

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION (LODG.) NO. 85 OF 2019

The TATA Power Company
Limited & Anr.

.. Petitioners

Vs.

State of Maharashtra & Ors.

.. Respondents

Mr.P.K. Dhakephalkar, Senior Advocate a/w. Mr. Bhushan Deshmukh , Mr. H.N. Vakil, Mr. Rushil Mathur i/b M/s. Mulla & Mulla & Craigie Blunt & Caroe for petitioners.

Ms. Geeta Shastri, Additional Government Pleader for respondent Nos.1, 5 and 6.

Mr. Rui A. Rodrigues a/w. Mr.N.R. Prajapati for respondent No.2.

Ms. Sharmila V. Deshmukh for respondent No.3.

Ms.Shreya Parekh I/b M/s. Jayakar for respondent Nos. 8 and 9.

**CORAM : B.R. GAVAI &
N.J. JAMADAR, JJ.**

DATE : 1st FEBRUARY 2019

P.C.

1 The petitioners have approached this Court basically seeking a permission to allow the petitioners to lay down underground electric transmission cable as described in the paragraph 3.6 of the petition as the said project is in the public interest and public good.

2 Heard Shri Dhakephalkar, learned senior counsel for the petitioners, Shri Rui Rodirgues, learned counsel for respondent No.2, Smt. Sharmila Deshmukh, learned counsel for respondent No.3, Ms. Geeta Shastri, Addl.

GP for respondent Nos.1, 5 and 6 and Ms. Shreya Parekh, learned counsel for respondent Nos. 8 and 9.

3 It is the contention of the petitioners that this laying of the said underground electric transmission cable is in the interest of public at large. It is submitted that as a matter of fact, no mangrove is likely to be affected by the said project since the same falls within the buffer zone. However, in view of the orders passed by a Division Bench of this Court in ***Bombay Environmental Action Group & Anr. Vs. The State of Maharashtra & Ors. and connection Writ Petitions***¹, the permission, as sought, is necessary in view of Clauses (A)(III) of paragraph 85 of the said judgment.

4 The learned counsel for respondent Nos. 8 and 9 stated that though, in principle, respondent Nos. 8 and 9 have no objection for granting permission as prayed, however, it is necessary that the petitioners should give an undertaking to this Court that they will scrupulously abide by the undertakings given by them.

6 On perusal of the material placed on record, it is revealed that the petitioners are intending to lay the underground electric transmission cable beneath the road which is already in existence. The necessary permissions

1 PIL/87/2006 DT. 17.09.2018

have been granted to the petitioners by the State-respondent No.1, Union of India through Ministry of Environment and Forest-respondent No.2, Maharashtra Coastal Zone Management Authority (MCZMA)-respondent No.3, Municipal Corporation for Greater Mumbai-respondent No.4 etc.

7 On perusal of the communication, dated 16th August 2018 of the Additional Director/Sc 'E' of Ministry of Environment, Forest regarding CRZ clearance for laying underground electric cable, it is revealed that the proposal of the petitioners has been considered by the Expert Appraisal Committee (EAC) for Infrastructure Development, Coastal Regulation Zone and it accorded CRZ clearance to the project. While according approval to the proposal, the EAC has observed that no mangrove will be affected due to laying of the underground electric cable. The said clearance/permission also requires prior approval of this Court to be taken.

8 Since the authorities whose permissions are required, have already granted necessary permissions to the petitioners and since it is not in dispute that the said project is in the larger public interest, we are inclined to allow this petition.

9 The petition is allowed in terms of prayer clause (a) subject to responsible and authorized officer of the petitioner filing an undertaking

within a period of one week from today stating that they will scrupulously abide by the conditions imposed by respondent No.2. The undertaking shall be filed latest by 8th February 2019.

10 The petition stands disposed of.

[N.J. JAMADAR, J.]

[B.R. GAVAI, J.]