

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.11264 of 2022

A N D

W.P.(C) No.14517 of 2022

W.P.(C) No.11264 of 2022

Kulamani Kar

.....

Petitioner

Mr. Srikanta Mahunta, Advocate

-Versus-

***The Executive Engineer (Electrical),
Kuakhia Electrical Division, Kuakhia,
District- Jajpur & others***

.....

Opp. Parties

Mr. Suresh Chandra Dash, Advocate
(For Opp. Party No.3)

W.P.(C) No.14517 of 2022

***The Executive Engineer (Electrical), TPNODL,
Kuakhia Electrical Division, Kuakhia,
District- Jajpur***

.....

Petitioner

Mr. Suresh Chandra Dash, Advocate

-Versus-

Kulamani Kar & another

.....

Opp. Parties

CORAM:

**JUSTICE S. TALAPATRA
JUSTICE SAVITRI RATHO**

**ORDER
02.11.2022**

Order No.

03.

1. This matter is taken up through Hybrid Mode.

2. Heard Mr. Srikanta Mahunta, learned counsel appearing for the petitioner in W.P.(C) No.11264 of 2022 and also heard Mr. Suresh Chandra Dash, learned counsel appearing for the writ petitioner in W.P.(C) No.14517 of 2022.

3. It may be noted that Mr. Mahunta, learned counsel is also appearing for the Opp. Party No.1 (the consumer) in W.P.(C) No.14517 of 2022 and Mr. Dash, learned counsel is as well appearing for the Opp. Party No.3 in W.P.(C) No.11264 of 2022.

4. The petitioner in W.P.(C) No.11264 of 2022 has, by means of the writ petition, urged this Court to direct the Opp. Parties for shifting of the 11 KV supply line, which is running over the house of the petitioner and to consider the representation Annexure-5 without further delay.

5. In the other writ petition, being W.P.(C) No.14517 of 2022, the authorities which laid the said 11 KV supply line over the house of the petitioner has urged this Court to set-aside the order dated 24.11.2021 passed in the Complaint Case No.57 of 2020 by the Grievance Redressal Forum (GRF), Jajpur Road (Annexure-3 to the writ petition, being W.P.(C) No.14517 of 2022).

6. It would be appropriate to refer to the direction given by the GRF. After analyzing and appreciating the documents and the

submissions of the consumer, the GRF has directed the authority (the petitioner in W.P.(C) No.14517 of 2022) for shifting the line as aforementioned as per Regulations. There is no specific direction. The GRF has only directed the authorities to act according to the Regulations for shifting of the line as aforementioned.

7. Mr. Dash, learned counsel appearing for the petitioner in W.P.(C) No.14517 of 2022 has contended that the order of the GRF is without jurisdiction in as much as The Works of Licensee Rules, 2006 which came into force with effect from 18.04.2006 has specifically created the authority which can direct shifting of the line or in the event of any difficulty faced by the person over whose land or the property, the line is drawn up, who may attend to such issues. Mr. Dash, learned counsel has referred to Rule-3 of the said Rules, which reads as follows:

- “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, wherever or whereunder 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 any 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 or the Commissioner of Police or any other officer authorized by the State Government in this behalf, 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 or the Commissioner of Police, or the officer authorized may be ordered in writing direct for any such works, support, stay or strut to be removed or altered.

(2) When making an order under sub-rule(1), the District Magistrate or the Commissioner of Police or the officer so authorized, as the case may be, shall fix, after considering the representations of the concerned persons, if any, the amount of compensation or of annual rent, or of both, which should in his opinion be paid by the licensee to the owner or occupier.

(3) Every order made by a District Magistrate or a Commissioner of Police or an authorized officer under

sub-rule(1) shall be subject to revision by the Appropriate Commission.

(4) Nothing contained in this rule shall affect the powers conferred upon any licensee under section 164 of the Act.” *[Emphasis added]*

8. It is apparent from the said rule that, if at any time, the owner or any 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 or the Commissioner of Police, or the officer so authorized may be by order in writing direct for any such works, support, stay or strut to be removed or altered.

9. Sub-Rule(2) also provides authority to the District Magistrate or the Commissioner of Police or the other officers, who are authorized, to determine the amount of compensation or of annual rent or both, which should in their opinion be paid by the licensee to the owner or the occupier.

10. Mr. Dash, learned counsel, therefore, has submitted that the GRF ought not to have exercised their power.

11. *Per contra*, Mr. Mahunta, learned counsel has referred to Clause-37 of the OERC Condition of Supply Code, 2019. No doubt, the said clause is for shifting, but for service connection/deviation of

lines and shifting of equipments. Clause-37 provides that the consumer may request for shifting of the service connection or for deviation of the existing lines at their cost. For such purpose, the following time schedule has to be observed for completing those works after getting the expenses:

Shifting of meter/service	15 days
Shifting of LT lines	30 days
Shifting of 11 KV lines	60 days
Shifting of 33 KV lines	90 days
Shifting of 33/11 KV Distribution Transformer structures	90 days

The time schedule given above includes the time required for preparation of estimates, collection of deposits and execution.

12. In Clause-2(62), *the service line* has been defined by the OERC Condition of Supply Code, 2019. The said sub-clause reads as follows:

Service line means any electric supply line through which electricity will or is intended to be supplied from the distribution made or from the transmission system as the case may be. As such, the shifting of line as applied for cannot be termed as a service line.

13. We find sufficient force in the submission of Mr. Dash, learned counsel appearing for the petitioner in W.P.(C) No.14517 of

2022. The Grievance Redressal Forum ought not have exercised the jurisdiction under Regulation-37 of OERC Condition of Supply Code, 2019. For that reason, we are persuaded to interfere with the impugned order of the GRF dated 24.11.2021 Annexure-3 to the writ petition being W.P.(C) No.14517 of 2022. At the same time, we find the grievance of the petitioner in W.P.(C) No.11246 of 2022 requires remedial consideration. Even Mr. Dash, learned counsel appearing for the Opp. Party No.3 in the writ petition being W.P.(C) No.11264 of 2022 writ petition has subscribed that, if everybody raises their objection against drawing of the transmission line over their land, the transmission of power will be jeopardized.

14. That concern cannot be allowed rule the roost to exercise unbridled power in as much as the owner of the land or the building has an indefeasible right to have his say over the extension of overhead transmission line over their land or other properties. It has been also stated that the said overhead line was drawn up two decades ago, but only recently, the petitioner in W.P.(C) No.11264 of 2022 has raised objection by filing the representation dated 21.03.2022 (Annexure-5 to the writ petition being W.P.(C) No.11264 of 2022). In the said representation, the petitioner has primarily urged for implementation of the order of the GRF dated 24.11.2022 in respect

of shifting of the 11 KV supply transmission line which has been drawn up over his land and buildings. Learned counsel for the petitioner has not acceded to the contention that the said transmission line was drawn up two decades ago, as claimed by Mr. Dash, learned counsel for the petitioner in one of the writ petitions.

15. Be that as it may, since we have already interfered with the order of the GRF, we have to focus now on the grievance of the petitioner in W.P.(C) No.11264 of 2022. If the petitioner is facing serious difficulties due to the overhead transmission line, as referred, he may approach the appropriate authority in terms of Rule-3 of The Works of Licensees Rule, 2006 by laying down his difficulties and demand for shifting in the form of a petition.

16. We permit the petitioner to file such petition to the appropriate authority in terms of Rule-3 of The Works of Licensee Rule, 2006 within a period of seven days from the date of receipt of a copy of this order.

17. The authority, as constituted under Rule-3 of The Works of Licensee Rule, 2006 shall pass appropriate order after due consideration of the difficulties and/or danger within a period of three weeks from the date of receipt of the petition from the petitioner in W.P.(C) No.11264 of 2022.

18. It may be further noted that the period of inquiry etc. is included within the said time-frame.

19. In terms of the above, the writ petition being W.P.(C) No.14517 of 2022 is allowed and the writ petition being W.P.(C) No.11264 of 2022 is disposed of subject to the observation made hereunder.

20. There shall be no order as to cost.



(S. Talapatra)
Judge

(Savitri Ratho)
Judge



