

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

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WRIT PETITION NO. 2634 /2022

Mehaebub s/o Piru Gaure
Aged about 38 years, occu: Agriculture
R/o Medshi, Tq. Malegaon
Dist.Washim, Maharashtra- 444 503.

..PETITIONER

v e r s u s

1) State of Maharashtra
Through its Secretary
Ministry of Power and Electric Supply
Mantralaya, Mumbai-32.

2) The Collector
Washim.

3) Sub-Divisional Officer
Washim, Dist.Washim

4) Tahsildar (Revenue)
Tah.Malegaon,Dist.Washim.

5) The Superintendent of Police
Washim, Kata Road, Civil Lines
Washim, Dist.Washim.

6) Maharashtra State Electricity Transmission
Corporation, Through its Executive Engineer
Transmission, Vidhyut Bhavan, Civil Lines, Road
Ratan Lal Plot, Durga Chowk, Akola
Maharashtra.

7) National Highway Authority of India
Ministry of Road Transport and Highway
Through its Secretary
Dwarka, New Delhi.

.. RESPONDENTS

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Mr. R.V. Gahilot, Advocate for Petitioner
Ms. T.H.Udeshi, A.G.P for Respondent Nos. 1 to 5
Mr. G.A. Kunte, Advocate for Respondent No.6
None present for Respondent No.7
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CORAM: A.S. CHANDURKAR & ANIL L. PANSARE, JJ
DATED : 21st November, 2022.

JUDGMENT: (Per Anil L.Pansare, J.)

1. **Rule.** Rule is made returnable forthwith. Heard finally with the consent of the parties.
2. The Petitioner is aggrieved by the order dated 18th April, 2022 passed by the Respondent No.5-Superintendent of Police, Washim, thereby providing police protection to the Respondent No.6-Maharashtra State Electricity Transmission Corporation for shifting 132 K.V. transmission line though the land belonging to the petitioner. The Petitioner has sought a writ of mandamus directing the Respondent No.2-Collector, Washim, to forthwith initiate the process of acquisition of land and payment of compensation and damages. The Petitioner has further sought a direction to the Respondent No.6-Corporation not to undertake the process of shifting 132 K.V. transmission line without following due process of law.
3. The petitioner is the owner of Field Survey No. 455

admeasuring 1.41 HR situated at village Medshi, Tq.Malegaon, Dist.Washim. According to the petitioner, in the month of September, 2021 about 10-12 officials of Respondent No.6-Corporation and Respondent No.7-National Highway Authority of India entered the Petitioner's land and started conducting survey without permission of the Petitioner and caused damage to the standing crop of soybean. On enquiry, the Petitioner came to know that the Respondent No.6 is planning to shift few electric towers of high tension line and one of such towers will be installed and erected in the field of the Petitioner. This was being done in view of the widening of National Highway by the Respondent No.7 and the consequential realignment of electric line.

4. The Petitioner objected for erecting transmission tower in his field and preferred a representation to that effect with the Respondent No. 2-Collector. On 9th October 2021, the petitioner received a communication from the Respondent No.6-Corporation informing him that as per the Indian Telegraphic Act 1885, for the purpose of shifting of 132 K.V. Patur-Malegaon Transmission Line, if any damage is caused to the crops of the Petitioner, appropriate compensation will be paid by Respondent no.7 or the Contractor appointed by it. The Petitioner submits that, instead of following due process of law for extending compensation, the Respondent No.6-

Corporation vide impugned order dated 18th April, 2022 granted police protection for erecting/shifting the electric poles/towers in the Petitioner's land without awarding compensation. The said act, according to the Petitioner, is violative of Article 300A of the Constitution of India and is against the procedure prescribed under various Government Resolutions (GR).

5. Mr. R.V.Gahilot, learned Advocate for the Petitioner submits that the petitioner does not have any objection if the transmission tower is erected in his field, but prior thereto, the Petitioner ought to be adequately compensated. As against, Mr. G.A. Kunte, learned counsel for the Respondent No.6 submits that as per the GR dated 31st May 2017, the entire procedure in respect of payment of compensation for erection of tower /transmission line and for payment of compensation, is laid down. He further submits that the Respondent no.6 had already applied to Sub-Divisional Officer for determining the compensation as per the said GR. Ms.T.H.Udeshi, learned Assistant Government Pleader for the Respondent Nos.1 to 5 submits that the procedure as laid down in GR dated 31st May 2017 shall be followed and the Petitioner will be adequately compensated and, as such, he cannot therefore obstruct the work under question. The Petitioner having done so, the assistance of the Respondent No.5 is sought. She further submits

that the Respondent No.5 has acted in terms of the communication dated 17th March, 2022 received from the Respondent No.2-Collector directing the Respondent no.5 to grant police protection to the Respondent No.6 for erecting/shifting tower as well as electric line.

6. We have considered the rival submissions. There is no dispute that a detailed procedure for erecting the transmission tower and shifting of transmission line has been laid down in the GR dated 31st May 2017, which also provides for granting compensation to the affected parties. The Respondents have assured that the procedure as laid down in the GR dated 31st May 2017 will be followed and, thus, the apprehension put forth by the Petitioner appears to us to be uncalled for. In addition, learned counsel for Respondent No.6 has placed on record the GR dated 2nd November 2022, which pertains to granting compensation to the affected parties by the erection of transmission towers and by shifting transmission lines over the lands belonging to the affected parties. The said GR provides a modified procedure for granting compensation which is more beneficial than the procedure laid down in earlier GR. In that sense, the Petitioner will now be benefited by the modified procedure for assessment of compensation. The Respondents have assured that though the method for erecting transmission tower will be adopted in terms of the GR

dated 31st May 2017, the compensation shall be calculated in terms of the GR dated 2nd November, 2022.

7. Thus, in our view, the apprehension put forth by the Petitioner that he will not get adequate compensation is resolved through the replies filed by the Respondents. The Respondents have assured that necessary *panchnamas* will be drawn and that the Petitioner will be put to notice before drawing the *panchnamas*. The Petitioner, therefore, will be facilitated to understand the area that will be affected because of shifting/erection of 132 K.V. transmission line and that he will be adequately compensated. In that view of the matter, we are inclined to allow the petition. The Rule is, accordingly, made absolute in the following terms with no order as to costs.

8. The work of erection of 132 KV transmission line in Field Survey No.455 situated at Mouja Medshi, Tah. Malegaon, Dist.Washim shall be done in accordance with the GR dated 31st May, 2017. The compensation payable to the Petitioner would be in terms of the GR dated 2nd November, 2022. The Petitioner shall cooperate in the said process.

(ANIL .PANSARE,J.)

(A.S.CHANDURKAR, J.)

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