

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 26537 of 2017
Date of Decision: 23.05.2018

AMARJEET SINGH *...Petitioner*
VS.
STATE OF PUNJAB AND OTHERS. *...Respondents*

CORAM: **HON'BLE MR. JUSTICE RAKESH KUMAR JAIN.**

Present: Mr. Puneet Jindal, Senior Advocate with,
 Mr. N.A. Mahajan, Advocate,
 for the petitioner.

 Mr. H.S. Sitta, AAG, Punjab.

 Mr. Anupam Singla, Advocate,
 for respondent No. 4.

 Mr. Vinod Chodhuri, Advocate,
 for the respondent. PSTCL.

RAKESH KUMAR JAIN, J. (ORAL)

In brief, the Punjab State Transmission Corporation Ltd. (for short ‘the Corporation and hereinafter referred to as the 'Licensee'), in order to undertake the transmission work, necessary for the dispersal/distribution of power for the improvement of the transmission and distribution system of the Corporation, notified various works including the following one, vide its notification dated 25.07.2014 : -

<i>Name of Work</i>	<i>Scope of work, Approx. length of line in Kms.</i>	<i>Size of ACSR conductor Nominal Aluminium Area in mm²</i>	<i>Approx. Cost (₹ In lacs)</i>
<i>LILO of one ckt. of 220 KV Humbran-Ferozepur road, Ludhiana at 220KV Ladhawal (New)</i>	<i>12.463</i>	<i>420</i>	<i>927.25</i>

It was categorically provided in the said notification that "*notice is hereby given that any person may raise objection if any/and or make any representation against the above scheme/transmission works within two month of issue of this notification*".

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The Corporation issued another notification dated 02.11.2016 which may be called as revised notification in which the revised work was mentioned as under:-

<i>Name of Work</i>	<i>Scope of work, Approx. length of line in Kms.</i>	<i>Size of ACSR conductor Nominal Aluminium Area in mm²</i>
<i>Re-revised route of LILO of 220 KV Humbran-Ferozepur Road, Ludhiana at Ladhowal in the land of Punjab Agro Moga Food Park, Ladhowal - Change in position of tower between TL-36 to TL-38</i>	<i>0.06247 (Increase in length of referred section)</i>	<i>420</i>

In both the notifications, there was a provision for raising objections. The petitioner did not raise any objection either at the time of first notification or at the time subsequent notification. Thereafter, the Licensee issued the third notification dated 05.06.2017, further revising the aforesaid work which provided as under: -

<i>Name of Work</i>	<i>Scope of work, Approx. length of line in Kms.</i>	<i>Size of ACSR conductor Nominal Aluminium Area in mm²</i>
<i>Route Plan of LILO of one ckt. of 220 KV Humbran-Ferozepur Road Ludhiana at Ladowal due to construction of Ladowal bye pass - Change in position of towers between TL No. 31A to 36A.</i>	<i>0.0303 (Increase in length of section between TL No. 31A to 36A)</i>	<i>420</i>

In this notification also, there was a provision for filing objections to the laying down of the said transmission line. The petitioner found himself aggrieved with the change of the route plan, notified by way of third notification dated 05.06.2017, because the position of towers were now located between TL 31-A to TL 36-A which were going to be installed in his fields.

Pursuant to the third notification dated 05.06.2017, petitioner filed objections on 05.07.2017. The said objections were not decided in accordance with the provisions of the Works Licensees Rules, 2008 notified

by the Government of India, Ministry of Power, therefore, the petitioner has approached this Court.

At the time of preliminary hearing, *status quo* was ordered to be maintained. The Corporation has filed the reply in which it is averred that the petitioner should not have quoted the Central Works of Licensees Rules, 2008 because the Punjab Works Licensees Rule, 2008 (hereinafter referred to as 'the Rules, 2008') were already notified on 31.12.2008. However, there is no reply to the averments made by the petitioner in Para 10 of the writ petition about the decision on the objections raised by him by the District Magistrate, Ludhiana.

Learned counsel for the petitioner has vehemently argued that even if the Punjab Works Licensees Rules, 2008 are applicable, the Corporation/Licensee was required to get the objections of the petitioner decided from the District Magistrate, Ludhiana for the purpose of carrying out the work. In this regard, he has referred to Rule 3 of the Rules 2008 which read 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, where over or where under 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 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 may order in writing direct for any such works support, stay or strut to be removed or altered.”

According to the petitioner, proviso to Rule 3 (1) (b) of the Rules, 2008, would apply to the facts of this case in which it is provided that if the owner or occupier of the building or land raises objections in respect of works to be carried out under this rule, the licensee has to obtain permission in writing from the District Magistrate for carrying out the works.

During the course of hearing, learned counsel appearing on behalf of the Licensee fairly submitted that the matter has been placed before the District Magistrate, Ludhiana for seeking his concurrence for carrying out the work in terms of the notification dated 05.06.2017 but so far no decision has been taken by him.

Learned counsel for the petitioner has submitted that once the matter is already before the District Magistrate, Ludhiana, in terms of proviso to Rule 3 (1) (b) of the Rules 2008, the *status quo* order, passed by this Court, may be continued till the objections are decided.

Learned counsel appearing on behalf of the Licensee has submitted that with the *status quo* order, the work of the Licensee would suffer.

After hearing learned counsel for the parties and taking into consideration the aforesaid facts and circumstances, much less, proviso to

Rule 3 (1) (b) of the Rules, 2008, which applies squarely to the case of the petitioner, this petition is hereby disposed of with a direction to the District Magistrate, Ludhiana, who is stated to be seized of the objections filed by the petitioner, raised to the notification dated 05.07.2017, to decide the said objections or take a decision to carry out the work or not, by passing a speaking order in consonance with the Rules, 2008, within a period of 10 days from the date of receipt certified copy of this order. Till then, the order passed by this Court with regard to maintaining the *status quo* shall continue. It is made clear that the District Magistrate, Ludhiana shall take a decision without being influenced by the observations made by this Court.

Copy *Dasti*.

May 23, 2018

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(RAKESH KUMAR JAIN)
JUDGE

Whether speaking / reasoned :	✓ Yes / No
Whether Reportable :	✓ Yes / No