

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

212

CWP-29858-2019 (O&M)
Date of Decision: 30.04.2024

AFTAB SINGH KHARA

... Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Petitioner in person.

Mr. Pankaj Mulwani, DAG, Haryana.

Mr. R.D. Bawa, Mr. Randhir Bawa and
Mr. Samuel Gill, Advocates for respondents No.2 to 4.

VINOD S. BHARDWAJ, J. (ORAL)

CM-14255-CWP-2023

Allowed as prayed for subject to all just exceptions.

The rejoinder to the reply filed by respondents No.2 to 4 is ordered
to be taken on record. Registry is directed to tag the same at appropriate place
of the paper book and page mark the same.

MAIN CASE

Prayer in the present petition is for directing the respondents to pay
the damages for right of way (ROW) by way of compensating the petitioner for
the overhead high tension wires passing through the agricultural land of the
petitioner with a further direction that the respondents are required to determine

the compensation as per the guidelines dated 15.10.2015 issued by the Ministry of Power, Government of India.

The petitioner in person has submitted that the respondent-HSVP is an undertaking of Government of Haryana and has executed the work of laying of transmission line and for setting up of 220/132 KVA transmission line from Tohana to Samain in District Fatehabad, which passes through the agricultural land of the petitioner falling in Khasra No.330//6 and bifurcating 330//7 as per jamabandi for the year 2011-12. The petitioner was, however, not granted any compensation for the damage and utility of the agricultural land suffered by the petitioner on account of the overhead wire passing through his land. He submits that for the purpose of uniform disbursement of compensation a Committee had been constituted at national level and certain guidelines had been laid down for determination of the compensation including right of way (ROW), however, no opportunity of any nature whatsoever was granted to the petitioner and that the requisite compensation has also not been paid.

Counsel for the respondent-Transmission Licensee, however, submits that the District Magistrate had communicated the assessment of the compensation vide letter bearing memo No.2368/peshi dated 13.11.2018 and that the recommendation made by the District Magistrate, Fatehabad has already been accepted and the payment has been released by the respondent-Transmission Licensee. He is, however, not in a position to refer to the said order and to ascertain that the aforesaid determination of the compensation was carried out as per the procedure prescribed in law and after issuing due notice to the land owners and by affording an opportunity to them to establish their case.

He, however, submits that the petitioners have a statutory remedy of filing a Revision Petition against the assessment order as per the applicable provisions of the Indian Electricity Act, 1910.

Having heard the learned counsel for the parties and taking into consideration that the recommendation of compensation has been made by the District Magistrate to the S.E., Transmission Circles of the respondent-Transmission Licensee, I am of the opinion that the aforesaid recommendation has been made without affording any opportunity to the affected parties to raise a demand and to lead evidence for establishing their claim for compensation. Even though a remedy of Revision Petition would be available to the petitioners, however, it cannot be lost sight of the fact that the issue of leading of evidence is primarily to be taken into consideration by the First Authority.

The order has been passed in patent disregard to the principles of natural justice, hence, I deem it appropriate to remand the case to the respondent No.5-Deputy Commission-cum-District Magistrate, Fatehabad for passing the order afresh with respect to making the recommendation for the compensation to be released in favour of the land owners, after granting an opportunity of hearing to them. The compensation already disbursed as per the recommendation dated 13.11.2018 shall, however, be without prejudice to the final outcome of the order that may be passed pursuant to the remand by this Court. The respondent-Transmission Licensee shall, however, be entitled to seek adjustment/set off of the amount already released in favour of the petitioners.

Let the parties appear before the District Magistrate, Fatehabad on 03.06.2024. It is expected that the District Magistrate, Fatehabad shall take an

expeditious decision and shall decide the claim of the petitioners preferably within a period of six months of the parties appearing before the District Magistrate and after affording due opportunity. The parties would be at liberty to take all pleas available to them to establish their claim.

Disposed of accordingly.

All other misc. application(s), if any, also stand(s) disposed of accordingly.

APRIL 30, 2024
rajender

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No