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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 4858/2021**

DINESH SAKLANI

.....Petitioner

Through: Mr. Ashutosh Jha and Mr. O.D. Singh, Advs.

Versus

BSES, RAJDHANI POWER LIMITED AND ORS

.....Respondents

Through: Mr. Buddy Rangarathan, Mr. Nikhil Sharma and Ms. S. Akshata, Advs. for R-1

Mr. Divyam Nandrajog, Panel Counsel, GNCTD with Ms. Surbhi Soni, Adv. for R-2 to 4

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

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10.09.2024

1. The petitioner in the instant petition has prayed for the following relief:-

“(a) Issue an order/direction/writ in the nature of Mandamus directing the Respondent No. 1 to shift/relocate the transformer situated in front of the Petitioners house situated at RZ- 37A, Gali No. 12, Prem Vihar, Nangli Dairy, Najafgarh Delhi to any other location which may be allocated by Respondent No. 3 at the cost and expense of Respondent No. 4;

(b) Issue a writ of Mandamus directing the Respondent No. 4 to issue necessary funds required by the Respondent No. 1 towards the charges for shifting the transformer from in front of the Petitioners house to the land allocated by the Respondent No. 3;”



2. On notice being issued, the respondents have placed on record their counter affidavits. However, at this stage, the Court takes note of the stand taken by respondent No.1-BSES for the purpose of adjudication of the instant controversy.

3. While placing on record the Central Electricity Authority (Measures Relating to Safety and Electric Supply) Regulations, 2010 (hereinafter “CEA Safety Regulations”), learned counsel for respondent No.1 submits that in terms of Regulation 63 therein, if the petitioner has any grievance, he has to approach Electrical Inspector by way of appropriate application. Regulation 63 of CEA Safety Regulations reads as under:-

“63. Erection or alteration of buildings, structures, flood banks and elevation of roads. –

(1) If at any time subsequent to the erection of an overhead line, whether covered with insulating material or not or underground cable, any person proposes to erect a new building or structure or flood bank or to raise any road level or to carry out any other type of work whether permanent or temporary or to make in or upon any building, or structure or flood bank or road, any permanent or temporary addition or alteration, such person and the contractor whom he employs to carry out the erection, addition or alteration, shall give intimation in writing of his intention to do so, to the supplier or owner and to the Electrical Inspector and shall furnish therewith a scale drawing showing the proposed building, structure, flood bank, road or any addition or alteration and scaffolding thereof required during the construction.

(2) On receipt of such intimation, the supplier or owner shall examine,-
(a) whether the overhead line or underground cable under reference was laid in accordance with the provisions of these regulations and any other law for the time being in force;
(b) whether it is technically feasible;
(c) whether it meets the requirement of right of way; and
(d) whether such person was liable to pay the cost of alteration of the overhead line or underground cable and if so, issue a notice within a period of thirty days to such person together with an estimate of the cost of the expenditure likely to be incurred to



alter the overhead line or underground cable and require him to deposit, within thirty days of the receipt of the notice, with the supplier or owner, the amount of the estimated cost.

(3) If such person disputes the cost of alteration of the overhead line or underground cable estimated by the supplier or owner or even the responsibility to pay such cost, the dispute may be referred to the Electrical Inspector who shall after hearing both parties decide upon the issue in accordance with sub-regulation (4).

(4) The Electrical Inspector shall estimate the cost of alteration of overhead line or underground cable on the following basis, namely: –

- (a) the cost of material used for the alteration after accounting for the depreciated cost of the material of the existing line or underground cable;*
- (b) the wages of labour employed in the alteration; and*
- (c) the supervision charge to the extent of fifteen per cent of the wages mentioned in clause (b) and charges incurred by the owner or supplier or consumer in complying with the provisions of section 67 of the Act, in respect of alterations.*

(5) Any addition or alteration to the building or structure shall be allowed only after the deposit of such estimated cost to the supplier or owner.

(6) No work upon such building, structure, flood bank, road and addition or alteration thereto shall commence or continue until the Electrical Inspector certifies that regulations 60, 62, 63, 66 and regulation 79 have not been contravened either during or after the construction:

Provided that the Electrical Inspector may, if he is satisfied that the overhead line or underground cable has been so guarded as to secure the protection of persons or property from injury, certify within fifteen days that the work may be executed prior to the alteration of the overhead line or underground cable or in the case of temporary addition or alteration, without alteration of the overhead line or underground cable.

(7) The supplier or owner shall, on receipt of such deposit, alter the overhead line or underground cable in such a way that it does not contravene the regulations 60, 62, 63 and 79 either during or after such construction within two months from the date of such deposit or within such longer period as the Electrical Inspector may permit for reasons to be recorded in writing.”



4. Besides other averments, learned counsel for respondent No.1 also contends that in the instant case, the structure raised by the petitioner is subsequent to the erection of the overhead line and transformer.
5. Be that as it may, since the Court, at this stage, is not adjudicating all the aforesaid factual aspects and is relegating the petitioner to the Electrical Inspector, the said aspects can be looked into by the competent authority.
6. The Court, therefore, accords liberty to the petitioner to approach the Electrical Inspector in terms of Regulation 63 of CEA Safety Regulations, and in case the petitioner does so, let the same be decided, in accordance with law.
7. With the aforesaid observations, the petition stands disposed of.
8. All rights and contentions of the parties are left open.

PURUSHAINDRA KUMAR KAURAV, J.

SEPTEMBER 10, 2024

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