

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17834 of 2016

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Pramod Nath Tiwary S/o- Late Vishwanath Tiwary, R/o Village P.O.- Malkauli- Pathkauli, P.S.- Bagaha, District- West Champaran.

... .. Petitioner/s

Versus

1. The State Of Bihar through Principal Secretary, Energy Department, Bihar, Patna.
2. The Bihar State Power Transmission Company Limited, 4th Floor, Vidyut Bhawan, Bailey Road, Patna-1.
3. The Managing Director, Bihar State Power Transmission Company Limited, West Champaran, Bettiah.
4. The District Magistrate, West Champaran, Bettiah.
5. The Executive Engineer, Bihar State Power Transmission Company Limited, West Champaran, Bettiah.
6. The Superintending Engineer, Bihar State Power Transmission Company Limited, West Champaran, Bettia
7. The Assistant Electrical Engineer, Bagaha, District- West Champaran at Bagaha.
8. Electrical Engineer, West Champaran at Bagaha.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Pandey
For the Respondent/s : Mr.Yogendra Pd. Sinha- Aag7

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY
ORAL JUDGMENT

Date : 24-06-2024

The present writ application has been filed for issuance of direction restraining the Respondent Nos. 7 and 8 from passing/crossing naked Electric Wire and Pole through the Private Land of the petitioner and further seeking for compensation to the extant of Rs. 3,00,0000/- (rupees three lakhs) for the harassment done and for the inconvenience caused to the petitioner.



2. It is the specific contention of the Learned counsel for the petitioner that he is having residential land of 2 Katha and 7 Dhur in the village of Mangalpur, bearing Khata No. 149, Khesra No. 382 in which he constructed a house and is residing there with his family members. In the month of June-July 2016, the contractor of Electricity Department illegally passed electric poles and wire through his land and above the house for which the petitioner made a complaint on 27.07.2016 before the Assistant Electric Engineer, Bagaha, West Champaran for removal of the poles. In spite of it no action had been taken up by the Department for which he was constrained to file the present writ application.

3. A detailed counter affidavit was filed on behalf of the respondents reporting to the Court that the right of the licensee to install electric pole and take the electric line from the private land has been decided by the Hon'ble Apex Court holding that the private land holder can at best apply for compensation as per the Indian Telegraph Act, and relied upon the judgment of the Apex Court reported in **2017(2) PLJR (SC) 152**. The operative portion of the said judgment reads as follows:-

“20. It is not in dispute that in exercise of powers under the aforesaid provision, the Appropriate Government has conferred the powers of Telegraph Authority vide notification dated December 24, 2003 exercisable under Indian Telegraph Act, 1885 upon the Power Grid. It may also be mentioned that a Central Transmission Utility (CTU) is a deemed licensee under the



second proviso to Section 14 of the Electricity Act, 2003. Power Grid is a Central Transmission Utility and is, therefore, a deemed licensee under the Electricity Act, 2003. This coupled with the fact that Power Grid is treated as Authority under the Indian Telegraph Act, 1885, it acquires all such powers which are vested in a Telegraph Authority under the provisions of the Indian Telegraph Act, 1885 including power to eliminate any obstruction in the laying down of power transmission lines. As per the provisions of the Indian Telegraph Act, 1885, unobstructed access to lay down telegraph and/or electricity transmission lines is an imperative in the larger public interest. Electrification of villages all over the country and availability of telegraph lines are the most essential requirements for growth and development of any country, economy and the well-being/progress of the citizens. The legislature has not permitted any kind of impediment/obstruction in achieving this objective and through the scheme of the Indian Telegraph Act, 1885 empowering the licensee to lay telegraph lines, applied the same, as it is, for laying down the electricity transmission lines. Powers of the Telegraph Authority conferred by Sections 10, 15 and 16 of the Indian Telegraph Act, 1885, stand vested in and are enjoyed by the Power Grid. These provisions are reproduced below:

10. Power for telegraph authority to place and maintain telegraph lines and posts.-

The telegraph authority may, from time to time, place and maintain a telegraph line under, over, along, or across, and posts in or upon, any immovable property:

provided that-

(a) the telegraph authority shall not exercise the powers conferred by this Section except for the purposes of a telegraph established or maintained by the Central Government, or to be so established or maintained;

(b) the Central Government shall not acquire any right other than that of user only in the property under, over, along, across, in or upon which the telegraph authority places any telegraph line or post; and



(c) except as hereinafter provided, the telegraph authority shall not exercise those powers in respect of any property vested in or under the control or management of any local authority, without the permission of that authority; and

(d) in the exercise of the powers conferred by this section, the telegraph authority shall do as little damage as possible, and, when it has exercised those powers in respect of any property other than that referred to in Clause (c), shall pay full compensation to all persons interested for any damage sustained by them by reason of the exercise of those powers.

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15. Disputes between telegraph authority and local authority.-

(1) If any dispute arises between the telegraph authority and a local authority in consequence of the local authority refusing the permission referred to in Section 10, Clause (c), or prescribing any condition Under Section 12, or in consequence of the telegraph authority omitting to comply with a requisition made Under Section 13, or otherwise in respect of the exercise of the powers conferred by this Act, it shall be determined by such officer as the [Central Government] may appoint either generally or specially in this behalf.

(2) An appeal from the determination of the officer so appointed shall lie to the Central Government; and the order of the Central Government shall be final.

16. Exercise of powers conferred by Section 10 and disputes as to compensation, in case of property other than that of a local authority.-

(1) If the exercise of the powers mentioned in Section 10 in respect of property referred to in Clause (d) of that Section is resisted or obstructed, the District Magistrate may, in his discretion, order that the telegraph authority shall be permitted to exercise them.



(2) If, after the making of an order under Sub-section (1), any person resists the exercise of those powers, or, having control over the property, does not give all facilities for their being exercised, he shall be deemed to have committed an offence Under Section 188 of the Indian Penal Code, 1860 (45 of 1860).

(3) If any dispute arises concerning the sufficiency of the compensation to be paid Under Section 10, Clause (d), it shall, on application for that purpose by either of the disputing parties to the District Judge within whose jurisdiction the property is situate, be determined by him.

(4) If any dispute arises as to the persons entitled to receive compensation, or as to the proportions in which the persons interested are entitled to share in it, the telegraph authority may pay into the court of the District Judge such amount as he deems sufficient or, where all the disputing parties have in writing admitted the amount tendered to be sufficient or the amount has been determined under Sub-section (3), that amount; and the District Judge, after giving notice to the parties and hearing such of them as desire to be heard, shall determine the persons entitled to receive the compensation or, as the case may be, the proportions in which the persons interested are entitled to share in it.

(5) Every determination of a dispute by a District Judge under Sub-section (3), or Sub-section (4) shall be final: Provided that nothing in this Sub-section shall affect the right of any person to recover by suit the whole or any part of any compensation paid by the telegraph authority, from the person who has received the same.....”

4. On perusal of the citation of the Apex Court, it is evident that the remedy which is available for the petitioner is to seek compensation before the District Judge.



5. At this juncture, the learned counsel for the petitioner seeks liberty to make appropriate application for compensation before the appropriate authority.

6. Having regard to the submissions made by the learned counsel for the petitioner, the present writ petition stands disposed of in terms of the aforesaid judgment rendered by the Hon’ble Apex Court in the case of Power Grid Corporation of India Ltd. (supra) with liberty to the petitioner to seek appropriate compensation by approaching the concerned District Judge and in case, any such petition is filed, the same is expected to be disposed of expeditiously by the learned court below. It is needless to state that in case, appropriate petition is filed within a period of four weeks from today, the same shall be examined and considered on merits by the learned court below.

7. With the aforesaid direction the writ petition stands disposed of.

8. Interlocutory Application, if any, shall stands disposed of.

(G. Anupama Chakravarthy, J)

amitkr/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	25.06.2024
Transmission Date	N/A

