

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 3193 of 2025

Date of Decision: September 10, 2026

Daya Ram Petitioner

Versus

HP State Electricity Board Limited and others ... Respondents

Coram:

Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting? ¹ Yes.

For the Petitioner: Mr. Y.P. Sood, Advocate.

For the Respondents: Ms. Sunita Sharma, Senior Advocate with
Ms. Manisha Kumari and Ms. Harshita
Dogra, Advocates.

Sandeep Sharma, Judge(oral):

By way of present petition filed under Art. 226 of the Constitution of India, petitioner has prayed for following main relief(s):

“That writ of mandamus may kindly be issued against the respondents, directing the respondents to ope-rationalize the Single Phase LT Electricity Line as laid by the respondents in village Galot and shown in the Plan Annexure P-5 and further the respondents be directed to remove the old existing single phase Electricity Line passing over the house of the petitioner in order to avoid danger to the life and property of the petitioner and his family in the interest of justice and fair play.”

2. Precisely, the grouse of the petitioner, as has been highlighted in the petition and further canvassed by Mr. Y.P. Sood, Advocate, appearing for the petitioner is that though petitioner made request to the respondents to shift the Single Phase LT Electricity Line passing over his house situate over Khasra No. 417, 427 and 683/428 in Mohal Galot, Tehsil and District

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

Shimla so that petitioner and his family could live safely and danger to their life and property could be avoided. Though the respondent Board has laid new electricity line but neither has energized the said line, nor removed the old poles, as a result of which the petitioner is suffering.

3. Quintessential facts, as emerge from the pleadings adduced on record by respective parties are that petitioner is owner in possession of land comprised in Khata Khatauni No. 10/43, Khasra No. 422, 425, 426, 427, 429, 4430, 683/428, 684/428, Kita 8, measuring 00-08-00 hectares situate in Village Galot, Tehsil and District Shimla and having his double storey house over Khasra No. 417, 427 and 683/428. As per petitioner a Single Phase LT Electricity Line is passing over the house in question, which is posing threat to lives of petitioner and his family and as such, made request to respondents to shift the electricity line, vide application, Annexure P-2. An estimate was prepared by respondent Board (Annexure P-3) and visits were made by officials of respondents and on 4.9.2021, survey was conducted and even NOC has been issued by local Panchayat. As per petitioner, respondents have completed shifting work of electricity line but line has not been energized, as such, petitioner has approached this Court in the instant proceedings, praying for the reliefs as have been reproduced herein above.

4. Pursuant to notices issued in the instant petition, respondent Board has filed reply, wherein facts, as have been noticed herein above, have not been disputed, rather an attempt is being made to refute the claim of the petitioner on the ground that despite there being repeated communications, petitioner has not been able to remove hindrances in laying electricity wires. It is averred in the reply that Right of Way (RoW) is to be provided by the

petitioner. It is further averred in the reply that though, after receipt of application as well as request made, petitioner has failed to provide Right of Way (RoW) through his plot/land, for shifting distribution line. It is further stated that on 14.2.2000 a civil suit was filed by one Chet Ram in which stay was granted and though said civil suit has been disposed of but thereafter, Rattan Lal son of Chet Ram has been making various representations, for not shifting the electricity line. It is further the case of the respondents that a regular second appeal has been filed by Rattan Lal and on 4.1.2014, judgment and decree dated 31.10.2012 passed by learned District Judge has been stayed

5. Ms. Sunita Sharma, learned Senior Counsel duly assisted by Ms. Manisha Kumari and Ms. Harshita Dogra, Advocates, appearing for the respondent Board, while inviting attention of this Court to the Electricity Manual submits that it is 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 43 of the Act to the premises of any other consumer in accordance with Rules framed by the State Government. She also placed reliance upon certain judgments passed by Hon'ble Apex Court to state that it is duty of the consumer to cooperate with Electricity Board for establishment of any infrastructure or power lines including Right of Way (RoW).

6. Having heard learned counsel for the parties and perused material available on record, this Court finds that though electricity line has been shifted but same has not been energized and civil litigation has been filed qua the suit land, in which stay has been granted by this Court in regular

second appeal, but having carefully perused S.43 of the Electricity Act, this Court is persuaded to agree with learned counsel for the petitioner that it is duty of Electricity Board being the licensee to give supply of electricity on an application made by owner of premises within a period of one month, from the date of receipt of application.

7. 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. ”

8. 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 to the applicant. It is also apt to take note of S.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 –

- (a) To open and break up the soil and pavement of any street, railway or tramway;
- (b) To open and break up any sewer, drain or tunnel in or under any street, railway or tramway;
- (c) To alter the position of any line or works or pipes, other than a main sewer pipe;
- (d) To lay down and place electric lines, electrical plant and other works;
- (e) To repair, alter or remove the same;
- (f) 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;

- (a) 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;
- (b) The authority which may grant permission in the circumstances where the owner or occupier objects to the carrying out of works;
- (c) The nature and period of notice to be given by the licensee before carrying out works;

- (d) The procedure and manner of consideration of objections and suggestion received in accordance with the notice referred to in clause ©;
 - (e) The determination and payment of compensation or rent to the persons affected by works under this section;
 - (f) The repairs and works to be carried out when emergency exists;
 - (g) The right of the owner or occupier to carry out certain works under this section and the payment of expenses therefor
 - (h) The procedure for carrying out other works near sewers, pipes or other electric lines or works;
 - (i) The procedure for alteration of the position of pips, electric lines, electrical plant, telegraph lines, sewer lines, tunnels, drains, etc.;
 - (j) 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.
 - (k) The avoidance of public nuisance, environmental damage and unnecessary damage to the public and private property by such works
 - (l) The procedure for undertaking works which are not reparable by the appropriate Government licensee or local authority;
 - (m) The manner of deposit of mount required for restoration of any railways, tramways, waterways, etc.
 - (n) The manner of restoration of property affected by such works and maintenance thereof;
 - (o) The procedure for deposit of compensation payable by the licensee and furnishing of security; and
 - (p) 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 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.

9. By way of aforesaid provision, an appropriate Government is empowered to make rules to give effect to provisions contained under Electricity Act. In terms of aforesaid provisions of law, Central Government has framed rules namely Works of Licence Rules, 2006. S.3 of afore Rules, deals with duty to be carried out by 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.”

10. 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.

11. 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.

12. Though, Ms. Sharma, learned counsel for the respondent Board, vehemently argued that it is the duty of the petitioner to provide Right of Way (RoW) and to ensure that no objection is raised by person, whose land may come under electricity line but having carefully perused aforesaid rule, this Court is not persuaded to agree with Ms. Sharma, rather is of the view that obstruction, if any, caused by any person in laying of electricity line on the application made by an individual, is to be removed by the licensee i.e. electricity board. Specific provision has been made in the Rules as provided herein above, to deal with situation where objections are raised qua laying of electricity line. In the event of objection being raised, licensee can always approach District Magistrate as well as Commissioner of Police so that necessary assistance is provided to the licensee for execution of work on the spot, but certainly, electricity connection cannot be denied to an individual for the reason that he has not been able to provide Right of Way (RoW).

13. 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 and subject to provision of S.67 of the Act, whereunder Works Li-

cence Rules, 2006 have been made. Rule 3 of afore Rules, castes duty upon licensee Board to get obstruction, if any, caused by land owners, removed.

14. There cannot be any quarrel with the proposition of law laid down by 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 aforesaid judgments, this court finds that applicant is only required to provide necessary assistance but certainly, in terms of rules, as discussed herein above, necessary action qua removal of obstruction, if any, is required to be taken by licensee. Hence, aforesaid judgments have no applicability in the given facts and circumstances of the case.

15. Though, an objection has been taken by the respondents in their reply, that there is stay operating qua suit land, due to which the electricity line now laid, could not be energized, however, this Court is not impressed with aforesaid stand taken by the respondents, firstly, new electricity line stands laid and only work remains to be done is energizing the line and removing the old poles, and no document, worth name has been placed on record to show that there is any stay on energizing the electricity line and removing old poles. Otherwise also, it is duty of the licensee i.e. the Board to provide electricity connection to the premises of a consumer.

16. Consequently, this court finds merit in the petition and same is allowed. Respondent Board is directed to energise the Single Phase LT Electricity Line laid by respondents in Village Galot as shown in Annexure P-5

and to remove old existing single phase electricity line passing over the house of petitioner, expeditiously, preferably within a period of six weeks from today.

17. The petition stands disposed of in afore terms, alongwith all pending applications.

**(Sandeep Sharma),
Judge**

**September 10, 2026;
(vikrant)**