

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.10195 OF 2022

Kantilal Dattatray Mitkal

.. Petitioner

Versus

The State of Maharashtra & Ors.

.. Respondents

Mr.Yashodeep Deshmukh a/w Vaidehi Pradeep & Aditi Athawale i/b Vinod Sangvikar, Advocates for the Petitioner.

Mr.Akshay Shinde 'B' Panel Advocate, for State-Respondent Nos.1 to 3.

Mr.Prabhakar Jadhav i/b Siddharth Ambegaonkar for Respondent No.4 & 5 NHAI.

**CORAM : B. P. COLABAWALLA &
M.M. SATHAYE, JJ.**

DATE : SEPTEMBER 11, 2023

P. C.

1. The grievance made in the present Writ Petition is with reference to the supplementary award passed under Section 3G of the National Highways Act, 1956 in relation to the RCC structures of the Petitioner.

2. It is the case of the Petitioner that under the Supplementary Award dated 28th October, 2021, the total compensation awarded to the Petitioner for his RCC structures standing on Survey No.114 was Rs.1,73,84,792/-. Despite this, the Competent Authority under the National Highways Act, 1956, namely Respondent No.3, *suo motu* ordered that a site inspection be carried out and called for fresh valuation. Thereafter he reduced the amount of compensation payable to the Petitioner vide his letter dated 20th June, 2022 and which is impugned in the present Writ Petition.

3. The learned counsel appearing on behalf of the Petitioner submitted that the Competent Authority has absolutely no power or jurisdiction to reduce the amount of compensation especially when the supplementary award dated 28th October, 2021 was already passed by following due procedure known to law. He submitted that it is even surprising that the PWD, having done the valuation at the earlier stage [i.e. before passing of the supplementary award dated 28th October, 2021], submitted a fresh valuation on 12th May, 2022, and which is the same date on which the Competent Authority issued a letter to Executive Engineer, PWD calling for a fresh valuation.

4. Considering these facts, on 5th July, 2023, we had directed the State to file an affidavit-in-reply explaining the actions not only of the Competent Authority but also of the Executive Engineer, PWD, who surprisingly gave a fresh valuation of the structures of the Petitioner on the very same date the letter was issued to him for a fresh valuation.

5. The State has now filed the affidavit-in-reply of the present Collector of Solapur, dated 2nd September, 2023. In this affidavit, the State has conceded that there is no provision in the National Highways Act, 1956 to reduce the amount of compensation, especially when the award has already been passed. Once this is the stand taken by the State and which in our opinion is the correct stand as well as a correct understanding of the law, the above Petition would have to succeed.

6. In these circumstances, we quash and set aside the impugned letters dated 9th February, 2022 and 20th June, 2022 (**Exhibit 'A' & 'B'** to the Writ Petition). We now direct the Respondent to disburse the compensation as per the Supplementary/Additional Award dated 28th October, 2021 to the Petitioner together with statutory interest and other benefits within a period of 2 weeks from today.

7. Before parting, we have also taken note of the explanation given by the then Competent Authority (Mr.Appasaheb Samindar) which is produced by the Collector alongwith his affidavit dated 02/09/2023. This Competent Authority (Mr.Appasaheb Samindar) has issued the impugned letter dated 20/06/2022. From reading this explanation what becomes clear is that instead of admitting his mistake, he has tried to justify his actions by saying two things. Firstly, he tried to justify his action on the basis that he acted on alleged oral complaints received by him. In this regard, we must note that from whom those complaints were received, whether they were interested parties or otherwise etc, has not been mentioned in the explanation. Secondly, even though he admits that there is no clear provision in law for the Competent Authority to revise the compensation, he has gone ahead and revised the award and reduced the compensation payable to the Petitioner. We find this conduct of the said Mr.Appasaheb Samindar, unbecoming of an officer given the charge of the Competent Authority under the provisions of the National Highways Act, 1956. It is surprising that he, being in charge and being appointed as the Competent Authority, does not understand the basic provisions of the National Highways Act, 1956. He certainly understands that there is no clear

provision in law for him to revise the compensation but still chooses to do it.

8. We therefore find it to be a fit case to initiate inquiry, and accordingly direct the concerned Authority under the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979 to conduct an inquiry against Mr.Appasaheb Samindar in relation to his actions in the present matter. If any other incidents are brought to the notice of the concerned Authority, those shall also be taken into consideration. Needless to clarify that this inquiry shall be conducted in accordance with the procedures known to law.

9. We have directed this drastic step to be taken, because we find, at least, *prima facie*, that the impugned letter issued on 20th June, 2022, and which has been quashed by us, was issued with a view to harass the Petitioner.

10. Rule is made absolute in the aforesaid terms. However, there shall be no order as to costs.

11. This order will be digitally signed by the Private Secretary/
Personal Assistant of this Court. All concerned will act on production by
fax or email of a digitally signed copy of this order.

[M.M. SATHAYE, J.]

[B. P. COLABAWALLA, J.]