

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-12096-2015 (O&M)

Date of Decision:-29.01.2019.

Jasmair Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Ms. Anamika Mehra, Advocate for the petitioner.

Mr. Abhaypal Singh Gill, AAG, Punjab.

Mr. B.S. Mittal, Advocate for respondent No.2.

ARUN MONGA, J. (Oral)

In an earlier round of litigation, instituted at the instance of the petitioner vide CWP-25586-2012, this Court had directed respondent No.3- Punjab Power Corporation Limited to get the transformer removed from the village common path and let the same be relocated at an alternative appropriate place, so as to make the path workable.

2.) Pursuant to the said order, vide the impugned order dated 27.09.2013 (Annexure P-8), the respondent-Additional Superintending Engineer, Operation Division, PSPCL, Kharar has directed the petitioner to deposit a sum of Rs.52,702/- to be paid for removing the said transformer to be installed at an alternative site.

3.) Learned counsel for the petitioner places reliance on Annexure

P-5, which is a site-plan stated to have been prepared by Patwari of the Village, as also the *jamabandi* (Annexure P-2), which is the authenticated revenue record and as per column No.8 thereof, the nature of land has been described as “Gram Rasta” (village common path). In view thereof, she contends that the petitioner, in no way, stands to benefit as neither the Gram rasta land belongs to him, nor even otherwise, he is entitled to its captive usage, upon relocation of the transformer, which is being removed under the directions of this Court.

4.) She further states that in any case the site sought to be relocated would not inconvenience anybody, whereas, if it continues to be installed at the present location, the same may result into an accident or mishap being a public path. She also contends, that in any case, this Court while disposing of the CWP-25586-2012 vide order dated 27.08.2013 had simpliciter directed the respondent/Power Corporation to relocate the transformer and it was not envisaged that the cost thereof was to be borne by the petitioner.

5.) A perusal of para 3 of the written statement filed by respondent-Power Corporation reflects that merely a bald assertion has been made that the cost of the relocation of the transformer is liable to be paid by the petitioner, as per the instructions of the PSPCL. No instructions have been either reproduced in the written statement or appended therewith. In any case, it is a conceded position that the petitioner is not the owner of the land from where it is sought to be relocated and the respondent-Power Corporation is bound by the direction passed by this Court vide order dated 27.08.2013 in CWP- 25586-2012, which has since attained finality.

Even otherwise, in para 3 of the written statement, an unambiguous stand

has been taken that PSPCL has got no objection in shifting of the

transformer, if the amount is deposited by the petitioner. However, nothing has been placed on record as to how is the petitioner, admittedly not the captive user of the transformer in view of the fact that the transformer supplies electricity to the entire village at large. The same transformer, therefore, is also used to supply electricity to the land belonging to the petitioner which is located adjoining the village *rasta*. The petitioner is not liable to pay the cost of relocation as he is neither owner of land from where transformer is being removed nor is the petitioner captive user/consumer of the said transformer.

6.) In view of the observations made above, since the transformer has been installed at the village common *rasta*, I am of the opinion that the same, at its current location, is hazardous to the passerbys. Therefore, it would be in the interest of justice of general public as well as the inhabitants of the village that the transformer is relocated from the village *rasta* to any alternative site. Consequently, the impugned order dated 27.09.2013 (Annexure P-8) is set aside and respondent-Power Corporation is directed to relocate the transformer in terms of the order dated 27.08.2013 passed in CWP-25586-2012, without insisting for its relocation cost to be paid by the petitioner. Let the needful be done within a period of 8 weeks from the date of receipt of certified copy of this order.

7.) Petition stands allowed.

(ARUN MONGA)
JUDGE

January 29, 2019.

sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.