



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

WRIT PETITION NO.4554 OF 2023

Pramod S/o Laxmanrao Nichat, Manish Nagar, Nagpur and 32 ors.

-vs-

Union of India, Thr. Secretary, Ministry of Petroleum and Natural Gas, New Delhi and
ors.

WITH

WRIT PETITION NO.5224 OF 2023

Sanjay S/o Gulabrao Tekade, Dhantoli, Nagpur and 12 ors.

-vs-

Union of India, Thr. Secretary, Ministry of Petroleum and Natural Gas, New Delhi and
ors.

WITH

WRIT PETITION NO.6255 OF 2023

Nandkishor S/o Shivmangal Dubey, Abhyankar Nagar, Nagpur and three ors.

-vs-

Union of India, Thr. Secretary, Ministry of Petroleum and Natural Gas, New Delhi
and ors.

Smt Pallavi A. Mahashabde, Advocate for petitioners in WP/4554/2023.

Shri Pratik R. Puri, Advocate for petitioners in WP/5224/2023 & WP/6255/2023.

Shri S. A. Choudhary, Advocate h/f Shri N. S. Deshpande, Deputy Solicitor General of India
for respondent No.1.

Shri Atul Pande, Advocate for respondent Nos.2 to 4 in WP/4554/2023 and for respondent
Nos.2 and 3 in WP/5224/2023 & WP/6255/2023.

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

DATE : October 09, 2023

Common Order : (Per : A. S. Chandurkar, J.)

1. Since similar challenges are raised in these writ petitions, they
have been heard together and are being decided by this common order.

The petitioners are aggrieved by the alleged illegality at the
instance of the respondents in the matter of determining the amount of
compensation that is to be paid to the petitioners while acquiring the
right to use their lands for the purposes of laying pipelines for transport
of gas.

2. On 15/03/2022 and 02/03/2023 the Gas Authority of India Limited (GAIL) issued a notification under Section 3(1) of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (for short, the Act of 1962). The lands of the petitioners were referred in the said notification as being required for laying down pipeline for transportation of gas. Notification under Section 3(1) of the Act of 1962 having been published, the petitioners raised objection to the same under Section 5 of the Act of 1962. After considering those objections, a declaration of acquisition of right of user under Section 6(1) of the Act of 1962 came to be made on 07/07/2023. According to the petitioners they were offered 10% market value of the said lands as compensation under Section 10(4) of the Act of 1962 for use of their lands. Various conditions therein were also imposed. According to the petitioners there has been discrimination in the matter of grant of compensation especially when higher compensation was offered to the Maharashtra State Road Development Corporation (MSRDC) while acquiring right in its lands. Similarly the Government of Kerala by its order dated 01/12/2017 had agreed to pay market value of such land at 10 times the notified fair value of the land which was higher than the compensation offered by GAIL to the petitioners. It is in this backdrop that the petitioners have approached this Court seeking declaration that the grant of compensation at 10% of the market value was in violation of Article 14 of the Constitution of India especially when there was no uniformity in the matter of grant of compensation. The petitioners

also seek compensation to be paid in a manner as offered by the State of Kerala vide its order dated 01/12/2017.

3. The learned counsel for the petitioners submitted that it was not permissible for the respondents to discriminate amongst land owners in the matter of grant of compensation under Section 10(4) of the Act of 1962. Referring to the provisions of Section 10(4) of the Act of 1962, it was submitted that though a provision was made for awarding compensation at 10% of the market value of the land as on the date of notification under Section 3(1) of the Act of 1962, the respondents had offered higher compensation to the MSRDC while acquiring its land on lease. Similarly, the Government of Kerala was also offering higher compensation while permitting GAIL to lay down pipelines through such land. GAIL being a Government Undertaking, it ought to apply uniformity in the matter of grant of compensation. There was no reason to deprive the petitioners of higher compensation especially when the order dated 01/12/2017 indicated compensation being paid at 10 times the notified fair value of the land in Kerala. While larger pieces of lands of the petitioners were affected, only 3 meters of land from MSRDC were being acquired for laying down such pipeline. Reference was made to newspaper reports in that regard. Higher compensation offered to one Shri Maruti Mahadev Bhusari was also referred to. Relying upon decisions in *Fertilizer Corporation Kamgar Union (Regd.) Sindri and ors. vs. Union of India AIR 1981 SC 344*,

Whirlpool Corporation vs. Registrar of Trade Marks, Mumbai and ors. (1998) 8 SCC 1, Committee of Management and anr. vs. Vice Chancellor and ors. (2009) 2 SCC 630, Smt. Poonam vs. Sumit Tanwar 2010 AIR SCW 2084, Laljibhai Kadvabhai Savaliya and ors. vs. State of Gujarat and ors. (2016) 9 SCC 791 and the decision of Madras High Court dated 21/01/2019 in Writ Petition No.23536/2012 (*R. Chinnathurai vs. Union of India with connected writ petitions*), it was submitted that the respondents should not be permitted to discriminate in the matter of grant of compensation to similarly situated land owners. It was thus prayed that the petitioners were entitled to higher compensation as awarded to other land owners.

4. The learned counsel appearing for GAIL relied upon the affidavit in reply and opposed the writ petitions. At the outset it was submitted that the remedy of seeking enhanced compensation by invoking the provisions of Section 10(5) of the Act of 1962 was available to each petitioner. The petitioners could seek enhanced compensation by proving their entitlement in that regard. It was further submitted that insofar as the petitioners were concerned, notification under Section 3(1) and declaration under Section 6(1) was only with regard to acquisition of right of user. The basis for seeking leasehold rights from MSRDC was different and the petitioners could not be equated with MSRDC. In terms of Section 9(1) of the Act of 1962, the petitioners would be entitled to continue to use the land in question and undertake

agricultural operations as before. The petitioners could not indicate the similarity of their cases with the land owners from Kerala to claim similar amount of compensation from the respondents. There was no material whatsoever to indicate that the petitioners were similarly situated as those land owners. He denied that there was any discrimination in the matter of awarding compensation to the petitioners.

5. We have heard the learned counsel for the parties and we have perused the documents on record. It is seen that with a view to lay down pipelines for transportation of gas, the GAIL has taken recourse to the provisions of the Act of 1962. After issuing notification under Section 3(1) of the Act of 1962 and after considering the objections raised by the land owners, the notice under Section 6(1) of the Act of 1962 came to be issued to each petitioner. Under such notice, the petitioners were entitled to compensation as provided under Section 10(4) of the Act of 1962. A land owner who is not satisfied with the compensation awarded under Section 10(4) has a remedy of approaching the District Judge to seek enhancement in the amount of compensation under Section 10(5) of the Act of 1962. It is thus clear that in the matter of award of compensation for the right to use the lands notified, the Act of 1962 is a complete Code in itself. It has been held in *Laljibhai Kadvabhai Savaliya* (supra) that the provisions of Section 10 clearly indicate that besides compensation for actual

damage/loss or injury caused, additional compensation at the rate of 10% of the market value of the land is given to the owner/occupier under Section 10(4) of the Act of 1962 after acquiring the right of user to lay pipelines. Moreover, recourse to Section 10(5) can always be taken for seeking enhanced compensation.

6. As regards the aspect of discrimination sought to be raised by the petitioners, it is seen from the reply filed by GAIL that under the Act of 1962, laying of gas pipeline could be by utilising land through right of way and also through open fields. Insofar as MSRDC was concerned, it was not having a dedicated right of way as the National Highway was already constructed. Hence the arrangement with MSRDC was distinct from the resort to acquisition for right to user undertaken by GAIL insofar as the petitioners were concerned. There cannot be any comparison with the arrangement entered into with MSRDC by obtaining lease from it and the acquisition of the right to use the petitioners' lands. Similarly, there is no material on record to hold that the petitioners were similarly situated as the land owners to whom benefit was granted by the Government of Kerala on 01/12/2017. Prima facie, it appears that at the instance of the Revenue Department of the Government of Kerala, a modified order was issued granting higher compensation than the notified fair value of the land. The petitioners are not precluded from pursuing their remedies in this regard with the State Government.

7. In the present case, we find that the petitioners have been held entitled to compensation in accordance with Section 10(4) of the Act of 1962. The petitioners therefore can always seek enhancement in the amount of compensation by adopting the procedure prescribed by Section 10(5) of the Act of 1962. We therefore do not find that there is any legal basis to grant the prayers as made even after considering the ratio of the decisions relied upon by the learned counsel for the petitioners.

In view of aforesaid, we do not find any reason to interfere in writ jurisdiction. By observing that the petitioners are free to avail the remedy prescribed by Section 10(5) of the Act of 1962 for seeking enhancement in the amount of compensation, the writ petitions are dismissed with no order as to costs.

(Mrs Vrushali V. Joshi, J.)

(A. S. Chandurkar, J.)