of this Court in the *Power Grid Corporation of India Ltd. Case (supra)*, a dispute as regards compensation quantified by the District Collector, could be raised by preferring a civil suit before the District Judge. But, by the guidelines now introduced, the appeal forum before the District Collector, after the committee has quantified compensation, has been created. I need not deal with this issue at this stage and especially the issue raised by Shri Palodkar for the petitioner that a dispute regarding the compensation assessed has to go before the District Judge. Hence, whether, these guidelines are contrary to the law laid down by the Honourable Apex Court or whether, these guidelines can be considered to be a remedy made available in view of paragraph No.28 of the *Century Textile Mill (supra)*, is left open to be adjudicated upon in an appropriate proceedings.

13. For the present, as the agriculturists claim that their compensation with regard to the land occupied by the Towers having not been assessed/quantified, their matters need to be referred to the Committee under guideline 3.1 of the G.R. dated 31/05/2017, in the light of paragraph 28 in *Century*

Textile Ltd., judgment (supra).

14. In view of the above, these petitions are disposed off.

15. The issue as regards quantified compensation for the lands occupied by the Towers shall be considered by the said committee referred to above and the claims raised by the agriculturists shall stand remitted to the said committee for District Jalgaon under the G.R. dated 31/05/2017. These litigating parties shall appear before the said committee on 29/04/2019, at 11.00 a.m. If required, the committee may issue notices to the parties, who may not be aware of such hearing. In the event any of the original claimants have passed away, the petitioner Company shall bring the L.Rs. on record. The L.Rs. are also at liberty to make an application in this regard.

16. Needless to state, all the contentions of the litigating sides are kept open, including the contention of the petitioner that they have already paid the entire compensation and the contention of the agriculturists that their compensation for the

land occupied by the towers, neither has been processed nor paid.

17. So also, the committee would consider the objection of the company that these agriculturists have slept over their claims though the erection of towers was completed in 2008-2009 and have raised a claim for compensation belatedly which would disentitle them of the interest component. Along with this issue, I also keep the issue open as to whether, the company has failed to pay the compensation for the land occupied by the towers, making them liable to pay interest. All these aspects would be considered on their own merits.

(RAVINDRA V. GHUGE, J.)

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