

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.25687 of 2021 (O&M)
Date of Decision: 19.04.2022**

Sanjay Goel

.....Petitioner

Vs

**Haryana Vidyut Prasaran Nigam Limited and others
.....Respondents**

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Akshit Aggarwal, Advocate and
Mr. Amulay Aggarwal, Advocate
for the petitioner.

Mr. Puneet Jindal, Sr. Advocate with
Mr. Gautam Goyal, Advocate and
Mr. Amandeep Singh Meho, Advocate
for the respondents-Nigam.

RAJ MOHAN SINGH, J.

[1]. Petitioner has preferred this writ petition for the issuance of an appropriate writ in the nature of certiorari for quashing the impugned notification dated 23.01.2018, whereby respondents are laying down 220 KVA high tension wires from the land of the petitioner, without issuing any notice or giving any opportunity of hearing to the petitioner. Petitioner also sought writ in the nature of mandamus directing the respondents to maintain *status quo* over the suit land and also to stop the construction work at the land belonging to the

petitioner till the objections filed by him are decided by respondent No.2. Petitioner also seeks direction to the respondents to consider the alternative route for laying down the high tension wires at the project site through the Panchayat land.

[2]. Notice of motion was issued on 17.12.2021 and *status quo* was also granted regarding existing position as on that date. The order reads as under:-

“Learned counsel for the petitioner contends that public notice dated 23.01.2018 in respect of LILO of both circuits of 220 KV D/C DCR TPP- Salempur line with 0.4 sq inch. ACSR conductor at 220 KV S/Stn. Bakana in respect of village Dhaurang, Tehsil Radaur, District Yamuna Nagar is silent about the khasra numbers and other particulars of land wherein Haryana Vidyut Prasaran Nigam Limited proposed to undertake the construction of transmission line and sub station. Vide the aforesaid public notice, it was also notified that any licensee or any other person interested may raise any objection or make representation upon the above scheme within two months of the publication of the notification after which no further objection/representation shall be entertained. Necessary plans showing the indicative transmission line/routes may be sent on any working day in the concerned T/S Division of HVPNL.

Learned counsel by referring to Sections 16

and 17(2) of Indian Telegraphy Act submits that necessary compliance has not been made by the respondent- Nigam in terms of issuing any notice to the petitioner or giving any opportunity of hearing. For alteration of route, permission of jurisdictional District Magistrate is required to be taken.

Learned counsel further relies upon similar case i.e. CWP No.17595 of 2021 titled 'Rajesh Kumar and another vs State of Haryana and ors' in which one of the issues is the same and the same is also pending.

Notice of motion for 22.12.2021.

Till the next date of hearing, status quo regarding existing position as on date be maintained.

To be heard along with CWP No.17595 of 2021.”

[3]. Apparently, the present writ petition was ordered to be heard along with CWP No.17595 of 2021. In response to the notice of motion, a short reply by way of affidavit on behalf of the respondent-Nigam was filed. The writ petition is claimed to be barred by principle of constructive *res judicata* as well as Order 2 Rule 2 CPC. The present writ petition has been filed by Sanjay Goel son of Dayal Sarup. Petitioner and his father Dayal Sarup had already instituted a civil suit for permanent injunction on 11.02.2021 in which detailed written statement was filed by the

respondents on 15.02.2021. Along with the written statement, notification dated 23.01.2018, public notice appeared in The Tribune and other vernacular newspapers were also appended before the trial Court. Thereafter the plaintiffs/petitioner filed an amended plaint, but no challenge was laid to the notification in question, wherein the scheme for 'LILO of both circuits of 220 KV D/C DCRTTP-Salempur line with 0.4 sq. inch. ACSR conductor at 220 KV S/Stn. Bakana (15 KM approx.)' was sanctioned by the competent authority while exercising the powers under Section 164 of the Electricity Act, 2003 read with part III of the Indian Telegraph Act, 1885. The plaintiff/petitioner and his father did not seek declaration against the notification in question, however the main ground for seeking injunction was against the said notification alone. The injunction was refused by the trial Court, however the same was granted by the lower Appellate Court against which CR No.2215 of 2021 was filed. The High Court vide a detailed order dated 13.12.2021 accepted the revision petition, thereby setting aside the order passed by the Addl. District Judge, Yamuna Nagar. The civil suit is still pending.

[4]. This Court vide detailed judgment of even date has dismissed **CWP No.17595 of 2021** titled '**Rajesh Kumar and another vs. State of Haryana and others**' after considering

different precedents on the issue. The order dated 13.12.2021 passed in CR No.2215 of 2021 has also been relied.

[5]. Learned Senior counsel for the respondents pointed out that another CWP No.26905 of 2021 titled '*Dayal Sarup vs. Haryana Vidyut Prasaran Nigam Limtied and others*' was also filed by father of the petitioner i.e. Dayal Sarup on 22.12.2021 on the same cause of action in respect of same piece of land challenging the installation of transmission lines therein. The aforesaid petition i.e. CWP No.26905 of 2021 was also filed through the same counsel, who has filed the present petition i.e. CWP No.25687 of 2021. CWP No.26905 of 2021 came up for consideration before the Division Bench of this Court on 03.02.2022 and the same was got dismissed as withdrawn by the petitioner therein.

[6]. Learned Senior counsel further submitted that there is patent concealment and mis-statement of fact. A wrong statement of fact has been projected on the basis of order dated 13.12.2021 passed in CR No.2215 of 2021. CWP No.26905 of 2021 was filed on 22.12.2021 i.e. after filing of the present writ petition and there is no pleading in respect of the present petition. Para 8 of the said petition reads as under:-

“8. *During the pendency of the proceedings before the Hon'ble High Court the respondents*

submitted the impugned notification dated 23.01.2018 to the petitioner, authorizing the respondents to lay down the 220KVA High Tension Wires from his land, which is the subject matter of challenge for the first time before the Hon'ble P&H High Court in this petition. Copy of the impugned notification dated 23.01.2018 is being annexed herewith as Annexure P-5."

[7]. In view of aforesaid plea taken in the writ petition filed by the father of the petitioner through the same counsel, it is apparent that at the time of filing the said petition the factum of pendency of the present petition was concealed. The grounds taken in the present petition i.e. CWP No.25687 of 2021 have been answered vide detailed judgment passed in CWP No.17595 of 2021 vide order of even date. Evidently, the petitioner has concealed the material facts and has not come to the Court with clean hands.

[8]. Learned Senior counsel further submitted that the petitioner cannot maintain two parallel remedies and that too by concealment of fact. Learned Senior counsel by referring to the order dated 08.03.2022 passed by this Court in **CWP No.1965 of 2022** titled '**Nanbai vs. State of Haryana and others**' submitted that the petitioner is not entitled for any equitable relief as the fraud vitiates all solemn acts. Petitioner has no

equities in law.

[9]. Learned Senior counsel by relying upon **CWP No.23897 of 2015** titled '**Bhagwati Nigam Gram Udyog Mandal Ugala vs. State of Haryana and others**' decided on 24.02.2016; **Orissa Power Transmission Corporation Limited and others vs. Asian School of Business Management Trust and Others, 2012 (SCC 738)**; **S.P. Changalvaraya Naidu (dead) by LRs vs. Jagannath (dead) by LRs., 1994 AIR (SC) 853**; **Hamza Haji vs. State of Kerala and another, 2006(7) SCC 416**; **A.V. Papayya Sastry and Ors., vs. Government of A.P. and others, 2007(2) R.C.R. (Civil) 431**; **Balwant Rai Tayal vs. M/s Subhash Oil Company, Hisar through Sh. Raghunath Sahi, 2003(2) R.C.R. (Rent) 148**; **Badami (deceased) by her LR vs. Bhali, (2012) 11 SCC 574** and **Ramesh Kumar and another vs. Furu Ram and another, (2011) 8 SCC 613** further submitted that the person, who has concealed material facts from the Court can be thrown out at any stage of litigation and the petitioner at the same time cannot maintain two parallel remedies, rather the petitioner in the instant case has already availed the alternative remedy of filing civil suit which is still pending. Father of petitioner has also concealed pendency of present petition while filing CWP No.26905 of 2021, which was filed through the same

counsel. Learned Senior counsel in view of aforesaid facts seeks imposition of exemplary cost(s) upon the petitioner.

[10]. Keeping in view the entire facts and circumstances on record and also for the detailed discussion and deliberations recorded in **CWP No.17595 of 2021** titled '**Rajesh Kumar and another vs. State of Haryana and others**', I deem it appropriate to dismiss the present writ petition on merits as well as on concealment of material information. There shall be no order as to costs.

April 19, 2022

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Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No