

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.329 of 2017

Date of Decision : 18.09.2026

Power Grid Corporation of India Limited Corporate Center and another

..... Petitioners

Versus

Pawan Kumar and another

.....Respondents

Coram:

The Hon'ble Mr. Justice Bipin Chander Negi, Judge

Whether approved for reporting?¹ No

For the petitioners : Mr. Bimal Gupta, Senior Advocate with Ms. Kusum Chaudhary, Advocate.

For the respondents : Mr. B.K. Thakur, Advocate, for respondent No.1.

Mr. Gobind Korla, Additional Advocate General, for respondent No.2-State.

Bipin Chander Negi, Judge (oral)

The present petition has been preferred against the impugned order dated 01.11.2016, passed by the Deputy Commissioner, Mandi, District Mandi (Himachal Pradesh), on an application filed under Section 10(d) read with Section 16 of the Indian Telegraph Act, 1885, whereby compensation has been awarded in favour of respondent No. 1 on account of electricity transmission line passing over the house of respondent No. 1.

2. The construction of the 400 KV Banala-Amritsar Transmission Line was carried out during the years, 2008-2013 for

¹ **Whether reporters of Local Papers may be allowed to see the judgment?**

evacuation of power from Parbati-II and Koldam Hydro Electric Plants. Under the Telegraph Act, 1885 and the Electricity Act, 2003, the writ petitioner No.1 is empowered to place and maintain power lines over, along, or across any immovable property, as the same is constructed for the benefit of the public at large. The 400 KV Banala-Amritsar Transmission Line from tower No. 91 to 92 passes in a manner whereby the house of respondent No. 1 comes within the right of way of the transmission line.

3. In the aforesaid facts and attending circumstances, the writ petitioner No.1 had assessed the compensation on account of the damage caused to the property of respondent No.1. The same had been got assessed from the Public Works Department. The Public Works Department had estimated the damage at Rs.7,48,160/-. The assessment had been done in terms of Section 10 of the Telegraph Act, 1885.

4. Feeling aggrieved of the same, respondent No. 1 had preferred an application under Section 10 read with Section 16 of the Indian Telegraph Act, 1885, whereby respondent No. 1 was seeking acquisition of his land and house and payment of just and fair compensation on account of passing of the electricity line over his property. Copy of the application so filed has been placed on record as Annexure P-3. Reply thereto filed by the respondents (writ petitioners herein), has been placed on record as Annexure P-4. In the same, a specific objection qua maintainability and jurisdiction of the Deputy Commissioner had been taken.

5. In the aforesaid backdrop, the impugned order dated 01.11.2016 (Annexure P-6) has been passed by the Deputy Commissioner, whereby respondent No. 1 has been held entitled to compensation of Rs.13,58,438/- as cost of house, Rs. 10,800/- as electrical displacement charges, and Rs. 3,00,000/- as relocation charges (which include dismantling charges), hence, a total of Rs. 16,69,238/- has been awarded in favour of respondent No. 1. The payment, as per the impugned order, was to be made in two installments, half before dismantling and the remaining half after dismantling of the building. The land has been held to be not acquired and the same shall remain in the ownership and possession of respondent No. 1.

6. Heard learned counsel for the parties and perused the pleadings.

7. The writ petitioner No.1, i.e., Power Grid Corporation of India Limited, has been authorized to exercise powers vested in the Telegraph Authority under Part III of the Telegraph Act, 1885. The same is evident from Annexure P-7 (at page 34 of the paper-book). The relevant extract, whereof, reads as follow:

"Now, therefore, in exercise of the powers conferred by Section 164 of the Electricity Act, 2003 the Power-grid is hereby authorized to exercise all the powers vested in the Telegraph Authority under Part-III of the Indian Telegraph Act, 1885, in respect of the electrical lines and electrical plant established or maintained, or to be so established or maintained for the transmission of electricity or for the purpose of telephonic or telegraphic communication necessary for the proper coordination of the works."

8. In view of the aforesaid, in terms of Section 10 contained in Part-III of the Indian Telegraph Act, 1885, the writ petitioner No.1 is authorized to place and maintain electricity lines under, over, along, or across, and posts in or upon any immovable property. For any damage sustained on account of the aforesaid, the authority so authorized under Section 10 of the Telegraph Act shall pay full compensation. The same is evident from Section 10, clause (d) thereof, which reads as follow:

“10. Power for telegraph authority to place and maintain telegraph lines and posts. The telegraph authority may, from time to time, place and maintain a telegraph line under, over, along, or across, and posts in or upon any immovable property:... ..

Provided that

a.

b.

c.

d. *in the exercise of the powers conferred by this section, the telegraph authority shall do as little damage as possible, and, when it has exercised those powers in respect of any property other than that referred to in clause (c), shall pay full compensation to all persons interested for any damage sustained by them by reason of the exercise of those powers.”*

9. The disputes, if any, concerning the sufficiency of compensation determined under Section 10, clause (d) of the Indian Telegraph Act, 1885 can only be adjudicated upon by the District Judge, within whose jurisdiction, the property is situate, in terms of Section 16(3) of the Indian Telegraph Act, 1885. The relevant extract whereof reads as follows:-

“16. Exercise of powers conferred by section 10, and disputes as to compensation, in case of property other than that of a local authority.

(1)

(2)

(3) If any dispute arises concerning the sufficiency of the compensation to be paid under section 10, clause (d), it shall, on application for that purpose by either of the disputing parties to the District Judge within whose jurisdiction the property is situate, be determined by him.

(4) If any dispute arises as to the persons entitled to receive compensation, or as to the proportions in which the persons interested are entitled to share in it, the telegraph authority may pay into the Court of the District Judge such amount as he deems sufficient or, where all the disputing parties have in writing admitted the amount tendered to be sufficient or the amount has been determined under sub-section (3), that amount; and the District Judge, after giving notice to the parties and hearing such of them as desire to be heard, shall determine the persons entitled to receive the compensation or, as the case may be, the proportions in which the persons interested are entitled to share in it."

10. In the aforesaid backdrop, it is evident that once compensation under Section 10, clause (d) of the Indian Telegraph Act, 1885 had been approved by the writ petitioners in terms of letter dated 09.04.2015, and intimation thereof had been given to respondent No. 1 vide letter dated 05.06.2015 (page 18 of the paper-book) and letter dated 23.06.2015 (page 19 of the paper-book), then an appeal against the same could have been only preferred before the District Judge, within whose jurisdiction, the property is situate, in terms of Section 16(3) of the Indian Telegraph Act, 1885. Invoking the jurisdiction of the Deputy Commissioner, Mandi, District Mandi (Himachal Pradesh), in the case at hand, was not legally permissible, as the said authority inherently lacked jurisdiction to adjudicate upon the sufficiency of the compensation awarded under Section 10, clause (d) of the Telegraph Act.

11. In the aforesaid facts and attending circumstances, the writ petition is allowed, impugned order dated 01.11.2016, passed by the Deputy Commissioner, Mandi, District Mandi, Himachal Pradesh, is quashed and set aside on account of inherent lack of jurisdiction. Respondent No. 1 is at liberty to avail of his remedies, in accordance with law.

12. Pending miscellaneous application(s), if any also stand disposed of accordingly.

September 18, 2026 (KS)

(Bipin Chander Negi)
Judge