



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

WRIT PETITION NO.599 OF 2024

PETITIONER

1. Varsha W/o Anil Sabe, Aged about 43 Years, Occ : Housewife
2. Nandkishor S/o. Pralhad Unhale, Aged about 40 years, Occ : Agriculturist,
3. Vijay S/o. Pralhad Unhale, Aged about 46 years, Occ : Agriculturist,
4. Pralhad S/o. Ganpat Unhale, Aged about 69 years, Occ : Agriculturist,

All R/O Ganeshpur, Tq. Khamgaon,
Dist. Buldhana - 444303

...VERSUS...

RESPONDENTS

1. Maharashtra Electricity Regulatory Commission, World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai - 400005
2. Collector, Buldhana, Tq. & Dist. Buldhana
3. Maharashtra Eastern Grid Power Transmission Company Ltd., Akola, 765/400 KV Sub Station, Near Chakradhar Swami Mandir, Kanshivani Road, Vilalge Yelvan, Tq. Barshitakli, Dist. Akola - 444401

Mr. S.D. Chopde, Advocate for Petitioners.
Mr. A.A. Madiwale, AGP for Respondent/State.
Mr. P.P. Uttarwar, Advocate for Respondent No.1.
Mr. N.B. Kirtane. Advocate for Respondent No.3.

CORAM : SIDDHESHWAR S. THOMBRE, J.
DATE : 09/10/2025

JUDGMENT :

1. Heard. Rule. Rule made returnable forthwith. The petition is heard finally with the consent of the learned Counsels at the stage of admission.
2. By way of the present writ petition, the petitioners are challenging the order dated 22.03.2021 passed by the Maharashtra Electricity Regulatory Commission, in case No.197 of 2020 whereby, the proceedings were initiated pursuant to the application filed by the petitioners. The contention of the petitioners is that some portion of the land was acquired by the Transmission Company to erect the tower and because of it petitioner's standing crops were damaged for which, they are entitled to receive compensation.
3. After the work was completed, the petitioners approached to the competent authority under the policy framed under the Indian Telegraph Act, 1885 to pay the compensation to the farmers. The counsel for petitioners further submits that Collector, constituted a

3

committee headed by Sub-Divisional Officer, Khamgaon, which, after perusing panchnama and the record of damaged crops, decided that the petitioners are entitled to receive an additional compensation.

4. Learned counsel for the petitioners further submits that after the Order dated 03.04.2018 passed by the Collector, which was challenged by the respondent No.3 Company under section 16(3) of the Indian Telegraph Act, 1885 before the District Judge, Buldhana, but afterwards that proceedings were withdrawn.

5. Meanwhile, the petitioners approached the respondent No.1 and sought directions to act upon the report submitted by the committee and to pay additional compensation to the agriculturists.

6. Pursuant to the applications filed by the petitioners, the proceedings were initiated before the MERC wherein, the authorities of respondent No.3 appeared and submitted their say.

7. After hearing the parties, MERC vide its order dated 21.03.2021 set-aside the report of the Sub-Divisional Officer, wherein, the matter was remanded back to the Collector to decide the proceedings afresh.

8. Pursuant to that order, District Collector heard the matter and set-aside the order of Sub-Divisional Officer. Being dissatisfied by

the same, the petitioners filed an appeal before the Divisional Commissioner and the Commissioner has also dismissed the appeal filed by the petitioners and confirmed the order of the Collector.

9. Mr. S.D. Chopde, learned counsel for the petitioners, submits that under the policy framed under Indian Telegraph Act, 1885, these specific Authorities are constituted to assess the damage caused to the standing crops and to grant compensation for their damaged crops. Pursuant to that, Sub-Divisional Officer initially assessed the damages and directed to pay additional compensation to the petitioners.

10. Per contra, learned counsel for respondent No.3 has invited my attention to the provisions of Electricity Act 2003, Indian Telegraph Act and Maharashtra Electricity Work of Licensee Rules, 2012 (for short “Licensee Rules of 2012”) and pointed out that the petitioner is having an alternate remedy under the Licensee Rules of 2012, by approaching the Commission. Learned counsel for the respondent No.3 submits that under Section 16(3) of the Indian Telegraph Act, 1885, the petitioners are having an alternate and equally efficacious remedy to file application before the District Court and accordingly, he prays to dismiss the petition.

11. I have gone through the contents of the writ petition, the documents placed on record by all the parties, and the Electricity Act, 2003, Indian Telegraph Act, 1885 and the policy framed under the Indian Telegraph Act.

12. When the specific query was made to both the counsels for respondent Nos.1 and 3, that whether there is any provision under the policy, which empowers the MERC to deal with the matter, on which they pointed out that there is no such provision. Thus, it is clear that MERC is not empowered to deal with the issue which is raised in the present petition.

13. Without referring to other proceedings, it is necessary to refer application filed by the petitioners before the MERC. The MERC after hearing the petitioners as well as the respondent No.3, set-aside the Order passed by Sub-Divisional Officer. But, under the policy framed under the Indian Telegraph Act, 1885, MERC, is not having power to entertain such application, despite that MERC has entertained the application and set-aside the order of Sub-Divisional Officer and remanded back the matter to the Collector.

14. Once the authority does not have power to entertain the application, no question of entertaining the application arises. In fact,

the application was filed before MERC, for implementation of the Order passed by the Sub-Divisional Officer, except this no other prayer was made, and nobody has challenged the report of the Sub-Divisional Officer, but while considering this proceeding, respondent No.3 raised certain objections and pursuant to those objection, the MERC has set-aside the Order passed by the Sub-Divisional Officer.

15. As per the record available, it is an admitted fact that petitioners approached the MERC against non-implementation of the Order passed by the Sub-Divisional Officer. Therefore, the MERC cannot entertain the application, but unfortunately MERC has entertained the application of petitioners and the order which was not assailed by the petitioners or by respondent Nos.1 and 3 was set-aside and the matter was remanded back to the District Collector, and it considered the same. The order of the MERC entertaining the applications and thereby, setting aside the order of Sub-Divisional Officer is rendered without any jurisdiction.

16. Therefore, in my opinion the said order cannot be sustained in the eyes of law and is liable to be set-aside.

17. In view thereof, the order dated 22.03.2021 passed by the Maharashtra Electricity Regulatory Commission, in case No.197 of 2020

is hereby set-aside and I have not expressed my opinion on any of the issues raised in the present petition except the same which is challenged. This proceeding is decided only on the point that whether the power is vested with the MERC or not. The objection raised by all the parties are kept open.

In view thereof, the present writ petition is **allowed**. No order as to costs.

Rule is made absolute in above terms.

(SIDDHESHWAR S. THOMBRE, J.)