

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

WRIT PETITION NO. 6490 of 2019

Pritam Murlidhar Ughade
 Aged about 29 years, Occupation-Labour,
 R/o Ward No.5, Sneh Nagar,
 Mouda, District Nagpur.

..... **PETITIONER**

..V E R S U S..

1. NTPC Limited, Mouda,
 through its General Manager, Mouda Super
 Thermal Power Project, Post Mouda,
 District Nagpur.
2. NTPC Limited,
 Western Region-1 (Headquarter)
 Office at Samruddhi Venture Park, 2nd floor,
 MIDC, Marol, Andheri (East),
 Mumbai-400 076.
3. Union of India,~~Human Resources Department~~ Ministry of Power
 Through it Secretary, Office at 302,
 Shastri Bhawan,
 New Delhi-32.
4. Tashildar, Mouda,
 Office at Tahsil Office, Mouda,
 District Nagpur.
5. Deputy Collector, Nagpur,
 As Project Officer of NTPC Mouda, Rehabilitation,
 The Rehabilitation Department, Nagpur.
 Office at Civil Lines, Nagpur.

..... **RESPONDENTS**

Shri Alok Daga, Advocate for petitioner.
 Shri N.R.Rode, Advocate for respondent nos. 1 and 2.
 Shri S.A.Ashirgade, Assistant Government Pleader for respondent nos. 4 & 5.

Corrected the
 description of R-3 vide
 Court's order dated
 15.03.22 and 27.04.22.
 Sd/-C.F.Petitioner.

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

DATE :- 12th JUNE, 2023.

ORAL JUDGMENT (Per A.S.CHANDURKAR, J.)

Rule. Rule made returnable forthwith and heard the learned counsel for the parties.

2. The challenge raised in this writ petition is to the communication dated 27.03.2019 issued by the Deputy Collector, Nagpur cancelling the project affected person certificate issued to the petitioner.

3. It is the case of the petitioner that his father was the owner of land bearing Survey No.366/2 admeasuring 0.81 R at Mouza-Aajangaon, his mother was the owner of field Survey No.291/1A admeasuring 0.722 R and he was the owner of land bearing Survey No.291/2 admeasuring 0.66 R at Mouza-Dhamangaon. These lands came to be acquired by the National Thermal Power Corporation-respondent no.1 by virtue of the award dated 20.09.2010. The parents of the petitioner together received an amount of Rs.Five lakhs in terms of Clause 5 of the National Rehabilitation and Resettlement Policy 2007 (for short, the said Policy) that came to be executed on 05.04.2013 between Government of Maharashtra and the respondent no.1. The petitioner as the son claims employment in terms of Clause 3 of the said Policy. The Deputy Collector by the impugned

communication dated 27.03.2019 has cancelled the project affected person certificate that was issued to the petitioner on the ground that his parents have received compensation of Rs. Five lakhs towards such acquisition. Being aggrieved, the aforesaid communication has been challenged.

4. Shri Alok Daga, learned counsel for the petitioner submitted that the aforesaid communication has been issued without granting an opportunity of hearing to the petitioner. His explanation was not called for before such action was taken. The petitioner seeks to rely upon the provisions of Section 6(c) of the Maharashtra Project Affected Persons Rehabilitation Act, 1999 (for short, the Act of 1999) to contend that as per explanation thereto, he was residing separately from his parents and was thus entitled to employment.

5. On the other hand Shri N.R.Rode, learned counsel appearing for respondent no.1 submitted that the said land came to be purchased in the name of the petitioner in 2003 when he was a minor. The parents of the petitioner having received the amount of Rs.Five lakhs, the petitioner would not be entitled to any employment under the said Policy.

6. On hearing the learned counsel for the parties, we find that the project affected persons certificate that was earlier issued to the petitioner came to be cancelled on 27.03.2019 but without granting any opportunity to

the petitioner or putting him on notice that it was proposed to cancel the said certificate. The reason stated in the said communication is that as his parents have received compensation of Rs.Five lakhs, the petitioner would not be entitled to employment. We find that the impugned communication deprives the petitioner of the project affected persons certificate and hence it was necessary for the Deputy Collector to have first heard the petitioner and after granting opportunity to him ought to have taken a decision in that regard. Since the impugned communication has been issued in breach of principles of natural justice, it is liable to be set aside.

7. For aforesaid reason, the following directions would meet the ends of justice:

(i) The communication dated 27.03.2019 issued by the Deputy Collector, Project Officer, National Thermal Power Corporation, Mouda and Deputy Collector (Rehabilitation), Nagpur is set aside. Consequently the project affected person certificate issued to the petitioner shall stand restored.

(ii) The Deputy Collector shall issue a notice to the petitioner if it proposes to cancel the project affected persons certificate standing in the name of the petitioner. After seeking the petitioner's explanation, necessary decision in that regard shall be taken.

(iii) The question as regards the benefit of Section 6(c) of the Maharashtra Project Affected Persons Rehabilitation Act, 1999 and whether such benefit can be granted to the petitioner shall also be examined by the respondent no.5.

(iv) All aforesaid steps be taken expeditiously and decision be taken in accordance with law.

(v) Rule is made absolute in aforesaid terms with no order as to costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S.CHANDURKAR, J.)

Andurkar.