

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.4524 of 2015
Date of Decision: 17.9.2026

Sheetal Thakur

.....Petitioner

Versus

State of Himachal Pradesh and Ors.

.....Respondents

Coram

Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting?

For the Petitioner: Mr. Narendra Guleria, Mr. Loveneesh Singh Thakur and Mr. Chandresh Pal, Advocates.

For the Respondents: Mr. Rajan Kahol & Mr. Vishal Panwar, Additional Advocates General and Mr. Ravi Chauhan & Mr. Anish Banshtu, Deputy Advocates General, for respondent No.1.
Ms. Sunita Sharma, Senior Advocate with Mr. Dhananjay Sharma, Advocate, for respondents No. 2 to 5.

Sandeep Sharma, J. *(Oral)*

By way of instant petition, petitioner has prayed for following main reliefs:

“A. That the respondents may kindly be directed to pay a sum of Rs. 2,00,00,000/- (Rupees Two Crore) to the petitioner by way of compensation.

B. That the respondents be direct to install and maintain all the electricity wires, conductors, apparatus, etc. strictly in accordance with the Electricity Act, Rules and Regulations etc. so that no such untoward incident takes place in the future.

C. That the respondent No. 1 may kindly be directed to take disciplinary action against the erring officials of the respondent department."

2. Quintessential facts, which are relevant for adjudication of the case, as emerge from pleadings adduced on record by the respective parties, are that on 17.06.2014, while petitioner, who at the relevant time was minor, was playing cricket along with his friends in the ground, he went to the lintel of adjoining house of Shri Gagan Deep Sharma, S/o Shri Neel Kanth, situate in Village Partap Nagar, Tehsil Amb, District Una, Himachal Pradesh, to bring the ball, but when he entered the lintel, a high tension live wire, commonly known as 11 KV Amb-Nandpur-Chururu, which at the relevant time was lying low near to the lintel, suddenly pulled the petitioner, as a result thereof, he got electrocuted and fell down and sustained serious burn injuries on his whole body.

3. Though at the first instance, petitioner was taken to Civil Hospital, Amb for treatment, but from there he was referred to PGI, Chandigarh, as his condition had become very critical. A report was lodged at Police Station Amb, District Una vide Rapat No. 63(A) dated 27.06.2014, copy whereof is annexed as Annexure P-1.

4. Petitioner, on account of electrocution, remained admitted at PGIMER, Chandigarh between 17.06.2014 and 30.07.2014 and thereafter

he was compelled to visit PGIMER after interval of every week for next two months and presently once in a month and is still under treatment.

5. On account of injuries suffered by him, petitioner was operated and his right arm was amputated. During the course of hospitalization, family of the petitioner incurred expenditure of more than Rs. 2.00 Lakh for his treatment and nearly Rs. 1.00 Lakh on transportation, as is evident from copies of medical treatment history and bills placed on record as Annexure P-2 (colly.).

6. It is the claim of the petitioner that he, on account of gross negligence of the respondents, suffered 90% disability, as a result of which he has become totally incapacitated to do any kind of work. Since petitioner has become dependent upon others for his day-to-day activities, as is evident from disability certificate placed on record as Annexure P-3, he approached the respondent-authorities to adequately compensate him, but since needful was not done, he approached this Court in the instant proceedings praying for reliefs, as have been reproduced hereinabove.

7. Pursuant to the notices issued in the instant proceedings, respondents No. 2 to 5 have filed reply under signatures and affidavit of Deputy Chief Engineer, Operation Circle, HPSEBL, Una, wherein facts, as have been noticed hereinabove, have not been specifically disputed, rather

stand admitted. An attempt has been made by the respondents to refute the claim of the petitioner on the ground that petitioner did not receive burn and other injuries due to electric shock from 11 KV High Tension line. It is further submitted that respondents never received any information or complaint, either from the petitioner or from any other source, with respect to the alleged electrocution. Neither at the time of alleged incident nor thereafter, was incident reported to the respondents, rather, for the first time, matter came to the notice of the respondents in the month of April 2015, when representation was sent to respondent No. 4 by the petitioner, however, same was nothing, but an attempt to create false evidence.

8. While stating that representation dated 09.04.2015 was duly replied, it has also been submitted at the behest of respondents that perusal of report No. 63(A) recorded in the daily diary of Police Station Amb clearly shows that it does not substantiate the version of the petitioner. It has also been submitted in the reply that police does not appear to have made any inquiry, as police never approached replying respondents at any point of time, rather, conduct of the petitioner is suggestive of the hypothesis that petitioner has concocted facts with ulterior motives to grab compensation from the replying respondents.

9. Having heard learned counsel for the parties and perused material available on record, this Court finds that there is no dispute with regard to burn injuries suffered by the petitioner on account of electrocution, as is evident from medical bills and treatment summary placed on record. There is no specific denial on behalf of respondents with regard to the alleged incident, but yet an attempt has been made by the respondents to prove that petitioner has concocted a false story with a view to extract money from the department. Besides above, during arguments, Ms. Sunita Sharma, learned Senior Counsel, attempted to argue that petitioner failed to take due care and precaution and safety measures while going on the lintel to fetch the ball.

10. At this stage, the question which needs to be determined/examined is whether this court, while exercising power under Article 226 of the Constitution of India, can proceed to award compensation on account of burn injuries by way of electrocution. Hon'ble Supreme Court in a catena of cases has ruled that in case it is established on record that the accident occurred due to negligence of the respondent/authority concerned, writ court can proceed to award compensation while exercising power under Article 226 of the Constitution of India. (See **D.K. Basu v. State of W.B.** (1997) 1 SCC 416, **Rudal Shah.v. State of Bihar**, (1983) 2

SCC 746 and **MCD v. Subhagawanti & Ors.** AIR 1966 SC 1750.) However, the Apex Court, in case **Chairman Grid Corpn. V. Sukamani Dass**, (1999) 7 SCC 298, has held that if disputed questions of facts come on record, the same cannot be adjudicated by a writ court.

11. At this stage, it would be profitable to take note of the following paras of Chairman Grid Corpn. V. Sukamani Dass (supra):

“6. In our opinion, the High Court committed an error in entertaining the writ petitions even though they were not fit cases for exercising power under Article 226 of the Constitution. The High Court went wrong in proceeding on the basis that as the deaths had taken place because of electrocution as a result of the deceased coming into contact with snapped live wires of the electric transmission lines of the appellants, that "admittedly prima facie amounted to negligence on the part of the appellants". The High Court failed to appreciate that all these cases were actions in tort and negligence was required to be established firstly by the claimants. Mere fact that the wire of the electric transmission line belonging to the appellant No. 1 had snapped and the deceased had come into contact with it and had died was not by itself sufficient for awarding compensation. It also required to be examined whether the wire had snapped as a result of any negligence of the appellants and under which circumstances the deceased had come into contact with the wire. In view of the specific defences raised by the appellants in each of these cases they deserved an opportunity to prove that proper care and precautions were taken in maintaining the transmission lines and yet the wires had snapped because of circumstances beyond their control or unauthorised intervention of third parties or that the deceased had

not died in the manner stated by the petitioner. These questions could not have been decided properly on the basis of affidavits only. It is the settled legal position that where disputed questions of facts are involved a petition under Article 226 of the Constitution is not a proper remedy. The High Court has not and could not have held that the disputes in these cases were raised for the sake of raising them and that there was no substance therein. The High Court should have directed the writ petitioners to approach the Civil Court as it was done in OJC No. 5229 of 1995.

7. Reliance placed by the learned counsel for the respondents on the decision of this Court in *Shakuntala Devi v. Delhi Electric Supply Undertaking*, [1995] 2 SCC 369 is really of no avail to the respondents. Even while entertaining a writ petition under Article 32 of the Constitution, in view of the peculiar facts of that case, this Court observed in clear terms that "the question of negligence of officials of Respondent 1 can be properly examined in a suit where correct facts can be established." In that case, respondent No. 1 was directed to make payment of reasonable amount ex-gratia in exercise of the power under Article 142 of the Constitution and that too because respondent No. 1 had agreed to that course being adopted. The power which is available to this Court under Article 142 is not available to the High Courts, as observed by this Court in *Sanchalakshri & Anr. v. Vijayakumar Raghuvirprasad Mehta & Anr.* JT (1998) 8 SC 55."

12. It is quite apparent from the aforesaid exposition of law that where disputed questions of facts are involved, petition under Article 226 of the Constitution of India is not a proper remedy. The question regarding extent of negligence of the officials of the respondent/authority concerned

thus can be properly examined in a suit, where correct facts can be established.

13. Though in the case at hand factum with regard to petitioner's having suffered multiple burn injuries on account of electrocution has been denied by respondents, but petitioner with a view to prove his case has placed on record ample material suggestive of the fact that on the alleged date of incident, he suffered electrocution on account of the fact that respondents failed to take due care and precaution with regard to maintenance of transmission line. Though negligence, if any, at the behest of respondent-Board has been specifically denied by respondent-Board, but otherwise also, such fact, if any, cannot be proved in the instant proceedings, rather, for that purpose, petitioner is required to approach competent court of law.

14. Though this Court is fully alive and conscious of the fact that damages by way of compensation, as claimed in the present petition, cannot be determined in the instant proceedings and question with regard to negligence or dereliction of duty on the part of employees of respondent-Board is required to be proved in accordance with law by the petitioner in appropriate proceedings of law, but having regard to the fact that there is no dispute that petitioner has suffered multiple injuries on account of

electrocution and his one arm has been amputated, this Court finds it fit to award some compensation as an interim measure, enabling him to meet his day-to-day expenses as well as legal expenses which he may incur on account of proceedings, if any, filed on his behalf for damages/compensation before appropriate court of law.

15. Consequently, in view of the detailed discussion made hereinabove, present petition is disposed of with direction to the respondents to pay a sum of Rs. 5.00 Lakh as an interim compensation to the petitioner within a period of four weeks. Needless to say, aforesaid amount awarded to the petitioner as an interim measure would be adjusted/counted towards the compensation, if any, awarded in favour of the petitioner in appropriate proceedings which may be initiated by him.

16. Before parting, it is clarified that observations made hereinabove shall have no bearing on the decision of the proceedings, which may be filed on behalf of the petitioner before appropriate forum and the same shall be decided on its own merits.

Pending applications, if any, stand disposed of accordingly.

September 17, 2026
(manjit)

**(Sandeep Sharma),
Judge**