

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

**WRIT PETITION NO. 13884 OF 2017**

Panjabrao Vitthalrao Hake  
and others

.. Petitioners

**Versus**

The State of Maharashtra and another.. Respondents

Shri Vinayak J. Dixit, Senior Advocate i/by Shri Nitin S. Kadam,  
Advocate for the Petitioners.

Mrs. R. P. Gour, A.G.P. for the Respondent No. 1.

Shri D. S. Manorkar, Advocate for the Respondent No. 2.

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

**DATE : 18.08.2022.**

**FINAL ORDER :**

. Heard learned senior advocate Mr. Dixit for the petitioners, learned advocate Mr. Manorkar for the respondent No. 2 and the learned Assistant Government Pleader for the respondent No. 1.

2. Primarily petitioners are aggrieved by the fact that inspite of the first award having been passed on 20.03.2017 and even in absence of powers and jurisdiction, the respondent No. 2/Land Acquisition Officer has modified it by a fresh award dated 14.08.2017. Since it is a matter which tantamounts to exercise of power of review, which is conspicuously absent in the National Highways Act and the provisions of the Right to Fair Compensation and Transparency in Land Acquisition,

Rehabilitation and Resettlement Act, 2013, the second award is without jurisdiction. The petitioners are also raising some grounds for enhancement of compensation in the light of the subsequent Government Resolutions including the one dated 13.08.2018.

3. As far as power of the respondent No. 2/Land Acquisition Officer to pass a fresh award is concerned, the issue is no more *res-integra*. In the following matters, it has been specifically laid down that once a award is passed in the absence of any power except to correct the arithmetical error, no power vests in the Land Acquisition Officer to pass modified award.

- I. Order dated 06.03.2020 in Writ Petition No. 1934 of 2020.
- II. Judgment dated 20.12.2019 in Writ Petition No. 5286 of 2018.
- III. Order dated 19.03.2021 in Writ Petition No 3423 of 2020.

The award under challenge passed by the respondent No. 2/Land Acquisition Officer on 14.08.2017 is without jurisdiction and is liable to be quashed and set aside.

4. So far as the claim of the petitioners regarding enhanced compensation is concerned, admittedly, they have already moved the arbitrator. In view of the such state of affairs, all the issues can be agitated before the arbitrator for enhanced compensation. It would be premature for this Court to presume that the

arbitrator would not consider the Government Resolutions including the one dated 13.08.2018.

5. The writ petition is partly allowed. Award dated 14.08.2017 is quashed and set aside. All the issues regarding enhancement in compensation are kept open. The writ petition is disposed of. No costs.

**[SANDEEP V. MARNE, J.]**

**[MANGESH S. PATIL, J.]**

*bsb/Aug. 22*