

IN THE HIGH COURT OF ORISSA AT CUTTACK

**W.P.(C) No.22306 of 2016
(Through hybrid mode)**

Nirmala Sahoo

....

Petitioner

Mr. B. Barik, Advocate

-versus-

***Chief Executive Officer, CESU and
another***

....

Opposite Parties

Mr. T. Pattanayak, ASC

Mr. B. Dash, Advocate
for O.Ps.1 and 2

CORAM: JUSTICE ARINDAM SINHA

ORDER

30.08.2022

Order No.

- 08.** 1. Mr. Barik, learned advocate appears on behalf of petitioner. Earlier on having moved the petition he had submitted, his client is daughter of the deceased, who went out in the paddy field and died by electric shock. On query from Court he submitted, post-mortem was conducted and the report is annexure-3.
2. Mr. Das, learned advocate appears on behalf of opposite party no.2 and had submitted, according to enquiry conducted by his client, the spot, where the body was found, was around 40 feet away from the electric pole. His client disputed that the deceased got electric shock from transmission line over the paddy field. As such he referred to views taken by two several learned Single Judges of this Court, respectively in **order dated 13th**

November, 2007 on WP(C) no.12515 of 2003 (Minati Panigrahi v. Chief Executive Officer) and judgment dated 9th December, 2011 in WP(C) no.20186 of 2009 (Jayanti Malla v. Chief Executive Officer).

3. From order dated 14th July, 2022, the following is reproduced below.

“3. The post-mortem report says burn injury marks on chest, both arms and legs. Opinion as to cause of death given in the report is that death occurred due to neurogenic shock resulting from electric burn.

4. State is added as party. Petitioner will file consolidated cause title by tomorrow (15th July, 2022) and cause service upon added opposite party including this order. Added opposite party is directed to apprise Court of the case details pursuant to FIR no.0234 dated 3rd November, 2016 drawn and registered by Aul PS, Kendrapara.

5. Adjournment is granted for opposite party no.2 to demonstrate existence of dispute in view of documents disclosed in the writ petition, including post-mortem report.”

4. Mr. Pattanayak, learned advocate, Additional Standing Counsel appears on behalf of added party State (concerned P.S.). He submits, Inspector-in-Charge Aul P.S. has filed affidavit dated 16th August, 2022. Following extracted from the affidavit is reproduced below.

“The case has been supervised by Inspector-in-Charge, Saila Kumar Pradhan, the then IIC, Aul P.S. During Supervision, he gave his finding that Kalandi Sahoo was cultivating the land of Raghunath Biswal since long. On 19.10.2016, he had gone to the filed for cultivation purpose. As he did not come back in time, Balaram Sahoo, son-in-law of the deceased alongwith some

villagers rushed to the field and traced him as dead lying on his back at a certain distance from the nearby the joist pole of 11 KV Batipada feeder. As per allegation, the accident spot shown was at a distance from the joist pole erected in the vicinity of cultivated land of Sahira near 11 KV Batipada feeder. The said 3 Phase 3 wire 11 KV Batipada feeder is fed 33/11 KV Patrapur structure. The post mortem indicates that the death of Kalandi Charan Sahoo is due to electric shock. Further, the neighbors and son-in-law and complainant stated that Kalandi Charan Sahoo got electric shock on touching the charge joist pole at the time of cultivation work. The distance between the accident spot and joist pole is about 50 Ft. If the death of deceased due to touching of joist pole, the dead body might have been found near to the pole. As the death of deceased is due to electric shock but death of deceased due to touching of electric pole could not be proved. Subsequently, sub-Inspector of Police, M. Biswal submitted final form vide F.F. No.50, dated 25.02.2020, declaring the case as FR mistake of fact U/s.287/337/304(A)/34 IPC after obtaining order from the Superintendent of Police, Kendrapara. Xerox copy of the supervision note dated 22.02.2020 of the then Inspector-in-Charge, Sri S. K. Pradhan of Aul Police Station is filed herewith as Annexure-A. ”

5. Court appreciates the deceased died of electric shock. The body was found at a distance away from the pole. There were no eye witness. Hence, it cannot be said with certainty that the deceased was electrocuted by the supplier's transmission line/pole. Court notices that the police filed final report citing 'mistake of fact'.

6. On the other hand, fact remains that deceased died of electric shock.

There was no other source of electricity in the field, where deceased had gone to do cultivation work. Presumption is, the deceased was struck by lightning and died.

7. Petitioner will produce this order before opposite party no.3, who will consider the fact of death by electrocution and the circumstances to apply policy of the State regarding ex-gratia/compensation to be paid on death by lightning. There is to be action taken, either by payment of compensation or reasons for denial, informed to petitioner within four weeks of communication.

8. The writ petition is disposed of.

(Arindam Sinha)
Judge

Prasant

