

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

**WRIT PETITION NO.11633 OF 2021**

**NAVNATH KISAN HATAGALE  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS**

...  
Advocate for Petitioner : Mr. A.B. Kale h/f. Bhagwan R. Sable  
AGP for Respondent/State: Mrs. R.P. Gaur  
...

**CORAM : MANGESH S. PATIL AND  
SANDEEP V. MARNE, JJ.**

**DATE : 26.07.2022**

**PER COURT :**

We have heard both the sides finally.

2. A reference preferred by the petitioner under Section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (herein after the Act) has not been forwarded by the Land Acquisition Officer to the authority as is contemplated therein, and instead, by the communication dated 18.12.2020 (Exhibit-H) the Special Land Acquisition Officer has informed the petitioner that since it was acquisition by private negotiation, a reference would not lie under Section 64 of the Act.

3. The learned advocate Mr. Kale holding for Mr. Sable submits that the Land Acquisition Officer had no power to decide the reference as if it was an authority to whom it would lie under Section 64. He had no jurisdiction. He should have simply forwarded the reference to the authority

for decision in accordance with law.

4. Learned AGP points out that the communication in a way was nothing but an intimation by the Special Land Acquisition Officer to the petitioner that he was not forwarding the reference to the authority for the reasons mentioned therein. She would submit that in that eventuality, by virtue of the second proviso to Sub-section (1) of Section 64 of the Act, even the petitioner could have approached the authority and made it to call for the reference.

5. The learned advocate for the petitioner would submit that the reasoning given by the Special Land Acquisition Officer in his impugned communication would come in his way while prosecuting the reference before the authority.

6. Having considered the rival submissions and the law, as is apparent from the wording of Section 64, no power to decide the reference is vested in the Collector. He is only supposed to forward the reference to the authority for decision in accordance with law. Instead of following such a course the petitioner's reference by the impugned communication seems to have been decided by the Special Land Acquisition Officer on merits. He does not have such jurisdiction and the communication is clearly without jurisdiction and is liable to be quashed and set aside.

7. However, in the light of course available to the petitioner in view of second proviso to Section 64, the petitioner also could have resorted to it and got the reference called by the authority.

8. In view of the above, the Writ Petition is partly allowed. The impugned communication is quashed and set aside. The petitioner shall be entitled to approach the authority in the light of the second proviso to Section 64 of the Act and the authority shall thereafter decide it on its own merits uninfluenced by the communication under challenge.

(SANDEEP V. MARNE, J.)

(MANGESH S. PATIL, J.)

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