

CWP No.1039 of 2018

[1]

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No.1039 of 2018
Date of decision:25.01.2018**

Shri Bhagwan and others ...Petitioners

Versus

State of Haryana and another ...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. B.S.Rana, Senior Advocate, with
Mr. Parveen Kaushik, Advocate, for the petitioners.

Rakesh Kumar Jain, J. (Oral)

The petitioners have prayed for a writ in the nature of *mandamus* seeking a direction to the respondents not to lay/construct high tension line through the land of the petitioners, as proposed in the site plan attached as Annexure P-8, in pursuance of the notification dated 05.07.2016 and also for directing them to change the alignment/route of the transmission line through the green belt of the Haryana Urban Development Authority (HUDA), as proposed by the petitioners in the site plan attached as Annexure P-9 and also for quashing the proposed alignment of 132 KV line, as shown in the site plan Annexure P-8.

The petitioners have averred that petitioners no.1 to 3 are the owners in possession of the land falling in Khewat No.52/44min, Khata No.70, Mustatil Nos.68//6/2, 7/8, 8/8, 13/2, petitioner no.4 is owner in possession of the land comprised in Khasra No.53//24, 68//4, 5, 3/2, 109, 242, petitioner no.5 is the owner in possession of the land comprised in Khasra Nos.68//19, 253, 259 and petitioner no.6 is owner in possession of land comprised in Khasra

Nos.53//13, 17/2, 18, 22, 23, 229 and 412 situated in the revenue estate of village Kasar, Tehsil and District Bahadurgarh. A public notice dated 27.06.2016 was issued by the Haryana Vidyut Prasaran Nigam Limited (hereinafter referred to as the “Nigam”) for construction of various transmission lines and sub stations in Haryana including the one in question, which is mentioned as under:-

<i>Sr. No.</i>	<i>Name of Transmission Line/Section</i>	<i>Name of village/ villages in which line is passing</i>	<i>Tehsil and District</i>	<i>XEN/TS Division</i>
4	Stringing of 2 nd Ckt. Of 132 KV S/C Nuna Majra-HSIIDC Bahadurgarh line with 0.4 sq” (instead of the approved 0.2 sq” size) ACSR conductor on D/C towers with its LILO with the existing 132 kV Assaudha-Bahadurgarh (old) line in such a way to envisage the following arrangement/connectivities: (i) 132 kV Nuna Majra-Bahadurgarh (old) line with 0.4 sq” ACSR conductor. (ii) 132 kV Assaudha-HSIIDC Bahadurgarh line with 0.4 sq” ACSR conductor, i.e. disconnection of 132 kV S/S Assaudha from 132 kV Bahadurgarh (old).	Nuna-Majra, Kassar, Bahadurgarh village	Tehsil: Bahadurgarh, District: Jhajjar	XEN/TS Rohtak
5	132 kV D/C from HSIIDC Bahadurgarh to existing 132 kV Assaudha-Bahadurgarh line for its connectivity with 2 nd ckt. Of 132 KV Nuna Majra to HSIIDC Bahadurgarh line with 0.4 sq” ACSR conductor. (2 kms) along with conversion of 132 kV Assaudha-Bahadurgarh (old) line from LILO point upto Bahadurgarh old substation with 132 kV tower line with 0.4sq” conductor (1 km).	Nuna-Majra, Kassar, Bahadurgarh village	Tehsil: Bahadurgarh, District: Jhajjar	XEN/TS Rohtak

In the said public notice, it was further specifically mentioned as under:-

“Notice is hereby given that any licensee or other person interested may raise any objection and/or may make representation

upon the above scheme within 2 months of the publication of this notification, after which no further objection and/or representation shall be entertained and the scheme shall be deemed to be sanctioned with or without modification by the Nigam.”

Admittedly, the petitioners did not raise any objection or make representation within the prescribed period of two months of the publication of notification. However, the representation was allegedly made later on and it is alleged that the alignment of the route has been changed on the asking of respondents no.8 and 9, who happened to have some influence in the Government.

Counsel for the petitioners has submitted that Chapter VIII of the Electricity Act, 2003 (hereinafter referred to as the “Act”) deals with the works of licensees and has also referred to Section 68 of the Act, which relates to the provisions of overhead lines. He has also referred to the Works of Licensees Rules, 2006 (hereinafter referred to as the “Rules”), which lays down the procedure for carrying out the works by the licensee. Rule 3 of the Rules has the relevance to the facts of this case and, thus, the same is reproduced as under:-

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

- (a) carry out works, lay down or place any electric 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;
- (b) fix any support of overhead line or any stay or strut required for the purpose of securing in position any support of an overhead line on any building or land or having been so fixed, may alter such support:

Provided that in case where the owner or occupier of the

building or land raises objections in respect of works to be carried out under this rule, the licensee shall obtain permission in writing from the District Magistrate or the Commissioner of Police or any other officer authorised by the State Government in this behalf, for carrying out the works:

Provided further that if at any time, the owner or occupier of any building or land on which any works have been carried out or any support of an overhead line, stay or strut has been fixed shows sufficient cause, the District Magistrate or the Commissioner of Police, or the officer authorised may by order in writing direct for any such works, support, stay or strut to be removed or altered.

(2) When making an order under sub-rule (1), the District Magistrate or the Commissioner of Police or the officer so authorised, as the case may be, shall fix, after considering the representations of the concerned persons, if any, the amount of compensation or of annual rent, or of both, which should in his opinion be paid by the licensee to the owner or occupier.

(3) Every order made by a District Magistrate or a Commissioner of Police or an authorised officer under sub-rule (1) shall be subject to revision by the Appropriate Commission.

(4) Nothing contained in this rule shall effect the powers conferred upon any licensee under section 164 of the Act. “

Counsel for the petitioner has vehemently argued that the interest of the petitioners has been seriously prejudiced with the change of alignment, otherwise it is submitted that the technical feasibility cannot be challenged. The petitioners have alleged that the alignment, proposed in the site plan Annexure P-8 at point TL-6, is now passing through the land of the petitioners, which was otherwise passing through the green belt of the HUDA as per the earlier proposal, as shown in Annexure P-9.

I have heard learned counsel for the petitioners and perused the available record.

Rule 3 of the Rules specifically provides that the licensee will

carry out the works with the prior consent of the owner or occupier of any building or land and in case he raises any objection in respect of the works to be carried out, then the licensee has to obtain permission in writing from the District Magistrate or the Commissioner of Police or any other officer authorised by the State Government in that behalf, for carrying out the works. The licensee in this case, before initiating the process of laying down the overhead transmission lines, has issued the notification and it has been specifically provided therein that if any person is interested, then he may raise any objection and/or may make representation in respect of the said scheme within two months of the publication of the notification but, thereafter, no further objection and/or representation shall be entertained and the scheme shall be deemed to be sanctioned with or without modification by the licensee/Nigam.

The petitioners did not make any kind of objection to the scheme much-less within the prescribed time period of two months from its publication, therefore, they are bound by the terms and conditions of the public notice and cannot be allowed to raise the objection now for the purpose of shifting the alignment only on the ground that respondents no.8 and 9 are exercising some kind of influence.

Consequently, the present writ petition is hereby dismissed being denuded of any merit, though without any order as to costs.

January 25, 2018
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No