

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16117 of 2019

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Ashok Kumar, son of Late Tribhuwan Singh, resident of village- Neema, P.S.-
Dhanarua, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Energy Department,
Government of Bihar, 8 Daroga Rai Patha, Patna- 800001.
2. The Chairman-cum-Managing Director, Bihar State Power Holding
Company Ltd, 1st floor, Vidyut Bhawan, Jawahar Lal Nehru Marg, Patna.
3. The Managing Director, South Bihar Power Distribution Ltd. Patna.
4. The General Manager, Bihar Power Grid Company Ltd. 2nd floor, Alankar
Palace, Boring Road, Patna.
5. The Field Engineer, Bihar Power Grid Company Ltd. 2nd floor, Alankar
Palace, Boring road, Patna.
6. The Executive Engineer, Electricity Transmission Division, Patna.
7. The District Magistrate, Patna.
8. The Sub-Divisional Officer, (SDO), Masaurhi, Patna.
9. The Circle Officer (CO), Masaurhi, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Sharma, Advocate
For the Respondent/s : Mr. Subhash Pd. Singh (GA-3)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 17-01-2020

Heard the counsel for the parties.

2. The petitioner seeks a direction to the
respondents for removing the electrical line of high



capacity/132 KVD/C transmission from above the *raiyati* land of the petitioner in the District of Patna.

3. It has been submitted that petitioner possesses only that plot of land. It is argued that a *gair majarua* land exists only a little further away from the land of the petitioner over which the transmission line could have been effectively laid without any loss in the transmission of the electrical energy.

4. It has therefore been submitted that the selection of the area over which the electrical line has been drawn/laid is not justified and it be shifted.

5. The other contention of the petitioner is that his agricultural land has been used for erecting the ground towers for which no compensation has been paid to him. The petitioner submits that he is always ready to cooperate in electrification of the State of Bihar but not at the expense of losing his land, without compensation.

6. As opposed to the aforesaid contentions,



learned counsel appearing for the respondents has submitted that the power to lay electric line under, over, along or across, in or upon any immovable property has been conferred by Section 164 of the Electricity Act, 2003 read with Section 10 of the Indian Telegraph Act, 1885 to the respondent company. In the present case, 132 KV D/C Naubatpur-Masaurhi transmission line accidentally crosses over the land of the petitioner and one power tower location falls in that land. The entire transmission line is of the length of 13.231 Kms, laying of which was scheduled to be completed by the end of November, 2019.

7. It has also been submitted on behalf of the respondent company that almost all (48) foundations have already been erected at the cost of Rs. 6.40 crores.

8. Prior to the selection of the site, it has been urged, survey was made by the respondent/company and after physical verification, it was found that the land in question over which the electrical line would be drawn



is an agricultural land and therefore alignment was prepared in such a manner that the line does not cross any prohibited area like dwelling houses, religious places or water bodies.

9. It has further been averred that before laying the transmission line, paper publication was made and at that time also, it transpired that the land over which the electric line would be laid is completely agricultural in nature.

10. The contention of the petitioner that the alignment be shifted to about eight feet away from the land of the petitioner is not acceptable in view of the fact that out of 48 bases for erecting towers, only two fell in the land of the petitioner, which has not consumed any substantial portion of the agricultural land and shifting of the electrical line would disturb the alignment of the transmission line which would lead to losses in the transmission of electrical energy.

11. So far as the compensation for use of the



land of the private parties is concerned, if there is any provision under the Electricity Act, 2003, Indian Telegraph Act, 1885 or any other law, then on the petitioner making a suitable representation before the concerned authorities, the same shall be looked into and the grievance of the petitioner shall be redressed.

12. At this stage, learned counsel for the respondent/company has informed this Court that as a mark of protest, the petitioner had refused to accept any compensation whereas two other persons whose lands were used, have accepted the compensation amount.

13. This Court therefore provides that notwithstanding the earlier refusal of the petitioner to accept compensation, in case such a prayer is made by the petitioner by filing a suitable representation within a period of four weeks, the same shall be considered appropriately by the concerned authorities, within a reasonable period of time, preferably within a period of four weeks of the receipt of such representation.



14. The writ petition is disposed off with the liberty granted to the petitioner.

(Ashutosh Kumar, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	20/01/2020
Transmission Date	N/A

