

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.758 of 2017

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1. Baliram Singh, son of Late Raghunath Singh, Resident of Village- Paras Patti (Shirma, P.S.- Dumra, District- Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Energy Department, Government of Bihar, Patna.
3. The District Magistrate, Sitamarhi.
4. The Sub Divisional Officer, Sitamarhi Sadar.
5. The Circle Officer, Circle- Dumra, Sitamarhi.
6. The Block Development Officer, Block- Dumra, Sitamarhi.
7. The Bihar State Power Holding Company Ltd. through the Managing Director, 1st Floor, Bidyut Bhawan, Bailey Road, Patna- 800001.
8. The North Bihar State Power Holding Company Ltd. through the Managing Director.
9. The Executive Engineer, The North Bihar State Power Holding Company, Electric Supply Division, Sitamarhi.
10. The Executive Engineer, Dumra Sub Station, The North Bihar State Power Holding Company, Electric Supply Division, Sitamarhi.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kumar Kaushik
For the State : Mr. Arun Kumar, AC to GP 1
For Respondent/s 7 to 10: Mr. Ritesh Kumar

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 24-03-2017

Heard the parties.

In the present writ petition, limited grievance has been raised by the petitioner that Bihar State Transmission Company has erected the electric transmission tower over the Raiyati land of the petitioner details are as follows: Khata No.128, Khesra No. 276, Mouza Paraspatti, Thana No.352, Circle Dumra, District



Sitamarhi measuring 52 decimals of land.

Complaint has been made by the petitioner that all on a sudden they have entered into Raiyati land and started erecting a high voltage electric transmission tower without obtaining permission from owner of the land violates the right of the property which has been protected under Article 300A of the Constitution.

This issue is no longer in res integra. Earlier there was a provision Under Indian Telegraph Act which empowers the authority to erect the tower having been adopted in the Electricity Act, has been installing tower by the Bihar State Power Generating Company over the Raiyati land. Sections 68 and 69 of the Electricity Act, 2003 also empowers the Generating Company to establish the electric tower and electric poles. This issue has been gone into by the Hon'ble Supreme Court in the case of Power Grid Corporation of India Limited vs. Century Textiles and Industries Limited and others in Civil Appeal No.10951 of 2016, Arising out of SLP © No.34382 of 2010 where only rider has been given, in terms of the new Act that Company must take permission from the appropriate Government.



In the present case the State Government is appropriate authority to grant permission, and in whole of writ petition no statement has been that the tower has installed without permission of the State Government. Mere vague statement has been made in paragraph 14 of the writ petition that tower has erected without following proper procedure which is as follows:

“14. That such and action of trespass over the Raiyati Land of the petitioner by the respondents without any consent or without following the procedure prescribed under the Electricity Act is patently illegal and the respondents are liable to compensate the petitioner for the same.”

The aforesaid statement is vague, having not taken specific ground. Mere vague statement having not followed the Electricity Act can not basis to record adverse finding against the Company where there is conflict of two interest private interest as well as public interest . Public interest will prevail over private interest on the principle of Maxim “Salus Populi est Suprema lex” mean Regard for “Public Welfare is the highest law”. Petitioner has raised grievance that he has not been paid compensation, petitioner is at liberty to approach the appropriate authority who will be obliged to redress his grievance. If



alignment of electric wire is straight transmission loss is in lower side then to deviation of electric wire.

In such view of the matter, this Court does not find any merit in this writ petition. It is accordingly dismissed. However, this order will not cause prejudice with respect to the claim of compensation.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.3.2017
Transmission Date	NA

