

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 17004 of 2025

Date of Decision: 14.09.2026

Sohan Lal

.....Petitioner

Versus

State of Himachal Pradesh & Ors.

... Respondents

Coram:

Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting? ¹ Yes.

For the Petitioner: Mr. Naresh K. Sharma, Advocate.

For the Respondents: Mr. Rajan Kahol & Mr. Vishal Panwar, Additional Advocates General with Mr. Ravi Chauhan & Mr. Anish Banshtu, Deputy Advocates General, for respondents No.1 to 4-State.

Ms. Sunita Sharma, Senior Advocate with Ms. Harshita Dogra, Advocate, for respondents No.5 to 7.

Mr. Yuyutsu Singh Thakurj, Advocate, for respondents No.8 to 10.

Sandeep Sharma, Judge(oral):

By way of instant petition, petitioner has prayed for following main relief(s):

“(a) That writ of mandamus may kindly be issued, directing the Respondent No.1 to 7 to remove the single face wire of electricity over the house of the petitioner and further to erect the electricity pole on Khasra No.51 which is Government land on “self-execution basis” as the petitioner has already deposited mandatory charges Rs.14,316/- on 28.07.20236.

(b) That appropriate legal action including criminal action may kindly be taken against the respondent No.8 to 10 to create unnecessary hurdles in the way of electricity board

¹Whether the reporters of the local papers may be allowed to see the judgment?

employee to remove the single face wire of electricity over the house of the petitioner and further to erect the electricity pole on Khasra No.51 which is Government land and further heavy cost may be imposed against the respondents No.8 to 10.”.

2. Precisely, the grouse of the petitioner, as has been highlighted in the petition and further canvassed by Mr. Naresh K. Sharma, learned counsel for the petitioner, is that despite there being an application and necessary compliances as required under the Electricity Act, 2003, his prayer to shift the electricity line passing over his house is not being accepted, as a result whereof, there is an imminent threat to his property as well as to the persons living therein.

3. Quintessential facts, as emerge from the pleadings as well as other material adduced on record by the respective parties, are that the petitioner applied for a domestic consumer connection and submitted an A&A form on 03.07.1995 after construction of his house (Annexure R-7/2). On 27.04.2021, the petitioner started construction of the second story, for which respondent-Electricity Board issued a notice of contravention of the provisions of Rules 79 and 82 of the Indian Electricity Rules, 1956 (Annexure R-7/3). Though, in terms of the aforesaid notice, the petitioner did not stop the work, rather he continued with the construction, but also made a request to shift the LT line. Pursuant to the aforesaid request of the petitioner, respondent-Electricity Board called upon him to provide right of way and consent to bear the expenditure vide communication dated 25.04.2022 (Annexure R-7/4). On 04.07.2023, the petitioner submitted an affidavit to execute the shifting of the pole on self-execution. The petitioner started execution of the work in the presence of the police but was unable to shift the pole

because of a land dispute with the private respondents. On 24.03.2026, the case at hand was listed before this Court, when this Court called upon the Assistant Engineer, ESD No. II, Ghumarwin, District Bilaspur, who was present in Court, to furnish a report with respect to the availability of land and available options for shifting the distribution line.

4. Pursuant to the directions issued by this Court, respondents No. 6 and 7 initiated the process for identifying suitable alternate routes. Respondent-Electricity Board, vide office letter dated 27.03.2026 addressed to the Sub-Divisional Magistrate, Ghumarwin, informed that the matter involved verification of land status/ownership and, thus, requested the deputation of revenue officials for assisting in conducting a joint inspection, Annexure R-7/5. In pursuance thereof, a joint inspection was conducted on 01.04.2026, wherein respondents No. 6 and 7, along with official staff, the petitioner, Naib Tehsildar, Ghumarwin, concerned Kanungo, private respondents and other stakeholders were present. Upon joint inspection, Naib Tehsildar, Ghumarwin submitted a report dated 02.04.2026, suggesting two alternative feasible routes (Annexure R-7/6). As per the first proposed route, the pole was proposed to be installed on government land to shift the line over the petitioner's house, where the land had been identified earlier at Khasra No. 51 on one side of Gair Mumkin Rasta. It was observed that if the pole is installed at this location, the existing line would pass over the shed of the private respondent, which is to be replaced with insulated cable from the proposed new pole; the electricity line, after some distance, would partially pass through the land of private respondents No. 8 to 10 and thereafter proceed through government land (Annexure R-7/7). Though the petitioner is insisting on shifting the line through the aforesaid route, the pri-

vate respondents have refused to permit the passage of the line over their land.

5. In view of the aforesaid objection raised by private respondents No. 8 to 10 to allow erection of the line over their land, another feasible route was identified. Route No. 2 has been proposed to shift the line from over the petitioner's house, wherein the distribution line would first travel over the land of private respondents No. 8, 9 and 10, and one pole would be erected on the petitioner's land; thereafter, the line would pass through the land located between the petitioner's house and cowshed and finally traverse government land. In this route, it is proposed that the line which crosses between the petitioner's house and cowshed be duly insulated with cable for ensuring complete safety. Though the private respondents agreed to the aforesaid route, but petitioner is not permitting the erection of the line on his land and has specifically objected to the insulated cable passing through the land between his house and cowshed; rather, he is insisting that his land should not be utilized and line should utilize the land of the private respondents. As per the reply filed by the respondents, though another attempt was made to find out some alternative route, but no other feasible route was found.

6. Ms. Sunita Sharma, learned Senior Advocate, duly assisted by Ms. Harshita Dogra, Advocate, appearing for the respondent-Board, while inviting attention of this Court to the Electricity Manual, submits that it is the duty of the consumer to provide right of way (RoW) through or over any land under his/her control and jurisdiction as may be required by the HPSEBL in connection with provision or maintenance of a service line to the premises of the consumer and, subject to the provisions of Section 67 of the

Act, to the premises of any other consumer. She also placed reliance upon certain judgments passed by the Hon'ble Apex Court to state that it is the duty of the consumer to cooperate with the Electricity Board for establishment of infrastructure or power lines, including Right of Way (RoW), which shall be dealt with in the later part of the judgment.

7. Having heard learned counsel for the parties and perused the material available on record, this Court finds that in the year 1995, on the request made by the petitioner, electricity connection was provided to the petitioner and at that time, one storey of the building was complete. However, interestingly, at the time of raising the second storey, the petitioner never sought any permission from the Electricity Board to raise construction of the second floor; rather, after having completed construction of the second floor in the year 2021, he proceeded to request the Electricity Board to shift the line. Though the record reveals, as has been taken note of hereinabove, that respondent-Electricity Board, taking note of the joint inspection report, proposed two routes, one of which is not acceptable to the petitioner and the other is not acceptable to the respondents, as a result thereof, prayer made on behalf of the petitioner for shifting the electricity wires passing over his house to another land has not been accepted till date. Having carefully perused Section 43 of the Electricity Act, this Court is persuaded to agree with learned counsel for the petitioner that it is the duty of the Electricity Board, being a licensee, to give supply of electricity on an application made by the owner of the premises within a period of one month from the date of receipt of the application.

8. At this stage, it would be apt to take note of S.43 of the Act, which reads as under:

“43. Duty to supply on request (1) Every distribution licensee, shall, on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply;

Provided that where such supply requires extension of distribution mains, or commissioning of new sub-stations, the distribution licensee shall supply the electricity to such premises immediately after such extension or commissioning or within such period as may be specified by the Appropriate Commission.

Provided further that in case of a village or hamlet or area, wherein no provision for supply of electricity exists, the Appropriate Commission may extend the said period as it may consider necessary for electrification of such village or hamlet or area.

(2) It shall be the duty of every distribution licensee to provide, if required, electric plant or electric line for giving electric supply to the premises specified in sub-section 91);

Provided that no person shall be entitled to demand, or to continue to receive, from a licensee a supply of electricity for any premises having a separate supply unless he has agreed with the licensee to pay to him such price as determined by the Appropriate Commission.

(3) If distribution licensee fails to supply the electricity within the period specified in sub-section (1), he shall be liable to a penalty which may extend to one thousand rupees for each day of default. ”

9. Careful perusal of aforesaid provision of law though specifically talks about duty of Electricity Board to provide electricity connection but it nowhere suggests that in that regard, Right of Way (RoW), if any, is to be provided by the applicant. It is also apt to take note of Section 67 of Act, which reads as under:

“67. (1) A licensee may, from time to time but subject always to the terms and conditions of his licence, within his area of supply or transmission or when permitted by the terms of his licence to lay down or place electric supply lines without the area of supply, without that area carry out works such as –

To open and break up the soil and pavement of any street, railway or tramway;

To open and break up any sewer, drain or tunnel in or under any street, railway or tramway;

To alter the position of any line or works or pipes, other than a main sewer pipe;

To lay down and place electric lines, electrical plant and other works;

To repair, alter or remove the same;

To do all other acts necessary for transmission or supply of electricity

(2) The Appropriate Government may, by rules made by it in this behalf, specify;

the cases and circumstances in which the consent in writing of the appropriate government local authority, owner or occupier, as the case may be, shall be required for carrying out works;

The authority which may grant permission in the circumstances where the owner or occupier objects to the carrying out of works;

The nature and period of notice to be given by the licensee before carrying out works;

The procedure and manner of consideration of objections and suggestion received in accordance with the notice referred to in clause ©;

The determination and payment of compensation or rent to the persons affected by works under this section;

The repairs and works to be carried out when emergency exists;

The right of the owner or occupier to carry out certain works under this section and the payment of expenses therefor

The procedure for carrying out other works near sewers, pipes or other electric lines or works;

The procedure for alteration of the position of pipes, electric lines, electrical plant, telegraph lines, sewer lines, tunnels, drains, etc.;

The procedure for fencing, guarding, lighting and other safety measures relating to works on streets, railways, tramways, sewers, drains or tunnels and immediate reinstatement thereof.

The avoidance of public nuisance, environmental damage and unnecessary damage to the public and private property by such works

The procedure for undertaking works which are not reparable by the appropriate Government licensee or local authority;

The manner of deposit of mount required for restoration of any railways, tramways, waterways, etc.

The manner of restoration of property affected by such works and maintenance thereof;

The procedure for deposit of compensation payable by the licensee and furnishing of security; and

Such other matters as are incidental or consequential to the construction and maintenance of works under this section.

(3) A licensee shall, in exercise of any of the powers conferred by or under this section and the rules made thereunder, cause as little damage, detriment and inconvenience as may be, and shall make full compensation for any damage detriment or inconvenience caused by him or by any one employed by him.

(4) Where any difference or dispute (including amount of compensation under sub-section (3) arises under this under this section, the matter shall be determined by the Appropriate Commission.

(5) The Appropriate Commission, while determining any difference or dispute arising under this section in addition to any compensation under sub-section (3) may impose a penalty not exceeding the amount of compensation payable under that sub-section.

10. In terms of the aforesaid provision, appropriate Government is empowered to make rules to give effect to the provisions contained under the Electricity Act. While exercising power under the aforesaid provision of law, the Central Government has framed rules, namely, Works of Licence Rules, 2006. Rule 3 of the aforesaid Rules deals with the duty to be carried out by the licensee, which reads as under:

“3. Licensee to carry out works. – (1) A licensee may –

(a) Carry out works, lay down or place any electricity supply line or other works in, through, or against, any building, or on, over or under any land whereon, wherever or whereunder any electric supply-line or works has not already been lawfully laid down or placed by such licensee, with the prior consent of the owner or occupier of any building or land."

11. As per aforesaid provision of law, it is duty of licensee to carry out works, lay down or place any electricity supply line or other works in, through, or against, any building, or on, over or under any land whereon, wherever or whereunder any electric supply-line or works has not already been lawfully laid down or placed by such licensee, with the prior consent of the owner or occupier of any building or land.

12. First proviso to rule provides that in case owner, occupier or building/ land raises an objection in respect of work to be carried out by licensee, licensee shall obtain permission in writing from District Magistrate or Commissioner of Police or other officer authorized by State Government for carrying out the work.

13. True it is that dispute in question is not with regard to providing an electricity connection, which admittedly, in the year 1995, was made available to the petitioner pursuant to his request; rather, the question is with regard to shifting of the line, which allegedly is passing over the house of the petitioner, but once it is not in dispute that it is also the duty of the Electricity Board to shift the line from one place to another, taking note of the imminent threat, if any, to the life and property of persons seeking to shift the line, the rightful claim of the petitioner, who is seeking shifting of the line from his house to another land, cannot be defeated on the pretext that he has not been able to provide right of way.

14. Admittedly, in the case at hand, the Electricity Department, having taken note of the request made by the petitioner as well as the opposition raised by the private respondents, got the joint inspection conducted and thereafter suggested two alternative routes, but as has been observed hereinabove, Route No. 1 is not acceptable to the private respondents and Route No. 2 is not acceptable to the petitioner, as a result thereof, respondent-Electricity Board has not been able to execute the work on the spot.

15. Admittedly, in the case at hand, objection is being raised by the private respondents to shift the electricity line allegedly passing over the house of the petitioner, as a result thereof, respondent-Electricity Board is finding it difficult to do the needful using Route No. 1. Since the petitioner has objection to using Route No. 2, respondent-Electricity Board has not been able to execute the work on the spot, but once specific provision has been made in the Rules, as provided hereinabove, to deal with a situation where objections are raised for laying an electricity line, respondent-Electricity Board, being the licensee, can always approach the District Magistrate and Commissioner of Police so that necessary assistance is provided to the licensee for execution of the work on the spot. But certainly, the prayer made on behalf of the petitioner to shift the electricity line cannot be denied for the reason that he has not been able to provide right of way.

16. Though, Clause 30 of Electricity Manual, suggests that consumer will provide to the HPSEBL, Right of Way (RoW) in, through or over any land under his/her control and jurisdiction as required by HPSEBL in connection with provision or maintenance of a service line to the premises

of the consumer but rule 3 of afore Rules, casts duty upon licensee Board to get obstruction, if any, caused by land owners removed.

17. There cannot be any quarrel with the proposition of law laid down by the Hon'ble Apex Court in ***Power Grid Corporation of India Ltd. v. Century Textiles and Industries Ltd. & Ors.***, (2017) 5 SCC 143, ***Haryana Vidyut Prasaran Nigam Ltd. v. Navin Kumar & Ors.***, (2008) 16 SCC 282 and ***Madhya Pradesh Electricity Board v. Shri Basantibai***, (1988) 1 SCC 23, which have been pressed into service by Ms. Sharma, but having perused the aforesaid judgments, this Court finds that applicant is only required to provide necessary assistance, but certainly, in terms of the Rules, as discussed hereinabove, necessary action qua removal of obstruction, if any, is required to be taken by the licensee. Hence, the aforesaid judgments have no applicability in the given facts and circumstances of the case.

18. Pleadings adduced on record clearly reveal that, at present, the electricity line which is passing over the house of the petitioner passes through the land of the private respondents as well as petitioner. Though the private respondents have no objection to providing electricity to the petitioner using their land, but their objection is that once a three-phase line is permitted to pass over their land, their entire land beneath the line would become useless for construction of a house, if any, in future.

19. Having carefully perused reply filed by the respondents, this Court finds that with the erection of one pole on the other side of the land of the petitioner, the problem can be solved, but the petitioner is also insisting not to use his land while shifting the electricity wires; rather, his precise request is that the electricity line can be straightaway provided to him from the

pole which is located on the government land and while doing so, no land of the private respondents would be involved.

20. Though Ms. Sunita Sharma, learned Senior Counsel for respondent-Electricity Board, is not averse to the aforesaid prayer of the petitioner, but she states that since there is an encroachment on government land made by the petitioner and private respondents, it may be difficult to lay line from the pole standing on government land to the house of the petitioner.

21. However, having taken note of the extent of encroachment, if any, made by the petitioner, i.e. one biswansi of land, which he otherwise is ready and willing to surrender, this Court sees no difficulty in acceding to the request of the petitioner for providing an electricity connection to his house from the pole standing on the government land. Similarly, this Court finds that one tin shed has been constructed by the private respondents on the government land, which, if required, may also be demolished by the competent authority, enabling the Electricity Board to accede to the request made by the petitioner for shifting of the electricity line passing over his house to the government land.

22. Once this Court is of the definite view that the Rule permits the Electricity Board to approach the District Magistrate and Commissioner of Police for providing necessary assistance/help for execution of the work, respondent-Electricity Board may proceed to execute the work on site, taking note of the interests of both the parties, but while doing so, encroachments, if any, made by both the petitioner and respondents on government land shall also be removed.

23. Consequently, in view of the above, the present petition is disposed of with a direction to respondent-Electricity Board to consider and decide the prayer of the petitioner for shifting of the electricity line passing over his house to some government land, as per the observations made hereinabove and in that regard, necessary assistance may also be taken from the District Magistrate as well as Commissioner of Police and revenue authorities, expeditiously, preferably within a period of six weeks from to-day.

24. Needless to say, respondent-Board is always at liberty to approach the District Magistrate or Commissioner of Police for providing adequate assistance in laying the power line for installation of a three-phase electricity connection in the premises of the petitioner.

25. The petition stands disposed of in afore terms, along with all pending applications.

**(Sandeep Sharma),
Judge**

**September 14, 2026,
(sunil)**