**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP-13208-2022(O&M)
with other connected cases
Reserved on :12.09.2024
Pronounced on: 23.10.2024**

Paramjeet Singh& others

……Petitioner (s)

Versus

Union of India& others ….Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MRS.JUSTICE MEENAKSHI I. MEHTA**

Present: Mr. Gaurav Chopra, Senior Advocate with Mr. K.S. Minhas, Advocate, Mr. Vardaan Seth, Advocate and Ms. Lobhpreet Kaur, Advocate & Mr. C.S. Bagri, Advocate for the petitioner(s) (in CWPs No.26064, 28208,28217, 28231, 28283 of 2023, CWPs No.10481 & 9361 of 2024& CWP-13208-2022.

Mr. Shubhkarman Singh Gill, Advocate & Mr. Kishore Bhardwaj, Advocate for Mr. Kshitij Sharma, Advocate, for the petitioner (in CWP No.13904 of 2024).

Mr. Rahul Rampal, Advocate and Mr. Ankush Rampal, Advocate for the petitionerin CWP No.21323 of 2024.

Mr. Chetan Mittal, Senior Advocate along-with Dr. Puneet Kaur Sekhon, Advocate for respondents No.1 to 4-NHAI (In CWPs No.13208 of 2022, 22208 of 2023, 26064 of 2023, 28031 of 2023, 28217 of 2023 and 28283 of 2023).

Mr. Raghujeet Singh Madan, Advocate forrespondents No.2 to 4-NHAI (in CWP No.13904 of 2024).

Mr. Vikas Chatrath, Advocate and Mr. Sachit Katoch, Advocate for respondent-NHAI(in CWPs No.9361 & 10481 of 2024).

Ms. Geeta Singhwal, Senior Panel Counsel for respondent No.1-UOI (in CWP No.13904 of 2024).

G.S. Sandhawalia, J. :

1. The present judgment shall dispose of 10 writ petitions bearing CWP-13208-2022, CWP-26064, 28208, 28217, 28231 & 28283-

2023, CWP-9361, 10481, 13904 & 21323-2024. For dictating judgment, facts have been taken from CWP-13208-2022 titled *Paramjeet Singh & others Vs. Union of India & others.*

2. Challenge in the writ petition, filed under Article 226/227 of the Constitution of India, is regarding the issuance of revised awards; the corrigendum awards of even date passed by respondent No.5-the Land Acquisition Collector-cum-District Revenue Officer, Jalandhar being the competent authority, under the provisions of the National Highways Act, 1956 (for short, the '1956 Act').

3. The grouse of the landowners in sum and substance is that the revision has taken place at the behest of the National Highway Authority of India (NHAI), which is without jurisdiction, illegal and liable to be quashed. The NHAI has no role in determining the amount of compensation which is a function bestowed upon the competent authority-respondent No.5 and therefore, the only right to challenge the same was in terms of the provisions of Section 3G(5) of 1956 Act and the Arbitration & Conciliation Act, 1996, as provided under the 1956 Act itself under Section 3G(6). Though the notifications dated 15.01.2021 (Annexure P-17) and 19.03.2021 (Annexure P-18) issued by the Central Government, whereby retired IAS officers had been appointed as Arbitrators, is also subject matter of challenge but at the outset, it can be recorded that the said issue was neither pressed nor argued and therefore, this Court is not proceeding to decide the same and would rather adjudicate upon the limited arguments raised and pressed.

4. For appreciation of the issue in question, the factual matrix, thus, necessarily has to be thrashed out that whether respondent No.5 is

competent to revise, review or alter the award and the manner in which it was done. The revised award No.49dated 27.05.2021(Annexure P-13) and the corrigendum award No.49 dated 27.05.2021 (Annexure P-16) are, thus, subject matter of question and the affect of revision is that vide the initial award dated 27.05.2021 (Annexure P-11) for the land falling in Village Dhogri, Tehsil & District Jalandhar, the total compensation had been assessed @ Rs.32,58,61,722/-, which has now been scaled down to Rs.17,24,58,035/-.

5. The question that thus arises for consideration is whether respondent No.5 had any jurisdiction to correct the award or alter/review it, which apparently is a settled position of law, as per various judgments of the other High Courts. The petitioners are stated to be co-owners of the land situated at Village Dhogri, Hadbast No.164 Tehsil & District Jalandhar, the details of which have been given in para no.2 which is stated to be situated on the Jalandhar-Pathankot Highway and included in the Masterplan of Jalandhar (Annexure P-3) and therefore, having great potential of commercial value and some portion falling in industrial zone and some portion falling in residential zone. As per the pleadings, the land fell in the vicinity of various commercial complexes and establishments, colonies, marriage palaces, hospitals, schools, resorts etc. and the photographs have been appended in respect of the construction raised and establishment of industrial units etc.

6. The notification dated 22.12.2020 (Annexure P-6) was issued by the Central Government, through the Ministry of Road Transport & Highways (MORTH) under Section 3A(1) of the 1956 Act for building (widening/two lane with paved shoulder/four laning etc.) maintenance,

management and operation of Jalandhar Ring Road (Jalandhar Bypass) in the stretch of land from KM0 to K.15.5 in District Jalandhar. The notification in question is for 2 villages i.e.Dhogri and Raipur Rasulpur. Resultantly, objections were submitted by the petitioners under Section 3C of the1956 Act on 12.01.2021 (Annexure P-7) wherein it was highlighted that the land falling in said khasra numbers is abutting the Jalandhar-Pathankot National Highway and a portion of land had been reserved for industrial and the other portion for residential use. The proposed ring road has been shown at least 1 km away from the land sought to be acquired. The potential of the land was much higher and it was highlighted that other landowners had set up several commercial ventures in the vicinity of the objector and there were various industrial establishments in the names which were mentioned in the said objections. The existence of hospitals and maintenance of charitable hospitals was also mentioned and the fact that the landowners had even entered into joint venture with M/s Ansal Township & Land Development Ltd. on 08.03.2005 and that the objectors had improved the land by filling up of earth and in the process, huge investments had been made.

7. The fact that the Masterplan of Jalandhar that showed some area of Dhogri has been earmarked for the industrial zone and the remaining for residential zone, was highlighted. The proposed acquisition would cause uprooting of the industrial units and the labour getting jobless, which was not according to the Masterplan of Jalandhar and objections were raised that the land 1 km away was to be acquired where the area was completely agricultural. The proposed acquisition would also bisect the land and diminish the value and utility of the remaining land

which would be of negligible value and severance would take place and other chunks of land would be left without any access or passage. The non-application of mind, lack of detailed study and survey was projected on the ground that personal visit to the area was required. The market value was projected @ Rs.4 lakhs per marlaand valuation reports and registered sale agreements were sought to be relied upon. It was pleaded that the petitioners were not afforded any opportunity of hearing and even the valuation reports had been prepared but not supplied to the petitioners. The Section 3D(1) notification was then published on 12.03.2021 (Annexure P-8) declaring the intention of the Central Government to acquire the land after having received the objections and having been considered and disallowed by the competent authority and the report having been submitted to the Central Government.

8. Resultantly, declaration being issued that the land had to be acquired for the aforesaid purpose and in pursuance of Section 3D(2) of the 1956 Act, the vesting took place in the Central Government of the said land, free from all encumbrances, which was with or without structures falling in Jalandhar Ring Road (Jalandhar By-pass). Respondent No.5 thus passed award No.48 dated 27.05.2021 (Annexure P-11) for Village Dhogri wherein it was recorded that before finalizing the rates, a joint spot visit was conducted along with the Revenue team and it was found that the village was situated alongwith the Jalandhar-Pathankot Highway and as per the Masterplan, stands in the industrial zone and many industries were situated in the village. Resultantly, the total land which was being acquired of 15.8967 hectares was sought to be assessed and the market value granted for the same was categorized differently for agricultural,

Gair Mumkin and industrial zone @ Rs.44,45,551/- per hectare, Rs.1,51,29,865/- per hectare and Rs.2,27,33,200/- per hectare, respectively, after getting the report from the Sub-Registrar, Jalandhar II for calculating the market value, following the multiplication factor and the calculation along with the interest, as per the provisions of the 2013 Act and the market value with 100% solatium and the total compensation was assessed @ Rs.32,58,61,722/-.

9 Apparently, respondent No.3-NHAI raised some objections on 24.06.2021 (Annexure P-12) and requested for verifying the nature of the land mentioned as Gair Mumkin for some of the khasra numbers which would be clear from the said communication addressed by the Project Director of NHAI. It is the case of the petitioners that respondent No.5 forwarded the revised awards for the 2 villages namely Dhogri and Raipur Rasulpur and the revised award was, thus, issued regarding the same number and the same date (Annexure P-13) wherein while applying the per hectare value for the categories of land and the clerical error was rectified by enhancing the determination of the basic market value of the land qua the area from Rs.15,50,32,285/- to Rs.15,50,47,278/-and the solatium aspect of 100% was also accordingly modified and the total compensation was, thus, assessed @ Rs.32,58,93,236/-.

10. A letter dated 02.08.2021 was then addressed by the General Manager to the Project Director wherein reference was made to the minutes of meeting dated 26.07.2021 and for withholding the compensation as per para 4 of the minutes of meeting and to take further action as per the same and ensure compliance of paras 4 & 6 and that the matter would be taken up with respondent No.5 for necessary rectification

and for determination of the rates of the land as per the 1956 Act. Communication of even date was then addressed to respondent No.5 by the Project Director of NHAI (Annexure P-14) wherein it was stated that the competent authority of NHAI had examined the award and approved the two awards No.49 & 50 dated 27.05.2021 (revised awards) to the extent of Rs.14,80,96,341/- and thus, raised objections as to the quantification of the two awards to the tune of Rs.142,56,30,915/- of Villages Raipur Rasoolpur and Dhogri. It was pointed out that for Village Dhogri, respondent No.5 had adopted the chant rate being higher than the Collector's rate and there was change of nature of land to industrial and adopted the Collector's rates for current year 2021-22 instead of the year applicable at the time of Section 3A notification dated 22.12.2020 and objection was also raised qua the award for the other village and thus, respondent No.5 was requested to do the needful and comply with the objections which had been raised by the MoM of the competent authority-NHAI dated 26.06.2021.

11. Vide communication dated 02.08.2021 (Anneuxure P-15) of even date, respondent No.5 intimated that the corrigendum award was enclosed and rectification had been done of the Collector's rate and the said officer had opted to adopt the commercial rates from the Collector's rate, keeping in view the provisions of the assessment to be done of the market value on the basis of registration of sale deeds and agreements to sell. The corrigendum award, thus, was issued on 25.07.2021 (Annexure P-16) deleting the market value per hectare for the industrial zone and incorporated it at the rate for the agricultural land for Rs.44,45,651/- instead of what would have been Rs.2,27,33,200/- at the initial stage, as

per Annexures P-11 & P-13. Resultantly, the total value was revised to Rs.8,20,48,800/- and the corresponding 100% solatium added it to the total compensation being reduced to Rs.17,24,58,035/- down from Rs.32,58,61,722/- (Annexure P-11), which was the first assessment.

12. A perusal of the paperbook would also go on to show that on 04.08.2021, the Project Director of NHAI wrote to the Regional Office pointing out the observations made by respondent No.5 in his communication dated 02.08.2021 (Annexure P-15) and requested for release of the balance amount of compensation and get the necessary approval. On 14.10.2021, the Project Director then wrote to respondent No.5 that the competent authority was examining the award and approved the compensation of Rs.11,94,63,369/-and that the earlier observations were not complied with and the same to be submitted by the competent authority. The competent authority of the NHAI had examined the award and approved the balance compensation of Rs.5,29,94,666/-, total Rs.17,24,58,035/-, subject to fulfillment of the conditions of paras 6 & 7 of the Memorandum of Meeting dated 26.06.2021 and 07.10.2021. Resultantly, respondent No.5 was requested to disburse the compensation at the earliest which was already deposited with the bank account so that the project could be expedited and the balance amount was to be deposited.

13. In such circumstances, challenge was raised regarding the arbitrary action of the respondents and the whims and caprices of the officers of the NHAI which was in utter violation of the provisions of the 1956 Act and that it could not distribute its largesse at its own sweet will being the acquiring authority having a financial interest in the process and

the method was discriminatory and manifestly arbitrary.Vide order dated 24.07.2024, we directed that the minutes of meeting dated 26.07.2021 be placed on record, which order has been duly complied with on 09.09.2024.

14. The respondent-NHAI, in its written statement, sought to defend the acquisition on the ground that the petition was not maintainable and the petitioners had alternate and efficacious remedy available under Section 3G(5) of the 1956 Act and placed reliance upon the judgment of the Co-ordinate Bench in CWP-28804-2022 titled *Ashok Kumar Garg Vs. Union of India & others,* decided on 06.09.2023. It is submitted that a Learned Single Judge in CWP-24026-2022 titled *Gaurav Jain & others Vs. National Highway Authority of India & others,* decided on 18.11.2022, held that there was an alternative remedy available and the practical solution of the problem lies with the Arbitrator. It is submitted that Letters Patent Appeal is pending against the said judgment. Similarly, reliance was placed upon CWP-12169-2022 titled *NHAI Vs. Competent Authority Land Acquisition-cum-District Revenue Officer, Ludhiana & others,* decided on 31.05.2022, wherein it was held that the domain lies with the Arbitrator and therefore the petition was liable to be dismissed.

15. The review of the award was sought to be justified as the correction was only clerical error and it was the power of the competent authority as the value of the land had inadvertently been assessed as industrial zone and therefore, the correction had been done and the competent authority was empowered to do so. It is submitted that as per the documents annexed, the answering respondents had raised the issue of applying the Collector's rate for agricultural Gair Mumkin land and requested the competent authority to re-check the said amounts. The

nature of land was either agricultural or Gair Mumkin and therefore, there was a calculation error.

16. Senior Counsel for the petitioners, Mr.Choprahas accordingly, submitted that there is no power of review and respondent No.5 could not be dependent upon or bound to comply with the Memorandum of Meeting dated 26.07.2021 which was a Committee of officers of the NHAI etc. who had held the meeting at Chandigarh. It was submitted that the argument that the alternate remedy is available before the Arbitrator under Section 3G(5) of the 1956 Act, was an illusive remedy and once respondent No.5 had no jurisdiction to modify the award which had been passed after making a spot visit and confirming the fact that the land was industrial in nature. It is submitted that the competent authority was defined under Section 3A and was duly notified by the official Gazette to perform the function in the said notification which was primarily the determination of the amount to be made payable for the acquired land. It is, thus, submitted that the market value of the land under Section 3G, has to be as per sub-section (7) and was on the basis of the site visit and report from the Sub-Registrar and the consideration which is to be kept in mind by the competent authority and having done so, it was not under any obligation to follow any line of direction by the NHAI or its officers.

17. Senior Counsel for the respondents-NHAI, Mr.ChetanMittal, on the other hand, submitted that it was only a clerical error which was sought to be corrected and the power of review and correction was always there with respondent No.5 and therefore, there was no violation of principles of natural justice. The statutory authority, thus, was under an

obligation to correct the mistake and once there was a fraud or misrepresentation, there is power to recall the same.

18. The question that comes up for consideration is whether the competent authority being respondent No.5-the Land Acquisition Collector, duly notified, has power to issue the necessary corrigendum and reduce the market value of the land on the basis of the instructions issued by respondent-NHAI and its officers.

19. The factual matrix has already been thrashed out while referring to the pleadings. It is a matter of record that the compensation as assessed vide award No.49 has been reduced to Rs.17,24,58,035/- from Rs.32,58,61,722/-. Primarily, the reason for reduction is that 4.1838 hectares of land which was being assessed as industrial land has now been considered as agricultural land, principally. Apparently, the same has been done on the basis of the initial objections which had been raised on 24.06.2021, vide Annexure P-12, the Project Director had initially written a letter that re-checking be done regarding the nature of the land which was mentioned as agricultural-cum-Gair Mumkin, for some of the khasra numbers and commercial rates had been adopted. Apparently, thereafter, the Minutes of Meeting took place at Chandigarh on 26.07.2021 wherein the Regional Officer, the General Manager and the Advisor (LA) of the Regional Office, Chandiarh along with DGM (F&A) of Regional Office of NHAI and the Project Director assessed the land acquisition awards No.49 & 50 for Village Dhogri and Raipur Rasulpur. The objections were that respondent No.5 had adopted rates higher than the Collector's rate and changed the nature of the land and adopted the Collector's rate for the current year 2021-22. Resultantly, it was decided that they would accept

the recommendations for agricultural and Giar Mumkin rates subject to fulfillment of stipulated conditions. The remaining land considered as industrial land by changing the nature of land, the Project Director was directed to take up the matter for necessary rectification with respondent No.5. The relevant part reads as under:

> "iii) For agriculture and Gair Mumkin land in village Dhogri, CALA has adopted Chant rate being higher than collector rates whereas for remaining land CALA has changed the nature of land to industrial and also has adopted collector rates for the current year 2021-22 instead of for the year applicable at the time of 3A notification (on 22.12.2020) as stipulated in the NH Act/Manual for land acquisition. It was decided to accept the recommendation of CALA/PD for agriculture and Gair Mumkinrate subject to fulfillment of stipulated conditions. With regard to remaining land considered as industrial land by changing nature of land, PD Jalandhar may take up the matter with CALA for necessary rectification."

20. Resultantly, the Committee of the NHAI sat on the passing of the award and came to its conclusion as to what was the market value and what was payable and thus, came to the conclusion that the Project Director was to ensure that the awards of respondent No.5 were in line as per the NHAI policy issued from time to time. It is, thus, apparent that the beneficiary Department was dictating the terms to the LAO/respondent No.5 who was the competent authority duly notified under the 1956 Act by the Central Government and thus, was denuded of its own jurisdiction and rights. It is also a matter of fact that the competent authority had inspected the site which could be noticed from the award in question and nothing comes out from the MoM dated 26.07.2018 that the officials of NHAI had also inspected the spot. The relevant provisions read as under:

"**3. Definitions.—**In this Act, unless the context otherwise requires,**—** (*a*) "competent authority" means any person or authority authorised by the Central Government, by notification in the Official Gazette, to perform the functions of the competent authority for such area as may be specified in the notification;

xxxx xxxx xxxx

3G. Determination of amount payable as compensation.—(*1*) Where any land is acquired under this Act, there shall be paid an amount which shall be determined by an order of the competent authority.

(*2*) Where the right of user or any right in the nature of an easement on, any land is acquired under this Act, there shall be paid an amount to the owner and any other person whose right of enjoyment in that land has been affected in any manner whatsoever by reason of such acquisition an amount calculated at ten per cent, of the amount determined under sub-section (*1*), for that land.

(*3*) Before proceeding to determine the amount under sub-section (*1*) or sub-section (*2*), the competent authority shall give a public notice published in two local newspapers, one of which will be in a vernacular language inviting claims from all persons interested in the land to be acquired.

(*4*) Such notice shall state the particulars of the land and shall require all persons interested in such land to appear in person or by an agent or by a legal practitioner referred to in sub-section (*2*) of section 3C, before the competent authority, at a time and place and to state the nature of their respective interest in such land.

(*5*) If the amount determined by the competent authority under sub-section (*1*) or sub-section (*2*) is not acceptable to either of the parties, the amount shall, on an application by either of the parties, be determined by the arbitrator to be appointed by the Central Government--

(*6*) Subject to the provisions of this Act, the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply to every arbitration under this Act.

(*7*) The competent authority or the arbitrator while determining the amount under sub-section (*1*) or sub-section (*5*), as the case may be, shall take into consideration—

> (*a*) the market value of the land on the date of publication of the notification under section 3A;
> (*b*) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the severing of such land from other land;
> (*c*) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the acquisition injuriously affecting his other immovable property in any manner, or his earnings;
> (*d*) if, in consequences of the acquisition of the land, the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change."

21. The law is stacked against the NHAI on the said proposition. The first judgment in question was passed in **Bhupendra Singh Sardarsingh Parmar Vs. Competent Authority for National Highways, 2020(1) AIR Bom.645** wherein the question framed was whether the competent authority has power to correct the award in the light of Section 33 read with Section 105 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Resultantly, falling back on the principle that power of review is a creature of statute, it was held that it was impermissible to make correction or pass any order in the nature of correction of the award and once the award was passed, the competent authority loses any authority to tinker with it in any manner. Relevant part of the judgment reads as under:

> "The Competent Authority, therefore, once having declared the award on 14/08/2017, was rendered bereft of any powers either to recall the award or reconsider the same, on any count whatsoever. Even 20 assuming that the Competent Authority under the NH Act, 1956 had any inherent power to correct an error of clerical or

arithmetical nature, the same should have been so obvious, apparent or patent as not to admit of any debate or discussion. On the factuality of the W.P. No. 5286-2018 matter, it is pertinent to note that the purported correction dated 02/01/2018 was passed not because there was any clerical error or mistake in the award dated 14/08/2017 but for the reason that subsequent to the declaration of the award on 14/08/2017, the Government had issued a Govt. Resolution on 24/11/2017, providing for a multiplier factor, which in the opinion of the Competent Authority, if applied, would reduce the compensation granted to the petitioner in the award dated 14/08/2017. Such a course of action was not only impermissible but also is clearly without any authority in the Competent Authority in law. The Competent Authority appointed under a statute is supposed to be an independent person and has to dispassionately use and apply the powers as vested in it, for the purpose of implementing the provisions of the statute, which has to be done without fear or favour from any quarter. However, in the instant matter, the Competent Authority, instead of doing so, clearly appears to have digressed from its powers and duties, in order to favour the acquiring body, which clearly it ought not to have done. The correction dated 21/01/2018 by whatever name called, is therefore, illegal and unsustainable in law on the above counts too."

22. The Learned Single Judge of the Chhattisgarh High Court in **Mahesh Nachrani& others Vs. Union of India & others, 2020 (216) AIC 371**, while placing reliance upon the said judgment as also the Division Bench judgment of the Allahabad High Court in **Ravindra Kumar Singh Vs. Union of India, 2019 (11) ILR Allahabad 1370**also held that the Writ Court was exercising the power of judicial review in this regard as there was lack of jurisdiction and the alternate remedy would not divest the Writ Court, as such of exercising the power. The order of the Allahabad High Court was also upheld in SLP-23004-2020on 06.01.2021. The Single Bench judgment of the Karnataka High Court in **National**

Highway Authority of India Vs. Assistant Commissioner &Competent Authority, Kolar, (2011) SCC Online KAR 115 was also relied upon. The Aurangabad Bench of the Bombay High Court followed the view in Bhupendra Singh (supra) in **Vishnu Vs. The Union of India & others, 2021 (5) AIR Bom. 191**.

23. The Madhya Pradesh High Court in **Smt. Indrakala Agarwal & others Vs. State of Madhya Pradesh & others, 2021 (3) MPLJ 509**, rejected the defence that there was availability of alternate remedy, while placing reliance upon the judgment of the Apex Court in **Naresh Kumar Vs. State (NCT of Delhi), 2019 (9) SCC 416** whereby the power of review by the competent authority was held not to be permissible, while allowing the writ petition. Relevant part reads as under:

> "19. From the reading of the aforesaid judicial pronouncements of the various High Courts as also of the Hon'ble Supreme Court a fact which stands established is that unless the provision of law i.e. the statute provides for the power of review, an award once passed in itself becomes final. The position of Law also gets well settled on the basis of the aforesaid judicial pronouncements that the power of review is not an inherent power, it must be conferred by law either specifically or by necessary implication. A review is always considered to be a creature of statute and the power of review cannot be entertained in the absence of a provision thereof.
>
> 20. As regards the objection of the respondents, so far as the right of the petitioners to challenge the award by way of an arbitration invoking Section 3G(5) of the National Highways Act, 1956 is concerned, this Court is of the opinion that, once when the challenge is made to the amended award primarily on the ground of, lack of jurisdiction and competence on the part of the prescribed authority, in reviewing his award and the ground being that of the authorities being denuded of their power of review this

Court is of the opinion that under such circumstances, this Court in exercise of its powers under Article 226 of the Constitution of India exercising the power of judicial review can entertain a writ petition in this regard, even in the case, if there is a provision of appeal provided under the statute. It is by now a well settled proposition of law that when a challenge to an order is primarily on the ground of jurisdiction and competence of the authority Writ Court can entertain a writ petition. Thus, the objection so far as the petitioners having an alliterative remedy stands rejected.

21. For all the aforesaid reasons, the writ petition deserve to be and are accordingly allowed and the impugned amended award (Annexure P/1) dated 01.06.2020 is held to be bad in law, illegal and without jurisdiction and are accordingly set-aside thereby entitling the petitioners the benefit as per the original award dated 07.03.2019.

22. In view of the aforesaid, the writ petition stands allowed. No order as to costs."

The said judgment was clarified on 15.06.2021 and the NHAI was given the right to challenge the findings before the Arbitrator and was followed on 06.12.2021 and clarified on 28.01.2022 which order was upheld in SLP-18889-18948/2022 titled *NHAI Vs. Rajbir & others,* on 02.11.2022.

24. In **Shrikant Govind Taklikar& others Vs. State of Maharashtra & others,** again a Division Bench of the Bombay High Court held that there was no power with the authority to correct the award or to review the same.

25. The judgments relied upon by the Senior Counsel for the respondents, regarding the issue of fraud or misrepresentation and the power to recall while relying upon**Indian Bank Vs. M/s Satyam Fibres (India) Pvt. Ltd., 1996 (5) SCC 550** would not take him a long way since there is no question of fraud or misrepresentation in the present case.

Respondent No.5 has visited the site in question and came to the conclusion as to what was the nature of the land and therefore, the rectification if any could be redressed before the Arbitrator by the NHAI by initiating appropriate proceedings rather than holding a meeting of its own officers as to what was the methodology and the rate of compensation to be assessed which is beyond the jurisdiction of the beneficiary Department. The Full Bench judgment of this Court in **Deep Chand & another Vs. Additional Director Consolidation of Holdings, 1964 AIR (P&H) 249** also came to the same conclusion that in the absence of any power of review under the statute, the Additional Director, Consolidation was never competent to recall the order on the merits of the case in hand. The said judgment has consistently been followed by this Court that to concede the power of review to the statutory authorities were not provided would introduce into judicial and quasi-judicial decisions, disconcerning element of permanent uncertainty and unpredictability tending to give the impression of quasi-judicial lawlessness. The power of review, thus, can only be exercised if allowed by the statute and we are bound by the said decision.

26. Similarly, reliance upon **United India Insurance Co. Ltd. Vs. Rajendra Singh & others, 2000 AIR (SC) 1165** that there was fraud or misrepresentation, is without any basis as the issue was arising out of fraud played on the Tribunal regarding the claim under the MACT Act and therefore, the matter was remanded for fresh consideration.

27. Reliance upon Ashok Kumar Garg (supra) passed by a Co-ordinate Bench, is also of no help to the respondents since that was a case where various directions had been sought to pass supplementary award

and to pass an award for structures and other relief including to get the benefit of R&R Award under the 2013 Act. The Division Bench, thus, came to the conclusion that the award in question was subject matter of consideration before the Arbitrator-cum-Divisional Commissioner, Patiala and therefore, all the said issues could be raised before the said authority. It was not a case where the award had been modified or corrected, as in the facts of the present case.

28. Reliance upon the judgment in NHAI(supra), in our considered opinion, the Learned Single Judge has not examined the issue threadbare and it was a case where the writ petition was dismissed in limine whereby the NHAI had challenged the modified award and relegated the petitioner to the Arbitrator by holding that entertaining the writ petition would not give finality to the dispute, though the Division Bench judgment in Smt. Indrakala Agarwal(supra) was brought to the notice of the Learned Single Judge, but he chose not to examine the matter on merits and did not even call for the reply. Therefore, the said judgment cannot be said to be laying down any proposition of law which we have been asked to decide.

29. Similarly, in Gaurav Jain (supra), the same Learned Single Judge has again chose not to interfere with the award which had been reviewed and the price determination for the acquired land had been reduced by noticing that the practical solution lies with the Arbitrator/Statutory Authority and therefore, relegated the landowners for seeking the remedy before the Arbitrator. The said judgment also suffers from the infirmity as it is also rendered by the same Bench and therefore, keeping in mind the fact that the Writ Court jurisdiction can be readily

invoked where there is lack of jurisdiction. The Learned Senior Counsel for the respondents-NHAI could not point out any judgment to thecontrary that the Writ Court jurisdiction cannot be invoked whereby the rights of the parties are adversely and gravely affected and cannot be brushed under the carpet where they lack jurisdiction. Reliance can be placed upon**Whirlpool Corporation Vs. Registrar of Trade Marks, Mumbai & others, 1998 (8) SCC 1.** The relevant part of the judgment reads as under:

> "18. Much water has since flown beneath the bridge, but there has been no corrosive effect on these decisions which though old, continue to hold the field with the result that law as to the jurisdiction of the High Court in entertaining a Writ Petition under Article 226 of the Constitution, in spite of the alternative statutory remedies, is not affected, specially in a case where the authority against whom the Writ is filed is shown to have had no jurisdiction or had purported to usurp jurisdiction without any legal foundation.
>
> 19. That being so, the High Court was not justified in dismissing the Writ Petition at the initial stage without examining the contention that the show cause notice issued to the appellant was wholly without jurisdiction and that the Registrar, in the circumstances of the case, was not justified in acting as the "TRIBUNAL"."

30. The factual matrix has already been examined that on the basis of the Minutes of Meeting dated 26.07.2021, the beneficiary

Department has asked the LAO to re-assess the market value, which, according to its reasoning, is justified and therefore, denuding the statutory authority of its powers, which is not permissible in any manner. The argument that correction was done under Section 33 of the 2013 Act, is without any basis as even then, a procedure of an application being filed and the other party being put to notice, is provided for in case of being prejudicially affected, which was also not adhered to. In **Mohinder Singh & others Vs. State of Punjab & others, AIR 2006 P&H 186,** a Single Judge held that a LAC under the Land Acquisition Act, 1894 become *functus officio* and has no power to change the assessment made except to correct the clerical error, which principle would also apply herein.

31. Resultantly,we are of the considered opinion that the subsequent award No.49 dated 27.05.2021 (Annexure P-13) and the corrigendum award No.49 dated 27.05.2021 (Annexure P-16) whereby the market value of the land has been reduced/modified, is without any jurisdiction. The said exercise was to be left open by agitating before the Arbitrator, by both the parties concerned as is the consistent view. Accordingly, we allow the present writ petitions and quash the award No.49 dated 27.05.2021 (Annexure P-13) and the corrigendum award No.49 dated 27.05.2021 (Annexure P-16). Respondents-NHAI shall deposit the balance amount, as per the initial award keeping in view Rule 3 of the National Highways (Manner of Depositing the Amount by the Central Government; Making Requisite Funds Available to the Competent Authority For Acquisition of Land) Rules, 2019. It is left open to the parties to seek its appropriate remedy before the Arbitrator, by way of filing an application under Section 3G(5) of the 1956 Act and it would be

open to the said Arbitrator to pass appropriate orders in accordance with law. All pending application(s) also stand disposed of.

(G.S. SANDHAWALIA)
JUDGE

23.10.2024 **(MEENAKSHI I. MEHTA)**
Sailesh **JUDGE**

Whether speaking/reasoned :	Yes	
Whether Reportable :	Yes	