

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 2280 of 2019**

M/s Sindhu Trade Links Ltd. Hari Bhoomi Complex, Ring Road No. 2,
Gaurav Path, Bilaspur, Tehsil And District- Bilaspur, Chhattisgarh,
Through Its Authorised Representative

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Energy, Mahanadi Bhawan, Mantralaya, Atal Nagar, District- Raipur, Chhattisgarh.
2. Collector Bilaspur, Collectorate Nehru Chowk Bilaspur, District Bilaspur, Chhattisgarh
3. Chhattisgarh State Power Transmission Co. Ltd. Through Its Managing Director, Danganiya, Raipur, Chhattisgarh.
4. Chhattisgarh State Power Distribution Co. Ltd. Through Its Managing Director, Danganiya, Raipur, Chhattisgarh.
5. Director Directorate Of Town And Country Planning, Indravati Bhawan, Block 4, 3rd Floor, Atal Nagar, Raipur, Chhattisgarh.
6. Executive Engineer Chhattisgarh State Power Transmission Co. Ltd. Bilaspur, Chhattisgarh.
7. Assistant Engineer TLM, Sub-Division, Chhattisgarh State Power Transmission Co. Ltd. Bilaspur, Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Manoj Paranjpe, Advocate along with Mr. K. Rohan, Advocate
For State	:	Mr. Jitendra Pali, Dy. A.G.
For Resp. Nos. 3 to 7	:	Mr. Raja Sharma, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****16/06/2020**

1. The present writ petition revolves around an erection of a transmission tower near the Tifra Bridge, Maharana Pratap Chowk, Bilaspur.
2. This Court while entertaining the writ petition at the first instance on 08.07.2019 had stayed the further excavation/construction/erection of the tower. The respondents have entered appearance and have submitted their reply.

3. There have been certain developments that have transpired pending the writ petition before this Court. The developments that have arisen in between have been brought on record by the counsel for the petitioner by moving an application for taking documents on record, which was filed on 03.06.2020. There appears to have been a joint inspection of the site in presence of all the parties to the dispute.
4. That there was some negotiations held between the petitioners and the respondents and a Panchnama was prepared on 08.12.2019 and based upon which correspondence dated 17.03.2020 was issued by the respondents No.3 to 7, the contents of which is being reproduced herein under:

“In reference to the subject and on considering your grievances, it was decided during the meeting held at O/o the Superintending of Police Bilaspur on 07.12.19 to modify the subjected EHV line by placement of Monopole type special tower over your land, in view to ensure the minimum use of land.

It is also instructed to demark the area affected by placement of monopole in presence of representative on behalf of UAD, CSPTCL and M/s Sindhu Trade Link Limited. Accordingly the site was jointly inspected by CSPTCL, UAD and by you, the affected area (about 1.5 mtr in radius) by monopole was marked and then panchnama was prepared which could not signed by yourself while stating that a confirmation from CSPTCL that land owner can use his land as per his requirement.

Accordingly panchnama is hereby sending at your end citing that you can use your land for normal traffic. Kindly sign and accord your consent so that the further action may be taken in public interest.”

5. Based upon the correspondence dated 17.03.2020 issued by the respondents-Company, the petitioner has also given a reply to the respondents No.3 to 7 on 01.06.2020, which again has been brought on record by the said application dated 03.06.2020 and for better understanding the contents of this letter dated 01.06.2020 is also being reproduced herein under:

“As is evident from the above referred letter dated 17.03.2020, a detailed discussion was held on 07.12.2019 and 08.12.2019 for

erection of a monopole type tower on the land belonging to the undersigned in place of the proposed 132 KV line transmission tower over which the Hon'ble High Court has granted a stay order vide order dated 08.07.2019 in W.P.(C) No. 2280/2019. A spot inspection was also carried out and the area where the proposed monopole type tower is proposed to the undersigned to be erected was also decided/marked. The proposed monopole type tower would be 1.5 meter in radius.

The undersigned shall grant its consent subject to the following conditions:

- (a) the rest of the land which remain unhindered connecting the main road – Bilaspur - Raipur highway with the land of the undersigned, would be permitted to be used by the undersigned in future without any objection by CSPTCL and further that CSPTCL shall extend all cooperation and grant no-objection certificate/clearance for using the same as road; and
- (b) the said proposed land of the undersigned shall be taken for erection of the proposed monopole type tower of the radius 1.5 meter in accordance with law.

If the said conditions are accepted, the undersigned shall grant its consent for the use/acquisition of the said land.”

6. From the plain perusal of the two correspondences dated 17.03.2020 issued by the respondents-Company and the reply given by the petitioner on 01.06.2020 what stands admitted is that the respondents-Company has accepted for sight deviation of the site as is evident from the correspondence dated 17.03.2020. That, the deviation now proposed is also acceptable to the petitioner, which again stands admitted from the reply that the petitioner has submitted on 01.06.2020. From the submission that has been made by the counsel for the respondents-Company, it stands established that the erection of the monopole is being done in accordance with the provisions of the Central Electricity Authority (Measures Relating to Safety and Electric Supply) Regulations of 2010. Admittedly, in the regulations there are certain minimum norms and standards of minimum space required to be left adjoining the monopole for the safety and other incidental measures. This applicability of the Regulations so far as the monopole is concerned, is also not objected to by the petitioner.

7. The counsel for the respondents No.3 to 7 Mr. Raja Sharma makes a clear statement that the petitioner remains the exclusive owner of that property with the respondents-Company only having a right to way into the property for maintenance purpose, if at all if such a situation arises. It has further been contended that the entire compensation for the land required for the construction of the pole has already been calculated and compensation also has been deposited with the concerned Sub-Divisional Officer and this calculation was in respect of the site which stood prior to deviation as proposed vide their letter dated 17.03.2020. Now in the event of deviation the fresh calculation has to be made and any further compensation that requires to be paid the same shall also be done in accordance with law. This fact also stands unopposed by either parties to the dispute.
8. So far as the contention of the petitioner in respect of the use of the said property is concerned, there is a categorical statement made by the counsel for the respondents No.3 to 7 stating that so far as the entire patch of land is concerned, the petitioner remains the exclusive owner and the respondents No.3 to 7 in addition to the safety standards mentioned in the aforementioned Regulations, 2010 only want a “right to way” into the property for maintenance aspect if at all if required.
9. This should make all apprehensions that are there in the minds of the petitioner laid to rest, so far as the use of the said property are concerned. However, it is made clear that in the event if, either the petitioner or any of the respondents at a later stage have any intentions of any construction, erection or anything as such, it goes without saying

that they will act in accordance with law governing the field.

10. So far as the observations made by this Court in respect of the fresh calculation of compensation in the light of the deviation of the site is concerned, it is directed that the respondent authorities shall act in accordance with law at the earliest, preferably within a period of 90 days from the date of receipt of the copy of this order, so as to avoid any further delay in the construction in the erection of the monopole as also in the construction of the Over-bridge at the Tifra Crossing.
11. With the given direction and observations made in the preceding paragraphs, the present writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Ved