

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 1627 OF 2022

Devram s/o Sitaram Samartha,
Aged about 69 years, Occupation – Nil,
R/o Wanadongri, Matoshri Nagar,
Khangar Layout, Tahsil and District
Nagpur.

.... **PETITIONER**

VERSUS

1) The State of Maharashtra,
through its Secretary, Department of
of Irrigation, Mantralaya, Mumbai-32.

2) Deputy Collector (Land Acquisition
Officer No.1, Vidarbha Irrigation
Department Corporation, Collector
Office, Civil Lines, Nagpur.

3) The Chief Engineer,
Vidarbha Irrigation Development
Corporation, Sinchan Bhavan, Nagpur.

4) The Executive Engineer,
Vidarbha Irrigation Development
Corporation, Rehabilitation Division,
Plot No.13, Civil Lines, Nagpur.

.... **RESPONDENTS**

Mr. P.D. Sharma, Counsel for the petitioner,
Ms. T.H. Khan, AGP for respondents 1 and 2,
Mr. A.M. Kukday, Counsel for respondents 3 and 4.

CORAM : ROHIT B. DEO, J.
DATED : 4th MAY, 2022

ORAL JUDGMENT :

Heard. **Rule.** Rule made returnable forthwith. With consent, the petition is heard finally.

2. The petitioner is assailing the order dated 31-7-2018 passed by respondent 2 whereby the application under Section 28A of the Land Acquisition Act (Act) preferred by the petitioner is rejected on the premise that the rehabilitation compensation is received.

3. The short grievance is that before rejecting the application under Section 28A of the Act the petitioner was not noticed. It is further submitted that even on merits the order impugned militates against the decision of the Constitution Bench of the Hon'ble Supreme Court in *Union of India v. Harsoli Devi and others, (2002) 7 SCC 273*.

4. My attention is invited to order dated 08-8-2019 in Writ Petition 4685/2019 which has set aside similar order and remanded the matter for reconsideration of the application.

5. Mr. A.M. Kukday, learned Counsel, who appears on behalf of respondents 3 and 4-VIDC, does not dispute that notice ought to have been issued to the petitioner.

6. The order impugned is quashed and the matter is remanded to respondent 2 for reconsideration of the application under Section 28A of the Act on merits, and after hearing the petitioner.
7. The petitioner shall appear before respondent 2 on 13-5-2022 and shall produce on record copy of this order.
8. Respondent 2 shall hear the petitioner and pass final order on the application under Section 28A of the Act on or before 31-7-2022.
9. The petition is partly allowed in the afore-stated terms.

JUDGE

adgokar