

**Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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CASE NO. 56 of 2017

Dated: 18 May, 2017

**CORAM: Shri Azeez M. Khan, Member
Shri Deepak Lad, Member**

Petition of Smt. Prabha Shankarrao Dhote under Rule 3 of the Maharashtra Electricity Works of Licensees Rules, 2012 for review of the District Magistrate, Wardha's Order dated 17 December, 2016 permitting MSETCL to construct 220 kV Line Towers on her Non-Agricultural plot.

(Case No. 56 of 2017)

Smt. Prabha Shankarrao Dhote ... Petitioner

V/s

- 1) The District Magistrate, Wardha
- 2) Maharashtra State Electricity Transmission Co. Ltd.

(Executive Engineer, MSETCL, Nagpur, and
Additional Executive Engineer, MSETCL, Nagpur.) ... Respondents

Appearance

For the Petitioner Shri Kawish B. Dange (Adv.) Smt. Prabha S. Dhote (Self)
For the Respondent No.1 None
For the Respondents No. 2 Shri D.M. Kale (Adv.) Shri Anil G. Patil (Rep.)

Daily Order

Heard the Advocates/Representatives of the Petitioner and the Respondent No. 2.

- 1) The Advocate of the Petitioner stated that:

1.1. The Petitioner is the owner of a Non-agricultural (NA) Plot of 450.51 square meters at Sailsura village, Tehsil Deori, District Wardha. She has filed a revision Petition under

Rule 3 (3) of the Maharashtra Electricity Work of Licensees Rules (MEWLR), 2012 seeking review of District Magistrate's (DM), Wardha's Order dated 17.12.2016.

- 1.2. MSETCL had initiated construction of 220 kV EHV Transmission Line Tower foundation work on the NA Plot without notice and prior permission of the Petitioner, which is mandatory as per the MEWLR, 2012 and other statutory provisions. MSETCL completed Tower erection and subsequent activities on 19.6.2016.
- 1.3. The Petitioner contacted MSETCL's authorities and apprised them that EHV Lines cannot be constructed on the NA Plot in view of Transmission corridor and adequate safety clearances to be maintained as per the Central Electricity Authority (Measures relating to safety and electric supply) Regulations, 2010 read with IS: 5613. However, MSETCL did not respond. Aggrieved by non-response of MSETCL, the Petitioner served a notice to shift the Tower from her NA Plot. MSETCL did not take cognizance and did not reply to the notice.
- 1.4. MSETCL did not follow the procedure to lay down the 220 kV Transmission Line, due to which neither a building can be constructed on the Plot nor can it be sold due to installation of Tower. Also, there are restrictions on usage of the area below the conductors to maintain the minimum clearances for safety purpose. Hence, the value of the Plot is fully diminished and the Petitioner has incurred irreparable loss.
- 1.5. Aggrieved by the action of MSETCL, the Petitioner had filed an application before the DM, Wardha on 27.11.2016 for removal of the Tower and payment of compensation towards damages as per statutory provisions.
- 1.6. Initially, MSETCL stated that no Tower is erected on the Petitioner's land. Thereafter, as per the directives of the DM at the hearing held on 6.12.2016, MSETCL carried out spot inspection of the site on 8.12.2016, and submitted that one leg of the Tower is erected on the Petitioner's Plot. Accordingly, the affected area of the Plot was calculated.
- 1.7. DM, Wardha passed the Order on 17.12.2016, partly allowing the Petitioner's application. The DM also imposed cost Rs. 10,000/- upon MSETCL and also directed it to pay compensation towards damages.
- 1.8. DM, Wardha, while passing the impugned Order, ignored the provisions relating to Right of Way (RoW) Corridor for Transmission Lines and safety clearances, though mentioned in the applications filed on 21.11.2016, 13.12.2016 and 17.1.2017.
- 1.9. The Petitioner's prayers before the DM were to remove the Tower from the NA Plot or to pay full compensation for the entire 450.51 square meters as neither can the Plot be used for building a house nor could it be sold due to presence of Tower and overhead line there on. However, the DM did not consider the prayers of the Petitioner and remained silent.
- 1.10. Out of total 450.51 square meters, 339.25 square meter area of the Plot is affected because of erection of the Tower and line. The balance 111.26 square meters area cannot be utilized for any purpose. Hence, the Petitioner is entitled to compensation for the entire 450.51 square meters. However, the DM has considered only the area affected

by one leg of the Tower only and ignored the area covered by ROW of Line for determination of compensation.

- 1.11. MSETCL, vide its letter dated 10.4.2017, offered compensation of Rs. 63,040/- by cheque, stating that 68 square meters area is considered for calculation of compensation, which was accepted under protest. The Petitioner, vide letter dated 19.4.2017, informed MSETCL that the compensation offered is not acceptable as it is very low as compared to the affected area of 339.25 square meter of the Plot, and also that the basis and the valuation statement is not provided by MSETCL.
 - 1.12. The Petitioner obtained information under Right to Information (RTI) Act from MSETCL regarding the formats of prior notices to be issued to land owners, panchnama of damaged crops, valuation statement and copy of crop compensation order, Towers erected on NA Plots, etc. In reply, MSETCL informed that it has not erected Towers on any N.A. plot from April 2010 to March, 2016.
 - 1.13. As per the Guidelines of Central Government dated 15.10.2015 and opinion of Attorney General of India, compensation payable in case of residential /industrial area is different from compensation payable for agricultural land.
 - 1.14. As per Rule 3 (3) of MEWLR, 2012 read with Section 67 (4) of EA, 2003, the Commission can revise the Order passed by the DM. Commission may determine the compensation for the entire plot of 450.51 square meters as it cannot be sold or used for any other purpose.
- 2) The Advocate of MSETCL submitted a copy of its Reply at the hearing and stated that:
- 2.1 The construction of LILO on 220 kV Bhugaon-Pusad Double Circuit (DC) Line was proposed to evacuate power from 400 kV PGCIL Wardha sub-station after approval of the GoM. The Transmission Line passes through various locations, including the land belonging to the Petitioner.
 - 2.2 At the time of erection of Tower, the land was barren and work was never opposed by the Petitioner at the time of execution.
 - 2.3 At the time of execution of works, some other land owners opposed erection of the Towers. Hence, MSETCL approached DM, Wardha in June, 2016. After obtaining the permission of the DM, Wardha, erection of 220 kV Transmission Line was carried out and the Line was commissioned on 26.8.2016.
 - 2.4 MSETCL referred to the Order issued by the Sub Divisional Officer, Wardha regarding NA of land and stated that, at the time of conversion of land from agricultural to non-agricultural, the authority has not obtained No Objection Certificate (NOC) of MSETCL.
 - 2.5 To a query of the Commission regarding the basis of determination of compensation, MSETCL stated that, as per the directives of the DM, Town Planning Department of Wardha District made the assessment of compensation for damaged land. Accordingly, MSETCL has paid compensation of Rs. 63,040/- to the Petitioner.

- 2.6 On the issue of adequacy of compensation, MSETCL stated that it is bound and ready to pay the compensation towards the damage caused due to erection of Transmission Line as determined by the DM as he is the competent authority to do so.
- 2.7 The Commission observed that MSETCL has not furnished the following documents during the hearing to understand the facts :
- a) The DM's Order issued in June, 2016 permitting MSETCL for erection of Line;
 - b) The DM's letter directing Town Planning Department for determination of compensation;
 - c) Details of actual area affected of the Plot;
 - d) Area considered for determination of compensation;
 - e) Rates of land considered for determining the compensation; etc.
- 2.8 The Commission observed that it is the duty of the concerned MSETCL officials to put all the technical / legal aspects and facts of the Case before the District Magistrate at the time of proceeding to minimise inconvenience to the affected land owners and compensate them, and also to avoid delay in execution of the projects.
- 2.9 The Commission granted 10 days to MSETCL to file its submission with a copy to the Petitioner.

The Case is reserved for the Order.

Sd/-
(Deepak Lad)
Member

Sd/-
(Azeez M. Khan)
Member