

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai – 400 005
Tel. 022 22163964/65/69 Fax 22163976
Email: mercindia@mercindia.org.in
Website: www.mercindia.org.in

Case No. 112 of 2011

In the matter of
Petition under Section 67(4) of the E.A, 2003, challenging the order dated
22/07/2011 issued by District Magistrate, Wardha and notice issued by
Maharashtra State Electricity Transmission Co. Ltd. (MSETCL) under Indian
Telegraph Act, 1885 for erection of 400 kV Koradi-Wardha line issued under
Indian Telegraph Act, 1885.

Shri V.P. Raja, Chairman
Shri Vijay. L. Sonavane, Member

Shri. Ravindra Vinayak Jawlekar
Renuka Bhavan Near Swavlambi
School ward 38, Dandtoli,
Wardha. ... Petitioner

V/s

1. State Government of Maharashtra
Through District Collector and District Magistrate,
Wardha.
2. The Chief Engineer
EHV Construction cum O & M Zone,
Maharashtra State Electricity Transmission Co Ltd, Nagpur
3. The Executive Engineer
EHVT Construction Line Sub-Division,
Maharashtra State Electricity Transmission Co Ltd. Nagpur
4. The Dy. Executive Engineer,
EHVT Construction Line-Sub Division
Maharashtra State Electricity Transmission Co Ltd, Nagpur. ... Respondents

For the Petitioner: Shri Avinash Prabhune and Shri. Ravindra Vinayak Jawlekar in person

For the Respondents: Shri Sushant Bansode, Tahsildar and Shri Sahebrao Rathod, Naib Tahsildar, Selu for Respondent No. 1
Shri G.E. Moharir, Advocate, for Respondent No.s 2 to 4.

For the Intervener Shri Pratap Hogade

ORDER

Dated: 25th January, 2012

Shri. Ravindra Vinayak Jawlekar submitted a Petition under affidavit before the Commission on 30/07/2011, under Section 67(4) of Electricity Act, 2003 ("EA 2003"), challenging the legality, validity and propriety of an Order dated 22/07/2011 passed by District Magistrate, Wardha.

2. The prayers of the Petitioner are as follows:

“

- a) *To set aside the order dtd. 22/07/2011 passed by Respondent No 1 in the dispute of MSETCL Vs Ravindra Jawlekar.*
- b) *To quash & set aside the notice dt 30/08/2010 issued by Respondent No 4 and to direct the Respondents to carry out the work as per original survey, approval & planning in the public interest.*
- c) *During the pendency of the present case before Hon'ble Commission, to direct Respondents to stay the effect & operation of the impugned order dated 22/07/2011 till the decision of the present petition.*
- d) *To direct Respondent to pay Rs. 20000/- as costs to petitioner.”*

3. The brief facts of the case as stated in the Petition are as follows:-

- (i) The Petitioner Shri. Ravindra Vinayak Jawlekar is the owner of the land bearing Survey No. 152 admeasuring 3.80 hectares at Mouza Umri (Meghe), Taluka Wardha, Dist. Wardha.
- (ii) The said land is an agricultural land and is not a part of the original 400 kV Koradi-Wardha line project. Moreover, the Respondents have already taken up the works of 400 kV Koradi-Wardha line at more than 5 locations at another agriculture land besides the eastern side of the Petitioner's land. The same work has been completed up-to plinth level,

involving excavation of pits, laying steel structures/concreting after acquisition of the land and after payment of suitable compensation to the concerned land owner farmers.

- (iii) The Respondent No. 4, Deputy Executive Engineer of MSETCL issued a notice dated 30/08/2010 to the Petitioner, under the provisions of the Indian Telegraph Act, 1885 ('ITA 1885'), for erection of tower and allied works for the above proposed 400 kV Koradi-Wardha line at location No. 72/3 on the land of the Petitioner, although the Petitioner's land is not a part of the original 400 kV Koradi-Wardha line project.
- (iv) The Petitioner submitted his first Petition as Case No. 102 of 2010 under Section 67(4) of Electricity Act, 2003 before this Commission, challenging the notice dated 30/08/2010 issued by the Respondent No. 2 to 4 (The Officers of MSETCL). The Commission passed an Order dated 07/04/2011 inter alia observing that the District Magistrate is the first tier appropriate authority and thereafter the Commission could exercise its jurisdiction. The Commission did not precipitate any action against the Respondents at that stage, as appropriate proceedings were pending before the Respondent No.1, District Magistrate Wardha.
- (v) Thereafter, the Petitioner approached the Respondent No. 1, District Magistrate, Wardha and submitted all the facts about irregularities of the Respondent No 2 to 4, the copies of the documents relevant to Case No. 102 of 2010, and the Order passed by the Commission in Case No. 102 of 2010. The Respondent No. 1 held a hearing and directed the Respondents No. 2 to 4 (MSETCL) to conduct a meeting with the affected farmers and submit a report to Respondent No.1. Subsequent hearings were held by Respondent No. 1 in the matter on .10/06/2011, 17/06/2011, 29/06/2011 and 06/07/2011. Thereafter, an Order was passed on 22/07/2011, by the Respondent No. 1 ("the impugned Order").

4. The Petitioner, on being aggrieved by the aforesaid impugned Order passed by the Respondent No. 1, has filed the present Petition before the Commission in order to challenge the legality, validity and propriety of the impugned Order by invoking the provisions of Section 67(4) of the EA 2003.

5. The Petitioner has submitted that the Respondent No.1 has acted in a most arbitrary mode while deciding the present matter. It has been further submitted that the Respondent No.1 has acted in a biased manner and has denied justice to the Petitioner although the Petitioner has filed sufficient documents on record. It has been further submitted that even though the Government of Maharashtra has empowered MSETCL to exercise all the powers of a telegraph authority under Section 164 of the ITA 1885, Respondents No.2 to 4 are still responsible under the provisions of the EA 2003. The

Petitioner states that Respondent No. 2 to 4 have caused him mental and financial harassment, and hence has sought action against them. The Petitioner has further sought directions for costs for recovering the expenses of litigation from Respondent No. 2 to 4.

6. On 24/11/2011, the Petitioner filed an additional submission submitting that, the Petitioner has sold his agricultural land to Shri Nilesh Anil Dhawale and Shri Rakesh Anil Dhawale, owing to some personal financial constraints. The Petitioner further submitted that Respondents No. 2 to 4 started excavation work on the said land after taking permission of the new purchasers. It has been further submitted that the Respondents on 16/11/2011 at 23.00 hrs alongwith the Contractor's staff and machineries entered in the field and started the excavation work without intimating of the same to the Petitioner. When the Petitioner enquired of the matter, the Respondent No. 3 replied that he had obtained permission and paid compensation to the owner of the agricultural land but refused to give any more details.

7. The Respondent No. 2 to 4 vide their affidavit dated 20.09.2011 mainly submitted that the petition under Section 67(4) of the EA, 2003 is not tenable and is liable to be dismissed as the Respondent State Transmission Utility is empowered under Section 10 of the ITA to place electric lines for transmission of electricity. The Respondent No. 2 to 4 further submitted that the present matter falls under Section 68 of the EA, 2003 and that therefore this Commission does not have jurisdiction on the matter.

8. Shri. Pratap Hogade has vide letter dated 12/09/2011 sought to intervene in this matter on behalf of Maharashtra Veej Grahak Sanghatna ("MVGS"). The said letter was treated as an intervention application and was allowed vide the Commission's Order / record of proceedings dated 04/11/2011. The intervenor has mainly submitted that as per the Judgment of the Hon'ble Appellate Tribunal for Electricity ("APTEL") dated 07/09/2011 in Appeal No. 83 of 2010 (MSETCL vs. Shri Vikram Sunderdas Setiya, and another), it is binding on the Transmission Companies to take consent of the land owners while erecting the tower on their land. The intervenor submitted that, however on the contrary, the Transmission Companies are erecting the towers without taking the consent of the land owners, due to which several agriculturists are suffering. The intervenor further submitted that the Commission may issue such policy or Order directing the Transmission companies to comply with the directions of the Hon'ble APTEL in its aforesaid Judgment dated 07/09/2011 in Appeal No. 83 of 2010.

9. The Intervener filed additional submissions mainly submitting that the impugned Order of the District Magistrate is bad in law, as it is contrary to the Judgment dated 07/09/2011 of the Hon'ble APTEL in Appeal No. 83 of 2010 as also contrary to the provisions of the EA, 2003. It has been further submitted that the District Magistrate has not followed the substantive due process and procedural due process while passing its impugned Order. Further, the illegal activities of the

Respondent No. 2 to 4 should not be ignored merely due to change in ownership of the land from the Petitioner to the purchasers. It has been further submitted that the compensation is small and that the Commission should lay guidelines in the matter.

10. Hearings were held on 20/09/2011. The Petitioner reiterated the facts and submissions made in the Petition. The Petitioner mainly submitted that Respondent No. 1 did not pass a detailed Order and that the Order of the District Magistrate is not a speaking Order. The Petitioner further submitted that the Respondent No. 2 to 4 have submitted a fabricated story before the Commission.

11. The Respondent No. 2 to 4 submitted that this Commission does not have jurisdiction in the matter.

12. After hearing the parties, the Commission directed as follows:-

(i) the District Magistrate to submit all records filed before it with respect to Case No. 11/Miscellaneous/ 2011-12 400 KV from Koradi II to Wardha PG line Taluka District, Wardha, properly indexed and properly page numbered;

(ii) Respondent No. 2 to 4 to furnish plan (alignment) of MSETCL if any published in official Gazette, such as approval of the Detailed Project Report (DPR), as well as to submit the names of the affected owners, their survey no.s of the Land under dispute, the 7/12 extract showing the owners of the respective lands, the location number of the towers which are included in the plan of Respondent No. 2 to 4 and which are to be erected on disputed places;

13. The Respondent No. 1, District Magistrate vide letter dated 31/10/2011 directed the Sub-Division Officer, Wardha to furnish all the detailed records required by Commission.

14. The Commission vide Notice dated 20/09/2011 scheduled a 2nd hearing in the matter on 04/11/2011. During the hearing held on 04/11/2011, the Commission observed that the Original paper book of the Case No. 11/Miscellaneous/ 2011-12 400 KV from Koradi II to Wardha PG line Taluka District, Wardha has been received by the Registry of the Commission. The Commission directed its officers to examine whether the requirements of procedural due process and substantive due process have been complied with by the District Magistrate, Wardha in Case No.

11/Miscellaneous/2011-12 400 KV from Koradi II to Wardha PG line Taluka District Wardha while passing the impugned Order dated 22/07/2011 and thereafter place the report before the Commission for approval. The Commission also permitted the Petitioner as well as the Respondents to inspect the original records of the Case No. 11 / Miscellaneous / 2011-12 400 KV from Koradi II to Wardha PG line Taluka District Wardha. Accordingly, the parties inspected the records and obtained certified copies on the same day.

15. The officers of the Commission examined the paper book of Case No. 11 / Miscellaneous / 2011-12 and the impugned Order dated 22/07/2011 passed by the District Magistrate, Wardha. Accordingly, the internal study report was placed before the Commission. The conclusions in the said report were that the Commission is to be guided by the principles of revision under Section 115 of the Code of Civil Procedure, 1908 and that the District Magistrate Wardha has followed the procedural due process and substantive due process while disposing of the Petitioner's application vide its impugned Order dated 22/07/2011 in Case No. 11/Miscellaneous/2011-12.

16. The Petitioner vide an email dated 28/11/2011 submitted a news paper cutting from Times of India under the headlines "Action against power man for RTI delay" for delay in providing the information through RTI Act, and desired to place submissions on the record in Case No. 112 of 2011.

17. The Petitioner vide e-mail and fax dated 28/11/2011 submitted his submissions before the Commission, regarding the Respondent's irregularity, as confirmed by State Information Commission, Nagpur in RTI matter related to Case No.112 of 2011. The RTI query was raised by the Petitioner on Respondent No.s 2 to 4 on 30/11/2010. State Information Commission, Nagpur Bench observed that the information should have been provided to the Petitioner before 02/01/2011, which got held up due to unacceptable delay in action by the concerned Public Information Officers.

18. The Petitioner further submitted that Shri. Nilesh Anil Dhawale and Shri, Rakesh Anil Dhawale have admitted that they have given permission under certain pressures but was not ready to give any affidavit confirming the same and that in absence of any details regarding permission either from buyer or from the Respondent

No. 2 to 4, it is difficult for the Petitioner to submit documentary evidence on record. Hence, the Petitioner has served a legal notice dated 22/11/2011 on Shri. Nilesh Anil Dhawale and Shri, Rakesh Anil Dhawale.

DECISION WITH REASONS

19. In light of the rival submissions made by the respective parties, the questions that arise for consideration of the Commission are as follows:-

- (1) Whether the Petitioner has *locus standii* to invoke Section 67(4) of the EA 2003 after having sold his agricultural land to Shri Nilesh Anil Dhawale and Shri Rakesh Anil Dhawale?
- (2) Whether the petition under Section 67(4) of the EA, 2003 is tenable or is liable to be dismissed as the Respondent State Transmission Utility is empowered under Section 10 of the ITA to place electric lines for transmission of electricity?
- (3) Whether the present matter falls under Section 68 of the EA, 2003 and if so whether this Commission has jurisdiction on the matter?
- (4) “Whether the impugned Order dated 22/07/2011 is in accordance with the provisions of law?”

20. The findings of the Commission in respect of each of the aforesaid issues are as follows:-

(1) Whether the Petitioner has *locus standii* to invoke Section 67(4) of the EA 2003 after having sold his agricultural land to Shri Nilesh Anil Dhawale and Shri Rakesh Anil Dhawale?

(a) Certain dates and chronology requires to be noted for answering question no. 1 as follows:-

Date

Event

22/07/2011

Impugned Order passed by District Magistrate, Wardha

30/07/2011	The present petition was filed under Section 67(4) of EA 2003 challenging the legality, validity and propriety of the impugned Order dated 22/07/2011.
24/11/2011	The Petitioner filed an additional submission submitting that the Petitioner has sold his agricultural land to Shri Nilesh Anil Dhawale and Shri Rakesh Anil Dhawale, owing to some personal financial constraints.

(b)Section 67 (4) provides that “Where any difference or dispute including amount of compensation under sub-section (3) arises under this section, the matter shall be determined by the Appropriate Commission.” Rule 3(3) of the Works of Licensees Rules, 2006 provides that “Every order made by a District Magistrate or a Commissioner of Police or an authorised officer under sub-rule (1) shall be subject to revision by the Appropriate Commission.” The question is what *locus standii* would the Petitioner have after having sold his land with respect to which he had objection to permit the Maharashtra State Electricity Transmission Co. Ltd., to lay its electric lines / towers for transmission of electricity?

(c)In "B. V. Narayana Reddy v. State" AIR 1985 Karnataka 99, it was held as follows:-

“13. Re : Point (a) - This concerns the locus standi of the petitioners. In yester-years, and perhaps even in the not too distant a past, the one recurring theme that bedevilled administrative-law and judicial review most was the vexed question of locus standi. But there is a much wider concept of locus standi now. It now takes in any one who is not a mere "busy-body" or a "meddle-some interloper" and all that need be shown is a sufficiency of interest in the matter to which the petition relates. We have, "actio popularis" by which any citizen can enforce law for the benefit of all, against public authorities touching their statutory duties.

Petitioners are undoubtedly litigating a matter of public interest. Though they have no personal interest, they have a special interest as part of a group. Their concern is deeper than that of a mere busy-body. To say that they have no enforceable rights and that therefore they have no locus standi is to beg the question; and to confuse between locus standi on the one hand and justiciability and merits on the other. Both aspects, no doubt, are in overlapping areas and sufficiency of interest must, of course, be seen against the subject-matter of the proceeding, the nature of the duty sought to be enforced and the nature of the breach. The words of a learned author on the subject may be recalled 'Administrative Law' by Craig, 1983 Edn. Pp. 442, 443:

"The approach of the House of Lords to the question of how one determines whether an applicant has sufficient interest or not is one of the most interesting in the whole case."

"The one matter on which their Lordships agree, albeit with differing degrees of emphasis, is that standing and the merits often cannot be separated in this way. While it may be possible to do so in relatively straightforward cases, in those which are more complex it will be necessary to consider the whole legal and factual context to determine whether an applicant possesses a sufficient interest in the matter. This will include the nature of the power or duties involved and the breach of those allegedly committed. The term merits here is not being used in the sense of a value judgment as to whether the applicant's claim is meritorious or good. It means that the court will look to the substance of the allegation in order to determine whether the applicant has standing."

(d) Once having sold his land, the issue is whether the Petitioner has any enforceable rights or sufficiency of interest? The Petitioner cannot claim compensation from MSETCL under Section 67 (4) because he has sold his land. The Petitioner even foregoes all rights to challenge the impugned Order of the District Magistrate because the impugned Order is with respect to a piece of land on which the Petitioner no more has any rights. Hence, the Petitioner does not have locus standi in the present matter. To that extent, the remaining questions become irrelevant. However, since the Petitioner and the Intervener are litigating a matter of public interest though they have no personal interest, the remaining questions are being answered for completeness and for future guidance:-

(2) Whether the Petition under Section 67(4) of the EA, 2003 is tenable or is liable to be dismissed as the Respondent State Transmission Utility is empowered under Section 10 of the ITA to place electric lines for transmission of electricity?

(3) Whether the present matter falls under Section 68 of the EA, 2003 and if so whether this Commission has jurisdiction on the matter?

(a) Question No. 2 and 3 arise on account of the Respondent No. 2 to 4 contentions in their affidavit dated 20.09.2011. The fact is that the present case has originated from Case No. 102 of 2010 filed by the Petitioner under Section 67(4) of the EA, 2003 challenging the Notice issued by the Respondent No. 2 to 4 for erection of 400 KV Koradi – Wardha Line. The said case was dismissed by this Commission by Order dated 07.04.2011, as an application was preferred by the Respondent No. 2 to 4 before the District Magistrate, Wardha, under Section 16(1) of the Indian Telegraph Act, 1885 and which was under consideration of the District Magistrate. By Order dated 07/04/2011, the Commission had taken the view that the District Magistrate, Wardha was the appropriate authority under the Works of Licensees Rules, 2006 as also under the Indian Telegraph Act, 1885 to decide the issues before it. This Commission further observed that under Rule (3) of the Works of Licensees Rules, 2006, every order made by a District Magistrate or a Commissioner of Police or an authorised officer under sub-rule (1) was subject to revision by the Appropriate Commission. Hence, the District Magistrate, Wardha was the first tier appropriate authority and thereafter this Commission could exercise jurisdiction in the matter. The said Order dated 07/04/2011 in Case No. 102 of 2010 has attained finality. The Petitioner submitted in the present Petition that he has approached this Commission in view of the directions and observations made by the Commission in the Order dated 07/04/2011 in Case No. 102 of 2010. Thus, this Commission is of the view that the jurisdiction of the Commission under Section 67(4) and the Works of Licensees Rules cannot be taken away merely because Respondent No. 2 to 4 are empowered as a Telegraph Authority under the Indian Telegraph Act. At this juncture it is relevant to extract a portion of the Judgment dated 07/09/2011 of the Hon'ble Appellate Tribunal for Electricity in Appeal No. 83 of 2010 in the matter of Maharashtra State Electricity Transmission Company Limited vs. Shri Vikram Sunderdas Setiya, and another, as follows:-

“ 65 (h) Merely because certain powers of the Telegraph Act have been conferred on a Licensee, it does not mean that the Licensee has become a Telegraph Authority as defined in the Telegraph Act. Simply because certain powers of Telegraph Authority are available to a Licensee, it does not mean that all the rights and liabilities of the Licensee would be governed by the Telegraph Act.”

“83. In the light of above conclusion, we would now like to address the main comprehensive question framed by us as to “Whether the State Commission has got jurisdiction under Section 67(4) of 2003 Act to adjudicate upon the dispute between Transmission Company (Appellant) on whom the

powers of Telegraph authority have been conferred under Section 164 of the 2003 Act for placing electric supply lines in the land and the person (1st Respondent) whose land has been used by the said transmission company for placing those electric lines without obtaining his consent?”

“85. The power of the State Commission to decide any difference or dispute under Section 67 (4) of the Act is not curtailed by the notification issued under Section 164 of the Act. Section 67 (4) of the Act is an independent and stand alone, provision which must be given its full effect.”

(b)The Respondent No. 2 to 4 have also contended that the present case falls under Section 68 of the EA 2003 and hence this Commission has no jurisdiction in the matter. It is therefore necessary to examine Section 68 and certain other provisions of the EA 2003 as follows:-

“68. (1) An overhead line shall, with prior approval of the Appropriate Government, be installed or kept installed above ground in accordance with the provisions of sub-section (2).

(2) The provisions contained in sub-section (1) shall not apply-

(a) in relation to an electric line which has a nominal voltage not exceeding 11 kilovolts and is used or intended to be used for supplying to a single consumer;

(b) in relation to so much of an electric line as is or will be within premises in the occupation or control of the person responsible for its installation;

or

(c) in such other cases as may be prescribed.

(3) The Appropriate Government shall, while granting approval under sub-section (1), impose such conditions (including conditions as to the ownership and operation of the line) as appear to it to be necessary

(4) The Appropriate Government may vary or revoke the approval at any time after the end of such period as may be stipulated in the approval granted by it.

(5) Where any tree standing or lying near an overhead line or where any structure or other object which has been placed or has fallen near an overhead line subsequent to the placing of such line, interrupts or interferes with, or is likely to interrupt or interfere with, the conveyance or transmission of electricity or the to interrupt or interfere with, the conveyance or transmission of electricity or the

accessibility of any works, an Executive Magistrate or authority specified by the Appropriate Government may, on the application of the licensee, cause the tree, structure or object to be removed or otherwise dealt with as he or it thinks fit.

(6) When disposing of an application under sub-section (5), an Executive Magistrate or authority specified under that sub-section shall, in the case of any tree in existence before the placing of the overhead line, award to the person interested in the tree such compensation as he thinks reasonable, and such person may recover the same from the licensee.

Explanation - For purposes of this section, the expression "tree" shall be deemed to include any shrub, hedge, jungle growth or other plant."

(c) Perhaps, Respondent No. 2 to 4 noticed that Section 68 does not contain the words "Appropriate Commission" anywhere. However, Respondent Nos. 2 to 4 missed out referring to the definition of "overhead line" in Section 2(48) which reads as follows:-

"(48) "overhead line" means an electric line which is placed above the ground and in the open air but does not include live rails of a traction system;"

(d) Hence, "overhead line" means an electric line. The power of the Commission to exercise jurisdiction under Section 67(4) arises from sub-sections (1),(2) and (3) of Section 67 on inter alia the following matters:-

- (i) to lay down or place electric supply lines;
- (ii) to lay down and place electric lines, electrical plant and other works;
- (iii) for carrying out **works**;

(e) Hence, the power of the Commission to exercise jurisdiction under Section 67(4) covers "overhead lines" which are electric lines and / or works. The terms "electric line" and "works" are defined as follows:-

*" (20) "electric line" means any line which is used for carrying electricity for any purpose and includes
(a) any support for any such line, that is to say, any structure, tower, pole or other thing in, on, by or from which any such line is, or may be, supported, carried or suspended;
and*

(b) any apparatus connected to any such line for the purpose of carrying electricity;

“(77) “works” includes **electric line**, and any building, plant, machinery, apparatus and any other thing of whatever description required to transmit, distribute or supply electricity to the public and to carry into effect the objects of a licence or sanction granted under this Act or any other law for the time being in force.”

(f) Hence, the power of the Commission to exercise jurisdiction under Section 67(4) covers “overhead lines” under Section 68.

(4) “Whether the impugned Order dated 22/07/2011 is in accordance with the provisions of law?”

(a) Under Section 115 of the Code of Civil Procedure an order of a subordinate court can be interfered with when such court appears:-

- (i) to have exercised a jurisdiction not vested in it by law, or
- (ii) to have failed to exercise a jurisdiction so vested, or
- (iii) to have acted in the exercise of its jurisdiction illegally or with material irregularity.

(b) Hon’ble Supreme Court in *Harshvardhan Chokkani vs. Bhupendra N. Patel & Ors* [(2002) 3 SCC 626] held as follows:-

“7. *In examining the legality and the propriety of the order under challenge, what is required to be seen by the High Court is whether it is in violation of any statutory provision or a binding precedent or suffers from misreading of the evidence or omission to consider relevant clinching evidence or where the inference drawn from the facts proved is such that no reasonable person could arrive at or the like. It is only in such situations that interference by the High Court **in revision** in a finding of fact will be justified. Mere possibility of a different view is no ground to interfere in exercise of revisional power.*”

(c) The District Magistrate by its impugned Order dated 22/07/2011 has granted permission to Maharashtra State Electricity Transmission Co. Ltd., Nagpur to complete the construction work for laying of 400 KV Koradi II to Wardha PG Electricity Lines (Tower) to the concerned farm lands. The District Magistrate has directed that MSETCL shall pay special attention to ensure that minimum damage will be caused to the farm land / property of the concerned farmers and at

the time of commencing the works of laying of electricity lines MSETCL shall have to pay compensation immediately for the loss to the crops and other damages to the non-applicant farm land owners and other concerned farmers eligible for the damages. The District Magistrate has also directed that due compensation as per Government Rules and statutory provisions will have to be paid immediately to all the affected farm land owners. The aforesaid directions of the District Magistrate relates to Wardha Taluka, Village Umri (Meghe) Farm Survey No.152 and Wardha Taluka, Villate Rota Farm Survey No.129. The District Magistrate has furthermore directed that the Deputy Regional Officer, Wardha should determine the amount of compensation within a week from the date of the impugned Order and that MSETCL shall pay the amount of compensation as decided by the concerned Deputy regional Officer within next eight days to the non-applicants. The amount of compensation is to be determined as per the Government, Industry, Energy, Labour Department, Resolution No.Misc/0210/CR-29/Energy-4/ dated 1/11/2011. There is a direction to the non-applicants not to create any obstruction or interruption in the work of laying down electric lines (tower lines) by MSETCL. On perusal of the impugned Order, the Commission does not find that there is any violation of any statutory provision or any binding precedent or that the impugned Order suffers from misreading of the evidence or has omitted to consider any relevant evidence. It is not as if the impugned Order takes any view that no reasonable person could arrive at such a view. On the other hand, the District Magistrate has ensured by its Order that least damage, detriment or inconvenience is caused and that compensation is determined and paid for any damage, etc. The Commission is of the view that the said directions in the impugned Order are in line with the onus cast upon the licensee under Sub-section 3 of Section 67 of the Electricity Act, 2003. The Commission is also of the view that the District Magistrate has been conferred with jurisdiction not only under Sections 12 to 18 of the Indian Electricity Act, 1910, which are saved under Section 185(2)(b) until the Rules under Section 67 to Section 69 are made, but also under Rule 3 of the Works of Licensees Rules, 2006. Sub-rule (2) of Rule 3 of the Works of Licensees Rules, 2006 provides as follows:-

*“(2) When making an order under sub-rule (1), the District Magistrate or the Commissioner of Police or the officer so authorised, as the case may be, **shall fix**, after considering the representations of the concerned persons ,if any, **the amount of compensation** or of annual rent, or of both, which should in his opinion be paid by the licensee to the owner or occupier.”*

(d) Hence, the directions of the District Magistrate to have the amount of compensation determined and paid to the land owners is in accordance with the powers vested on the District Magistrate under Sub-rule (2) of Rule 3 of the Works of Licensees Rules, 2006.

(e) The original records of the impugned Order also reveals that the Respondent No. 1 has followed the principles of natural justice while conducting the hearings and the passing of the impugned Order. The Respondent No. 1 has conducted as many as eight hearings by allowing the parties to file their respective documents and present their case. All the parties were given substantial opportunity to file their submissions and to present their case.

(f) In view of the above, it has to be held that the District Magistrate has, indeed, exercised the jurisdiction vested in her by law. Therefore, there is no question of failure to exercise the jurisdiction so vested. After going through the records, it cannot be held that the District Magistrate has acted in the exercise of jurisdiction illegally or with any material irregularity.

(g) In view of the above, the Commission confirms that the District Magistrate's impugned Order has been passed in accordance with law.

21. Consequently, the prayer to quash and set aside the notice dated 30/08/2010 issued by MSETCL is rendered infructuous.

22. In view of the above findings, the Commission does not find any merit in this Revision Petition and finds it necessary to dismiss it.

23. In view of the above observations the present Petition stands dismissed. No orders as to cost. The office of this Commission is directed to return the original records and proceedings of Case No.11 of 2011-12 to the office of the Respondent No. 1.

Sd/-
(Vijay L. Sonavane)
Member

Sd/-
(V. P. Raja)
Chairman