



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

WRIT PETITION NO. 5552 OF 2021

Bharti w/o Dnyaneshwar Pusdekar, **Petitioner**
Aged about 40 years, Occupation-Business,
R/o. Ramdara Ward No.1, At Post-Talegao Shamji Panth
Tahsil-Ashti, Wardha.

Versus

1. The Deputy Forest Conservator, **Respondents**
Office of Forest Department,
Wardha Division, Wardha.
2. The Forest Officer,
Ashti Region, Near New Bus-Stand,
Thar Road, Ashti, District Wardha.
3. The Executive Engineer,
Maharashtra State Electricity Distribution
Company Limited, Arvi,
Division Arvi, District Wardha.

Shri Mahesh V. Rai, Advocate for petitioner.

Shri A.M.Deshpande, In-charge Government Pleader for respondent nos. 1
and 2.

Shri S. V. Purohit, Advocate respondent no.3.

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

ARGUMENTS HEARD ON 9th AUGUST, 2023

ORDER PASSED ON : 22nd AUGUST, 2023

P C.

Heard.

2. The petitioner, pursuant to steps taken to install a stone crusher in
field Survey No.8/2, portion of which was converted for non-agriculture use

to the extent of 0.40 R, was issued a no-objection certificate by the Maharashtra Pollution Control Board on 20.04.2021. The petitioner had made an online application for grant of LT- Industrial category connection on 18.12.2020 with the respondent no.3-Executive Engineer, Maharashtra State Electricity Distribution Company Limited (MSEDCL), Arvi, with a contract demand of 187 KVA. Since such connection was not immediately granted, the petitioner had approached the Consumer Grievance Redressal Forum, Nagpur. By the order dated 04.03.2021 the grievance of the petitioner was partly allowed by directing the MSEDCL to provide new service connection within the specified time limit as per Standard Operating Procedure(SOP) Regulations, 2014 after obtaining clearance from the Forest Department. The petitioner was directed to submit necessary documents to the MSEDCL for such compliance. The MSEDCL was thereafter directed to release the LT connection after obtaining clearance of the Forest Department. In view of aforesaid direction, the MSEDCL on 23.04.2021 issued a letter to the Forest Officer, Ashti Region, District Wardha stating therein that for providing connection to the petitioner, the 11 KV electricity line would be required to be taken through the area of the Forest Department connecting Malkapur and Panchala. Consent of the Forest Department for laying down the electricity lines was thus sought. The present writ petition came to be filed on 04.12.2021 seeking a direction that the respondent no.2-Forest Officer be directed to consider the application as made by the MSEDCL

dated 23.04.2021 within a stipulated time in the matter of grant of permission to erect the electricity poles and also to lay down the High Tension (HT) line.

3. After the notice was issued in the writ petition, it was brought to the notice of the Court on 22.06.2022 that the Forest Officer on 26.07.2021 had decided the application that was moved by the MSEDCL on 23.04.2021. The Forest Officer in the communication dated 26.07.2021 had stated that after inspecting the sight, it was noticed that some portion of 11 KV HT line would be passing through the forest area and about twenty-five electricity poles were required to be erected. Since the forest area was liable to be affected by erection of electricity poles, such permission could not be granted. The request as made by the MSEDCL came to be rejected. By amending the writ petition a challenge has been raised to the communication dated 26.07.2021 issued by the Forest Officer.

4. In the affidavit filed by the MSEDCL on 04.07.2022 it was stated that a single phase feeder was in existence at Antora Sub-Station. The same was used for providing single phase electricity connection to nearby villages. Since the said Sub-Station was overloaded, it was likely that the petitioner would face regular power cuts with some fluctuations in load if the supply was provided to the petitioner from the said Sub-Station. It was therefore stated that if a new three phase supply line was to be erected, said aspect

could be considered subject to the petitioner agreeing to the same and based on permission of the Forest Department. Hence on 29.03.2023 in the light of the impugned communication dated 26.07.2021 and in view of aforesaid affidavit filed by the MSEDCL, the learned counsel for the petitioner was directed to obtain instructions as to whether the petitioner was willing to avail three phase supply from Antora Sub-Station. The petitioner however was sought for grant of a new service connection in terms of the order passed by the Consumer Grievance Redressal Forum.

5. On 02.11.2022 a communication was issued by the Forest Officer in which it was stated that permission of the National Board of Wildlife/ State Board of Wildlife would be necessary for the reason that village-Malkapur was falling within the forest area. The petitioner was thus granted time to indicate whether such permission has been obtained. It appears that such permission has not been obtained by the petitioner. On the contrary, the petitioner has sought to rely upon the permission dated 25.10.2018 that came to be granted by the Forest Officer to undertake excavation of *Muroom* from Compartment No.26, Mouza-Panchala at Survey Nos.152/1 and 152/2. The petitioner claimed that she being similarly situated, such no-objection could be granted to her also. It is in the aforesaid backdrop that the learned counsel for the parties have been heard on the challenge to the communication dated 26.07.2021 refusing to grant permission to lay down

electricity lines and erect twenty-five electricity poles for that purpose.

6. According to the petitioner, she is being discriminated against in the matter of grant of no-objection for laying down electricity line and erection of electricity poles with regard to the HT line to her stone crusher. In that regard, the petitioner seeks to rely upon a permission dated 25.10.2018 that has been granted by the Deputy Conservator of Forest, Wardha in favour of the District Mining Officer, Wardha, permitting undertaking of excavation of *Muroom* at Survey Nos. 152/1 and 152/2 in Compartment No.26 at Mouza-Panchala. The petitioner claims to be similarly situated as the owner of the said survey numbers and hence it is submitted that necessary on-objection ought to be granted to the petitioner also. In the affidavit filed by the Assistant Conservator of Forest, it has been stated that the aforesaid permission has been granted on various terms and conditions pursuant to the order dated 25.10.2018. This was in view of the policy existing at that point of time. However, in view of the directions dated 16.07.2020 issued by the Ministry of Environment, Forest and Climate Change of the Government of India, it has now become necessary to obtain clearance from the Standing Committee of the National Board of Wildlife. It is thus stated that the petitioner is not similarly situated as the owner of Survey Nos.152/1 and 152/2. The communication dated 16.07.2020 was not in existence when such permission was granted on 25.10.2018.

7. The petitioner also seeks to contend that the communication dated 02.11.2022 that has been issued by the Deputy Conservator of Forest pertains to mining operations and not to the operation of the stone crusher since such permission to operate stone crusher has already been granted to the petitioner. This aspect has been denied by the Deputy Conservator of Forest in its affidavit dated 20.06.2023 stating therein that since the area from which the petitioner seeks laying of the electricity lines passes through a portion of the protected area which is also a tiger corridor, the permission of the National Board of Wildlife/State Board of Wildlife is necessary. The petitioner had not made any such application and if such application was made it could be considered by the Standing Committee appointed in that regard. It is reiterated that the requirements of communication dated 16.07.2020 are required to be complied with.

8. In the light of the aforesaid position on record, we find that unless the petitioner complies with all technical requirements and permissions that are required to be obtained to enable laying of the electricity lines coupled with the electricity poles, it cannot be said that the insistence on the part of the respondents of seeking such requisite permission is without any basis. It further cannot be held that the communication dated 02.11.2022 issued by the Deputy Conservator of Forest requiring such permission to be obtained is applicable only for mining operations and not for running the stone crusher.

The permission granted earlier with regard to undertaking the mining operations at Survey Nos. 152/1 and 152/2 is dated 25.10.2018 which is prior to coming into force of the instructions dated 16.07.2020.

9. In that view of the matter we can only direct that subject to the petitioner complying with necessary statutory permissions as indicated by the Deputy Conservator of Forests as well as the Forest Officer on the basis of the communication dated 16.07.2020, she is free to pursue her demand for supply of electricity through HT line after laying down the requisite electricity poles as stipulated by the MSEDCL. The order passed by the Consumer Grievance Redressal Forum, Nagpur, on 04.03.2021 also refers to obtaining clearance from the Forest Department. It is however clarified that in case the petitioner is satisfied with receiving supply from Antora Sub-Station in the manner indicated by the MSEDCL in its affidavit dated 04.07.2022, she is free to pursue the matter in that regard by complying with the requirements indicated by the MSEDCL. With these observations, the writ petition is disposed of leaving the parties to bear their own costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S.CHANDURKAR, J.)

Andurkar.