

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY**  
(Appellate Jurisdiction)

**APPEAL No. 464 of 2024**

Dated : 21<sup>st</sup> February, 2025

Present: Hon'ble Mr. Sandesh Kumar Sharma, Technical Member  
Hon'ble Mr. Virender Bhat, Judicial Member

**In the matter of:**

1. **Shri Khanderao Thakaji Khaire**  
S/o Late Shri Thakaji Khaire  
R/o Shrivade, Vani Taluka Nifad,  
District-Nashik – 423111  
Email: [dattakhaire0@gmail.com](mailto:dattakhaire0@gmail.com) ... Appellant No. 1
  
2. **Dattatrya Khanderoa Khaire**  
S/o Shri Khanderao Thakaji Khaire  
R/o Shrivade, Vani Taluka Nifad,  
District-Nashik – 423111 ... Appellant No. 2

*Versus*

1. **Maharashtra State Electricity Transmission Corporation Ltd.**  
Through, Executive Engineer,  
EHV (Construction/Project) Division,  
Block No. 8, MSETCL Building,  
Jail Road, Nashik Road, Nashik – 422101  
Email: [cenashik@mahatransco.in](mailto:cenashik@mahatransco.in) ... Respondent No. 1
  
2. **Maharashtra Electricity Regulatory Commission**  
Through its Registrar  
World Trade Centre, Centre No. 1,  
13<sup>th</sup> Floor, Cuffe Parade,

Mumbai – 400005  
Email: [mercindia@merc.gov.in](mailto:mercindia@merc.gov.in)

... Respondent No. 2

Counsel for the Appellant(s) : Ankit Shah  
Tarun Arora for App. 1  
Ankit Shah  
Tarun Arora for App. 2

Counsel for the Respondent(s) : Shirish K Deshpande  
Apoorv Sharma  
Rucha Pravin Mandlik for Res. 1

## **J U D G M E N T**

### **PER HON'BLE MR. VIRENDER BHAT, JUDICIAL MEMBER**

1. The Appellant, a land owner in Taluka Nifad, District Nashik, Maharashtra has preferred this appeal against the order dated 22<sup>nd</sup> January, 2020 passed by 2<sup>nd</sup> Respondent – Maharashtra State Electricity Regulatory Commission (hereinafter referred to as “Commission”) whereby the Commission has set aside the order dated 1<sup>st</sup> October, 2019 of the Collector, Nashik and has held the 1<sup>st</sup> Respondent Maharashtra State Electricity Transmission Company Limited (in short “MSETCL”) liable to pay Rs.53,340/- only to the Appellant towards compensation for the loss that has occurred to the

grape trees on his land on account of erection of transmission line over the same by the MSETCL.

2. MSETCL has erected towers of 132 KV Pimplegaon – Dundri Transmission line in Nashik District as per Government of Maharashtra Resolution dated 24<sup>th</sup> August, 2006 and the transmission line passes over the concerned plot of land belonging to the Appellant. The transmission line was commissioned in the year 2013. Admittedly, no transmission pole has been erected by the 1<sup>st</sup> Respondent on the Appellant's plot of land and only overhead conductors passed across the land. It appears that on account of erection of the transmission line over the Appellant's land in question, some damage was caused to the grape trees that had been grown on the land and accordingly the Appellant had sought compensation for the same.

3. Vide order dated 16<sup>th</sup> December, 2015, the District Collector, Nashik awarded a compensation of Rs.17,51,374/- to the Appellant. MSETCL filed petition bearing No. 103 of 2016 before the Commission seeking revision of the collector's order on the ground that the collector had awarded exorbitant compensation without prudence check. Meanwhile, the Appellant also had filed petition seeking revision of the collector's same order on the ground that the compensation awarded

was on lower side than the actual loss sustained by him. Vide common order dated 16.02.2028, the Commission dispose of both the petitions inter alia observing as under :-

*“27. In fact, under the provisions of Section 67 of the EA, 2003 read with Rules 3 and 13 of the MEWLR quoted above, if the compensation is not mutually agreed and representation is made, the District Collector, Nashik (or other authorised officer) is to determine such compensation. However, the Commission notes that the impugned Order of the DM, Nashik is not a reasoned, speaking Order passed after giving both Parties an opportunity to be heard and considering their submissions and all the relevant material. As such, it is essentially administrative in nature and not an adjudicatory Order as is required by a quasi-judicial authority. In particular, he was expected to consider and reflect in his Order:*

*i. The contentions of both Parties and his findings thereon:*

*ii. An assessment of the relevant material- in the present matter, this would also include, in particular, an assessment of differing Panchnamas and surveys, and differing assessments by different authorities and their sanctity, as well as the detailed observations and findings of the District Superintending Agricultural Officer, Nashik in his letter dated 9.4.2015 addressed to the DM and cited during these proceedings.*

*28. In view of the foregoing and in the absence of mutual agreement on the compensation, the Commission remands this matter to the DM, Nashik (albeit in his capacity as the District Collector) **for re-determination of the compensation considering the above observations of the Commission, after giving MSETCL and the land owners an opportunity to be heard**, as far as practicable within two months. ----.”*

4. Even after the remand by the Commission, the District Collector, Nashik confirmed the compensation of Rs.17,51,374/- payable by first Respondent to the Appellant, vide his subsequent order dated 21<sup>st</sup> June, 2018. The justification given by him was that the said

compensation amount was recommended by DSAO, Nashik as reasonable as well as scientific and based on the recommendation of Officer-in-Charge, Onion and Grapes Research Centre, Pimpalgaon, Baswant .

5. MSETCL again approached the Commission against the said order dated 21<sup>st</sup> June, 2018 of the District Collector, Nashik by way of Petition No. 226 of 2018 on the following contentions :-

a) *The Commission vide its common Order dated 16.2.2018 in Case Nos. 130 of 2016 and 129 of 2017 had remanded the matter to the District Collector, Nashik to re-determine the compensation amount. However, the impugned Order dated 21.6.2018 issued by the District Collector, Nasik is solely based on the report dated 20.05.2015 submitted by the DSAO, Nashik and ignored the actual facts involved in the matter.*

b) *The amount of compensation decided by the District Collector is higher and based on a forged Panchnama dated 20.3.2013 conducted in the absence of MSETCL representative.*

c) *The report dated 20.5.2015 submitted by the DSAO, Nashik was based on the panchnama carried out on 27.5.2013 by representatives of Agriculture and Revenue Departments in absence of MSETCL representative. Further, it was not signed by the authorities of the Agricultural and Revenue Department. The said facts were intimated to the Tehsildar, Niphad vide letter dated 16.8.2013 and reminded on 7.10.2013. However, no reply received from Tehsil office depicting the real facts.*

d) *Only 140 grapevines were affected during the work, for which MSETCL had offered Rs. 53340/- compensation but it was not accepted by the farmers.*

e) *Hence, impugned Order issued by the District Collector needs to be set aside.*

6. Vide order dated 28<sup>th</sup> September, 2018, the Commission again set aside the Collector's order dated 21<sup>st</sup> June, 2018 of the District Collector, Nashik and again remanded the case to the District Collector with the directions to give a reasoned order within six months from the date of receipt of the Commission's order. While remanding the matter to the collector, the Commission directed the collector to examine the following irregularities/deficiencies while re-determining the compensation payable by 1<sup>st</sup> Respondent to the Appellant:-

*a) Different Panchnamas on different dates for same works.*

*b) Methodology of computation for the compensation.*

*c) Different amounts of compensation for the same damaged crop as assessed by different Authorities.*

7. District Collector, Nashik vide his order dated 1<sup>st</sup> October, 2019 again confirmed compensation amount about Rs.17,51,374/- payable by 1<sup>st</sup> Respondent to the Appellant on the following reasons :-

*(i) The Panchanama dated 20.03.2013 prepared by MSETCL and offer of compensation of Rs. 53340/- were not proper as it has not mentioned the number of trees, weight of grapes and rate of grapes were considered approximately. Also, the amount of compensation and actual loss incurred was not mentioned properly. Hence, the Panchnama carried and amount compensation decided by MSETCL was not proper.*

*ii) To decide compensation payable to the Respondents, a meeting was held on 17.11.2015 in the office of the Collector in presence of officers of*

*the concerned Department and the Respondents. Accordingly, it was decided that MSETCL to pay the compensation of Rs. 17,51,374/- to the Respondents based on the report submitted by DSAO Nashik on 20.5.2015 which was the Competent Authority to decide this issue. Further, the compensation amount recommended by the DSAO, Nashik is reasonable and scientific, based on the recommendation of In-Charge Officer of the Onion-Grapes Research Centre, Pimpalgaon Baswant.*

8. MSETCL again approached the Commission by way of Petition No. 287 of 2019 assailing the said order dated 1<sup>st</sup> October, 2019 of the Collector, Nashik. The petition has been disposed off by the Commission vide impugned order dated 22<sup>nd</sup> January, 2020 whereby setting aside the collector's order dated 1<sup>st</sup> November, 2019 and holding 1<sup>st</sup> Respondent – MSETCL liable to pay Rs.53,340/- towards compensation to the Appellant.

9. It is in these facts and circumstances of the case that the Appellant has approached this Tribunal by way of instant appeal assailing therein the said order dated 22<sup>nd</sup> January, 2020 of the Commission.

10. We have heard Learned Counsel for the Appellant and Learned Counsel for the 1<sup>st</sup> Respondent. We have also gone through the various orders passed by the District Collector as well as the

Commission, as noted herein above. Written Submissions filed on behalf of the Appellant have also been perused.

11. We find from the record that there are two Panchnamas both dated 20<sup>th</sup> March, 2013 with regards to the inspection carried out on the Appellant's land in question to assess the damage caused to the grape trees. One of the Panchnamas, has been prepared by MSETCL and is signed by Agricultural Officer, Nifad, Representative of MSETCL, Sarpanch and three Panchs. In this Panchnama, the damage caused to the Appellant has been assessed as Rs.53,340/- On the contrary, other Panchnama has been drawn by the farmer i.e. the Appellant and is signed by Agricultural Officer, Nifad, Representative of MSETCL, Sarpanch and only one Panch. There are two other panchnamas dated 23<sup>rd</sup> May, 2013 and 27<sup>th</sup> May, 2013 on record on the basis of which DSAO, Nashik submitted report dated 20<sup>th</sup> May, 2015 recommending compensation of Rs.17,51,374/-. However, no representative of MSETCL has signed these two Panchnamas. It is upon taking note of these events that the Commission has, in its order dated 28<sup>th</sup> September, 2018 passed in Petition No. 226 of 2019 while



remanding the case back to the collector for fresh assessment of compensation, observed as under :-

a) *"There are two Panchnamas on record for the same date 20.3.2013 i.e. one submitted by MSETCL and other by the farmers. Panchnama prepared by MSETCL has been signed by Agricultural Officer Niphad, Representative of MSETCL, Talathi and three Panchas. Contrary to this, Panchnama drawn by the farmers is signed by the Agricultural Officer Niphad, Representative of MSETCL Talathi, Sarpanch and only one unnamed Panch. Further, Panchnama drawn by MSETCL depicts the **details of number of grapevines damaged due to the works and assessment of amount of compensation on the basis of damages. Whereas, the Panchnama referred by the farmers does not show the number of grapevines damaged and amount of compensation.***

b) *The report dated 20.5.2015 submitted by the DSAO, Nashik recommending the compensation of Rs. 17, 51,374/- is based on the **Panchnama dated 23.5.2013 and 27.5.2013.** It is observed that no MSETCL representative was present during these Panchnamas. MSETCL vide its letter dated 16.8.2013 and 7.10.2013 informed the Tehsildar, Niphad that the Respondents have submitted a Panchnama and an observation report (Pahani Ahval) carried out on 27.5.2013 jointly by the Agriculture and Revenue Departments. **However, it was neither received by MSETCL nor was it signed by authorities of the Agriculture and Revenue Departments. These Panchnamas do not depict the factual situation as on 22.4.2013, when stringing work was completed.** Further, MSETCL had informed Tehsildar, Niphad that, as per the Panchnama dated 27.5.2013 by Taluka Agricultural Officer, valuation of the grapevines was shown as 'nil'. There was no reply from Tehsildar, Niphad to MSETCL. The impugned order dated 21.6.2018 of the District Collector Nashik is silent on these contentions of MSETCL.*

c) ***To arrive at the conclusion of certain amount of compensation, firstly correct Panchnama needs to be decided.** In the impugned order of the District Collector, Nashik, it is not clear why the Panchnama drawn by MSETCL was not accepted by the Respondents despite signed by them. Further, it is not clear why Representative of MSETCL was not called during subsequent panchnamas and site inspection by different authorities despite written contentions by MSETCL."*

12. The Collector in his order dated 1<sup>st</sup> October, 2019 has stated that Panchnama dated 20<sup>th</sup> March, 2013 prepared by MSETCL and the offer of compensation of Rs.53,340/- were not proper on the ground that it was not carried out properly and did not mention the number of grape trees, weight of grapes and rate of grapes.

13. The Commission, in the impugned order, has rightly held that the Collector has failed to address the vital issues upon which the case had been remanded back to him vide order dated 28<sup>th</sup> September, 2016 in petition No. 226 of 2019. It is manifest that the Collector, under some pressure, has passed similar order as was set aside by the Commission on 28.09.2018 thereby remanding the case back to the Collector for fresh consideration without bothering to conduct inquiry on the issues flagged by the Commission. Such conduct of the Collector, a Public Officer, is reprehensible, to say the least.

14. A bare perusal of the Panchnama dated 20<sup>th</sup> March, 2013 prepared by MSETCL would show that it clearly mentions the number of trees, weight of grapes, and rate of grapes etc. as under :-

- a) *Affected grape trees: 140 Nos.*
- b) *Average Grapes per tree -15 kg.*

- c) Total weight of Grapes-2100 kg
- d) Average Rate of Grapes Rs. 25.40 per kg
- e) Total amount of compensation offered by MSETCL (Rs. 25.40 per kgX2100 kg) Rs. 53,340/-.

15. This panchnama is duly signed by Agricultural Officer, Nifad, Sarpanch as well as three Panchas. It also finds mention in the report dated 20<sup>th</sup> May, 2015 submitted by DSAO. In view of the same, we do not find any error or the infirmity in the impugned order of the Commission in which it has been observed as under :-

*iii. In spite of the specific observations of the Commission regarding due diligence by the Collector in the remanded matter, the Collector has merely reiterated his rulings in impugned Order by ignoring the directions of the Commission. The Collector has totally and wrongly relied on his own earlier Order dated 21 June, 2018 and the disputed DSAO Nashik report dated 20 May 2015 for arriving at the compensation amount without clarifying the ambiguity around the correct Panchnama and other facts disclosed in the DSAO report including a reference to the pressure tactics by the Respondents. The First Panchnama has recorded all the facts that are required to determine the compensation amount. However, the impugned Order of the Collector has simply neglected it and arrived at the wrong conclusion in determining the compensation by merely stating that the said Panchnama was not proper.*

*iv. The Collector on one hand is relying on the DSAO's report dated 20 May, 2015 and on other hand, he has neglected to take cognizance of the facts and pressure tactics recorded in the DSAO's report which seems contradictory to the Collector's rulings itself and hence the same cannot be considered acceptable/tenable.*

*v. In view of above discussion in respect of different Panchnamas, the Commission finds that the Collector, in its impugned Order, has failed to address the Commission's above directives and he has not taken any efforts in deciding the correct Panchnama before determination of compensation for the works undertaken by MSETCL in the year 2013.*

*(Emphasis supplied)*

16. The Commission has rightly noted in the impugned order that there was no categorical finding in the order dated 1<sup>st</sup> October, 2019 of the Collector that there had been any permanent damage to the Orchard of the Appellant on the land in question which necessitated fresh capital costs to the Appellant. Further, undisputedly, no portion of the Appellant's land has been acquired by MSETCL in laying the transmission line. The land remains in the ownership as well as occupation of the Appellant. Only the transmission line has been erected over the Appellant's land. It is also not disputed that no tower has been erected on the Appellant's land and only stringing work has been done by laying the conductor on the ground and thereafter pulling the conductor onto the tower.

17. Therefore, the compensation of Rs.17,51,374/- determined by the Collector in his order dated 1<sup>st</sup> October, 2019 based on the life time evaluation of 1123 grape trees has been rightly struck down by the Commission in the impugned order.

18. We find that the compensation of Rs.53,340/- determined by the Commission in the impugned order is as per the Panchnama dated

20<sup>th</sup> March, 2013 prepared by MSETCL. The Panchnama is signed by the Agricultural Officer, Nifad as well as the three independent Panchas. It clearly depicts of the requisite facts such as number of affected grape trees, production per grape tree, per kg market rate of grapes which was required to arrive at one time compensation payable to the Appellant. In contrast to the same, other panchnama of even date prepared by the Appellant, which is signed by Agricultural Officer, Nifad, Representative of MSETCL and only one Panch, is devoid of these requisite particulars and, therefore, cannot be taken into consideration. The need and occasion for preparing two subsequent pachnamas dated 23<sup>rd</sup> May, 2013 and 27<sup>th</sup> May, 2013, on the basis of which DSAO has submitted his report dated 20<sup>th</sup> May, 2015, has nowhere been explained by the collector in his order dated 1<sup>st</sup> October, 2019. Admittedly, no representative of MSETCL was involved in preparation of these two Panchnamas. We share the pain and agony of the Commission in observing that the Collector has chosen to selectively rely on DSAO report terming it as a scientific report without making any efforts to verify the ground realities. We may also note that as per record, Pachhnama for other 13 farmers, whose land also was affected/damaged on account of erection of transmission line in

question, was prepared on the same date i.e. 20<sup>th</sup> March, 2013 and compensation awarded to them is as under :-

Sr. No.	Name of Affected Farmer	No of affected grape Trees (A)	Total Compensation paid by MSETCL Rs. (B)	Compensation paid / offered by MSETCL per Tree in Rs. (B/A) as calculated by the Commission
1	Shri Ramdas Trimbak Khaire	60	9000/-	150/-
2	Shri Bhaskar Rangnath Gaikawde	50	7500/-	150/-
3	Shri Ramdas Tatya Nagare	60	9000/-	150/-
4	Shri Ganpat Tataya Nagare	50	7500/-	150/-
5	Shri Vasant Nifade	156	23400/-	150/-
6	Shri Balkrishna Nifade	36	5400/-	150/-
7	Shri Govind Nifade	82	12300/-	150/-
8	Shri Arun Nifade	34	5100/-	150/-
9	Shri Shankar Nifade	46	6900/-	150/-
10	Shrimati Suman Nifade	20	3000/-	150/-
11	Shri Rangnath Nifade	40	6000/-	150/-
12	Shri Rangnath Nifade	40	6000/-	150/-
13	Shri Chiman Nifade	30	4500/-	150/-
<b>14</b>	<b>Shri (Late) Narendra Khanderao Khaire</b>	<b>140</b>	<b>53340/-</b>	<b>381/-</b>

19. A bare perusal of the particulars given in the said table would clearly reveal that the compensation amount awarded to the Appellant is absolutely justified and neither excessive nor on lower side.

20. Hence, we do not find any error or infirmity in the impugned order of the Commission. The appeal sans any merit and hereby dismissed.

Pronounced in the open court on this 21<sup>st</sup> day of February, 2025.

(Virender Bhat)  
Judicial Member

(Sandesh Kumar Sharma)  
Technical Member (Electricity)

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*REPORTABLE / NON REPORTABLE*

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