

Before Rajesh Bindal & Gurvinder Singh Gill, JJ.

HARBANS SINGH & OTHERS—Petitioner

versus

**PUNJAB STATE TRANSMISSION CORPORATION
LIMITED—Respondents**

CWP No.25966 of 2017

December 06, 2017

Electricity Act, 2003—S. 164—Indian Telegraph Act, 1885—S. 10(b)—Erection of power transmission towers—Non opportunity of hearing—Held, no hearing contemplated against laying of lines—Only right available to landowners is to receive compensation and damages, if any, sustained by them.

Held that there is no hearing contemplated against laying of lines. A decision to mark route for laying electric line is a highly specialized and technical. The route may be running into hundreds of kilometers passing through land owned by different owners and it may not be possible to offer hearing to all the owners, as only right to use small-small of portions of land on which towers are erected, is acquired. The project being of important nature and creation of infrastructure, the Parliament has not provided for any notice of hearing at that stage. It was further found unreasonable to confer right on the owners or occupiers of the land on the route to suggest alternates. If that process is adopted, the project will never be completed as any such decision would be subject to judicial review and the State or its functionaries may not be able to provide infrastructure.....that the only right available to landowners is to receive compensation and damages, if any, sustained by them, as neither there is acquisition of land nor there is any need of consent of the owners or occupiers.

(Para 7)

Sanjay Kaushal, Senior Advocate
with Aman Dhir, Advocate
for the petitioners.

Vikas Chatrath and Khush Karan Kumar, Advocates,
for the respondents.

RAJESH BINDAL, J.

(1) The petitioners, on whose land power transmission towers are sought to be erected by the respondents, have filed the present petition impugning the notification dated 22.02.2017 issued for the purpose.

(2) Learned senior counsel for the petitioners submitted that in the notification dated 22.02.2017, all what has been mentioned is the route for 220KV BBMB Jalandhar-220 KV Pong DC line (Ckt-3) at 220 KV S/Stn. Alawalp ur with length of 1.643 kilometers. The petitioners' land is located in village Lesdiwal, Hadbast No. 145, Tehsil Jalandhar-1 (Adampur) District Jalandhar. The contents of the notification were totally vague. Neither names of villages through which the transmission line was to be laid nor the route thereof had been mentioned. Even khasra numbers of the land, right to use of which was to be acquired, was not mentioned. Hence, the petitioners were unable to file any objection or make suggestions. Substantive right of the petitioners was taken by erecting towers of high tension electric wires in their land. They should have been granted proper opportunity to raise issues or make suggestions to the authorities, as there were alternative/shorter routes through which the line could be laid, thus, saving costs. Judgment of Hon'ble the Supreme Court in *The Power Grid Corporation of India Limited versus Century Textiles & Industries Limited and others*¹, has been relied upon to submit that individual notices are required to be given to the land owners, who are going to be affected.

(3) In response, learned counsel for the respondents submitted that individual notices were not required to be issued. Only the scheme was required to be published. The decision to mark a route for laying electric line is a highly specialized and technical one. It is not related to any specific land owner as the route may be quite long. Many times the route is running into hundreds of kilometers and it is practically not feasible to hear all the land owners, whose land would fall along the entire route. The Indian Telegraph Act, 1885 (for short, 'the Act') under which powers have been exercised, does not provide for any notice. These are projects of infrastructure. The process is to be completed as expeditiously as possible and delay is required to be checked at any cost. Consent of the landowners is not required, hence,

¹ 2017(1) Recent Apex Judgments 696

even individual notices may be immaterial. Under Section 10(c) of the Act, which is applicable in the case in hand, it is only where the property to be used is vested in any local authority, permission is required. Out of total 9 towers, work of 7 towers has been completed. Only for two, it is in progress. The project otherwise also is nearing completion. The route planned is the shortest keeping in view the surroundings.

(4) Heard learned counsel for the parties and perused the paper book.

(5) Primary contention raised by learned counsel for the petitioners is that they were not afforded proper opportunity to raise objections or make suggestions to the route adopted for erecting high power lines as the notification did not mention necessary details. In terms of Section 164 of the Electricity Act, 2003, powers can be exercised by the licensee under the Act for the purpose of erection of transmission. Section 10 of the Act authorizes the authority to place and maintain a telegraph line under, over, along, or across, and posts in or upon, any immovable property.

(6) Proviso (b) to Section 10 of the Act makes it abundantly clear that while erecting lines, the authority does not acquire any right other than that of user in the property, which is subject to payment of compensation. In the case in hand as well notification dated 22.2.2017 has been issued for laying transmission lines on the route as mentioned therein.

(7) As has been observed in a judgment by the Division Bench of Nagpur Bench of Bombay High Court in *Vivek Brajendra Singh versus State of Government of Maharashtra and others*² there is no hearing contemplated against laying of lines. A decision to mark route for laying electric line is a highly specialized and technical. The route may be running into hundreds of kilometers passing through land owned by different owners and it may not be possible to offer hearing to all the owners, as only right to use small-small of portions of land on which towers are erected, is acquired. The project being of important nature and creation of infrastructure, the Parliament has not provided for any notice of hearing at that stage. It was further found unreasonable to confer right on the owners or occupiers of the land on the route to suggest alternates. If that process is adopted, the project

² 2012 (4) BCR 116

will never be completed as any such decision would be subject to judicial review and the State or its functionaries may not be able to provide infrastructure. Andhra Pradesh High Court in ***G. V. S. Rama Krishna son of Nageswara Rao and others*** versus ***A. P. Transco rep. By its Managing Director, Vidyuth Soudha and others***³, clearly laid down that the only right available to landowners is to receive compensation and damages, if any, sustained by them, as neither there is acquisition of land nor there is any need of consent of the owners or occupiers. Even in ***Power Grid Corporation of India Limited's*** case (supra), as well Hon'ble the Supreme Court had not interfered in the process of laying of power lines.

(8) In the case in hand as submitted by learned counsel for the respondents, before erecting towers, all technical aspects and the length of the route was properly examined and planned and 60-70% of the work is already over.

(9) For the reasons mentioned above, we do not find any merit in the present petition. The same is accordingly dismissed.

Ritambra Rishi

³ 2010 (8) RCR (Civil) 2223