

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

WRIT PETITION NO.4919 OF 2021

WITH

WRIT PETITION NO.2623 OF 2021

WITH

WRIT PETITION NO.2624 OF 2021

WITH

WRIT PETITION NO.2625 OF 2021

WRIT PETITION NO.4919 OF 2021

1. **Smt. Durga W/o Keshav Chikankar,**
Aged about 39 years,
Occupation : Agriculturist.

2. **Bhushan S/o Keshav Chikankar,**
Aged about 18 years,
Occupation : Unemployed.

Both R/o Saholi, Post: Tamaswadi,
Tq. Parshivani, District- Nagpur.

... **Petitioners**

Versus

1. **The Collector (Rehabilitation),**
Nagpur, Civil Lines, Nagpur.
2. **Maharashtra State Power Generation Co. Ltd.,**
Through its Chief Engineer,
Khaperkheda Thermal Power Station,
Khaperkheda,
District- Nagpur-441102.

... **Respondents**

WITH**WRIT PETITION NO.2623 OF 2021**

1. **Tanba S/o Kisan Chikankar,**
Aged about 86 years,
Occupation : Agriculturist.
2. **Suraj S/o Yogiraj Chikankar,**
Aged about 20 years,
Occupation : Unemployed.

Both R/o Saholi, Post: Tamaswadi,
Tq. Parshivani, District- Nagpur.

... **Petitioners**

Versus

1. **The Collector (Rehabilitation),**
Nagpur, Civil Lines, Nagpur.
2. **Maharashtra State Power Generation Co. Ltd.,**
Through its Chief Engineer,
Khaperkheda Thermal Power Station,
Khaperkheda,
District- Nagpur-441102.

... **Respondents**

WITH**WRIT PETITION NO.2624 OF 2021**

1. **Ramdas S/o Gulab Chikankar,**
Aged about 73 years,
Occupation : Agriculturist.
2. **Nalini D/o Ramdas Chikankar,**
Aged about 41 years,
Occupation : Unemployed.

Both R/o Saholi, Post: Tamaswadi,
Tq. Parshivani, District- Nagpur.

... Petitioners

Versus

1. **The Collector (Rehabilitation),**
Nagpur, Civil Lines, Nagpur.
2. **Maharashtra State Power Generation Co. Ltd.,**
Through its Chief Engineer,
Khaperkheda Thermal Power Station,
Khaperkheda,
District- Nagpur-441102.

... Respondents

WITH

WRIT PETITION NO.2625 OF 2021

1. **Smt. Lilabai W/o Jagan Chikankar,**
Aged about 74 years,
Occupation : Agriculturist.
2. **Om S/o Rajesh Tangale,**
Aged about 18 years,
Occupation : Unemployed.

Both R/o Saholi, Post: Tamaswadi,
Tq. Parshivani, District- Nagpur.

... Petitioners

Versus

1. **The Collector (Rehabilitation),**
Nagpur, Civil Lines, Nagpur.
2. **Maharashtra State Power Generation Co. Ltd.,**
Through its Chief Engineer,
Khaperkheda Thermal Power Station,
Khaperkheda,
District- Nagpur-441102.

... Respondents

In all writ petitions :

Shri A.B. Patil, Counsel for Petitioners.

Smt. S.S. Jachak, Assistant Government Pleader for Respondent No.1.

Shri D.M. Kale, Counsel for Respondent No.2.

CORAM : A. S. CHANDURKAR AND MRS. VRUSHALI V. JOSHI, JJ.

DATE : 10th JULY, 2023.

ORAL JUDGMENT (PER A.S. CHANDURKAR, J.) :

1. Since a common issue arises in all these writ petitions, they are being decided together by this common judgment.
2. Rule. Rule made returnable forthwith and heard the learned counsel for the parties.
3. The lands of the petitioners came to be acquired by the respondent No.2- Maharashtra State Power Generation Co. Ltd. ('the Company' for short) for the purposes of laying down a pipeline for disposal of fly-ash of Khaperkheda Thermal Power Station. After following the procedure prescribed by the Land Acquisition Act, 1894, an Award came to be passed on 8-2-2013. The petitioners applied for grant of Project Affected Person certificate with the Company. The Company informed the respondent No.1- Collector that no other person from the family of the petitioners had been granted employment with the Company. The Collector however refused to issue the certificate indicating that the petitioners were project affected on the ground that the land in question that had been acquired was less than 0.20 HR and in view of the Government Resolution dated 3-5-2010, there was no entitlement to seek such certificate. Being

aggrieved by the aforesaid refusal, the petitioners have approached this Court.

4. The learned counsel for the petitioner has submitted that solely on the basis of the Government Resolution dated 3-5-2010, the petitioners were refused the benefit of Project Affected Person certificate, since the land acquired was less than 0.20 HR. According to him, the Company, even if it was assumed to be a Government Company, was not bound by the aforesaid Resolution. On the contrary, the Circular dated 11-7-2020 came to be issued by the Company stating therein that even if the lands were acquired for the purposes of road, railway line, rope way or canal pipe line, the benefit would be given to such person by providing employment. There was no separate Resolution/Circular by the Company adopting the Government Resolution dated 3-5-2010 so as to deny the benefit of the Project Affected Person certificate to the petitioners. It was submitted that the petitioners being affected by the acquisition of their lands, they were entitled to rehabilitation by the Company.

5. The learned counsel appearing for the Company has fairly invited attention to the decision of this Court in Writ Petition No.3602 of 2020 (*Hanuman Ramaji Chikankar Versus The State of Maharashtra and others*) dated 2-1-2023 and has submitted that in the said decision, the land was acquired for aerial rope-way and the petitioner therein had been denied the Project Affected Person certificate on the ground that the acquisition of the land for aerial rope-way was not covered by the Government Resolution dated 13-4-1988 as well as the Circular dated 8-1-1981.

Reference was made to the Circular dated 11-7-2000 and on that basis, the petitioner therein was held entitled to issuance of the Project Affected Person certificate.

The learned Assistant Government Pleader appearing for the respondent No.1- Collector has relied upon the affidavit-in-reply of the Collector and has invited attention to the Government Resolution dated 3-5-2010. She states that unless the minimum land admeasuring 0.20 HR was acquired, such benefit was not admissible. Similarly, considering the restrictions placed under the Maharashtra Land Revenue (Disposal of Government Land) Rules, 1971, the petitioners were not entitled for being issued such certificate.

The learned counsel for the petitioners in reply has referred to the decision in *A.K. Bindal and another Versus Union of India and others* [(2003) 5 SCC 163] and further submitted that the petitioners sought employment only with the Company and they were not desirous of utilizing the certificate for any other purposes.

6. After hearing the learned counsel for the parties and after perusing the decision in *Hanuman Ramaji Chikankar* (supra), we find that in somewhat similar circumstances, after considering the Circular dated 11-7-2020 issued by the Company as well as the Circular dated 8-1-1981 and the Resolution dated 13-4-1988 issued by the Government, a direction was issued to grant the Project Affected Person certificate to the petitioner therein. It is seen that as per the decision of the Hon'ble Supreme Court in *A.K. Bindal and another* (supra), the

identity of a Government Company is distinct from the Government. Even assuming that the Company was a Government Company, the petitioners could not be denied benefit of the Circular dated 11-7-2020, since it is the policy of the Company to grant such benefit consequent upon acquisition of land for the use of the Company. In the present case, the land has been acquired for laying down a pipeline for disposal of fly-ash and hence the matter is covered by the aforesaid Circular. Despite being a Government Company, the said Company has not adopted the Government Resolution dated 3-5-2010, which is the basis for denial of the benefit. Thus following the ratio of the decision in *Hanuman Ramaji Chikankar* (supra) and in the light of the reasons assigned therein, we find that the petitioners are entitled to grant of such benefit.

7. Accordingly, the orders passed by respondent No.1- Collector refusing to grant such the Project Affected Person certificate to the petitioners are set aside. The Collector shall issue a certificate indicating that the petitioners are Project Affected Persons pursuant to acquisition of their respective lands under the award dated 8-2-2013. The statement made by the petitioners that such certificate would be utilized only for seeking the employment from the Company is accepted. The certificate when issued is liable to be utilized only for said purpose. The Collector is directed to issue such certificate to the petitioners within a period of eight weeks from today.

8. Rule is made absolute in the aforesaid terms with no order as to costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A. S. CHANDURKAR, J.)

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