

(2011) 02 P&H CK 0073
In the Punjab And Haryana At Chandigarh
Case No : L.P.A. No. 1620 of 2010

Cee Enn Promoters and Developers (P) Ltd.	APPELLANT
Vs	
Punjab State Transmission Corporation Ltd. and Others	RESPONDENT

Date of Decision : 28-02-2011

Acts Referred:

Citation : (2011) 2 RCR(Civil) 404

Hon'ble Judges : Ranjan Gogoi, C.J;Augustine George Masih, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Augustine George Masih, J.—Appellant filed CWP No. 20423 of 2010 challenging the order dated 25.10.2010 passed by the Expert Committee of the Respondent-Corporation whereby its request for revising the route plan for installation of Towers No. 19 to 22-A of Lalton/Humbra Line was partly accepted except that the request for shifting of tower No. 22-A stood turned down. It was also observed that the acceptance of the proposal of the Appellant for shifting of Towers No. 19 to 21 -A was approved subject to deposit of actual cost estimated by the Corporation for doing so. Before the learned Single Judge, counsel for the Appellant made a statement that the Appellant is willing to deposit the said cost, although initially the Appellant had refused to bear the same. The legal objection taken by the Appellant basing the same on the orders dated 5/21.8.2010 passed by the Deputy Commissioner, was rejected by the learned Single Judge and in the light of the consideration and examination of the matter in detail by the senior officials of the Committee which was constituted to consider the request of the Appellant for shifting of the towers, the report of the Committee was accepted by the learned Single Judge by observing that the laying of the high voltage wire route is essentially a task to be assigned to the subject experts having technical expertise, acumen, knowhow and the desired experience and the Courts should not ordinarily, while exercising its powers under the writ jurisdiction of judicial review, interfere unless a clear case of violation of

fundamental, constitutional or civil rights is made out by the aggrieved person leading to the dismissal of the writ petition vide order dated 17.11.2010 preferred by the Appellant which is under challenge in this appeal. There can be No. dispute with regard to the observations of the learned Single Judge that technical matters, especially which deal with alignment and positioning of the transmission wire route and that too of high voltage need to be left to the subject and technical experts and there is No. scope for interference unless for the reason that there is violation of some right which is clearly made out.

2. However, in the light of the submissions made by the counsel for the Appellant during the hearing of the case on 17.12.2010, this Court thought it appropriate to seek assistance of an Engineering Body which is not connected with the dispute for examining the proposal and counterproposal for shifting of Tower No. 22-A. Accordingly, Superintending Engineer, Electricity Wing, Union Territory, Chandigarh was directed to examine the proposals to be submitted by the Appellant and the Respondent-Corporation and apprise the Court about the findings on the next date fixed i.e. 10.1.2011. An officer of the Irrigation Department, Punjab was also associated with the Superintending Engineer or his nominee in the matter.

3. On 10.1.2011., the Superintending Engineer, Electricity Wing, U.T., Chandigarh expressed his inability to comply with the directions as he was not conversant with the task assigned to him and requested that he be relieved of the responsibility. Accordingly, on his advice, Director, (Projects) of the Power Grid Corporation of India Limited was directed to nominate a competent Officer to examine the matter in terms of the order dated 17.12.2010 along with the Superintending Engineer of the Irrigation Department of the State of Punjab and thereafter submit a detailed report. The case was posted for hearing on 17.2.2011.

4. Today, report dated 10.2.2011 has been submitted by the Power Grid Corporation of India Limited in a sealed cover which was opened in Court and the counsel for the parties were given liberty to peruse the same. The matter was again taken up for hearing. As per the report, senior Officers of the Power Grid Corporation of India Limited visited the site on 5.2.2011 and 8.2.2011 for the spot inspection. Representatives of the Appellant-company as well as Respondent and Superintending Engineer, Irrigation, Sirhind Canal Circle, Ludhiana were also present. A proper hearing/discussion was carried out. All alternatives as suggested by the Appellant were taken note of and detailed reasons have been given for not accepting the same. The existing route wherein Tower No. 22-A falls within the boundary wall of the Appellant was found to be the most suitable, technical and viable route. It was also found to be as per the provisions of the Indian Standards IS 5613 (Code of Design, and Practice of Maintenance of Over-head Lines).

5. Although counsel for the Appellant has tried to impress upon the Court that the alternative suggested by the Appellant is the most suitable one but we are

not inclined to venture into such an exercise especially in the light of the report which had been called by us from the Power Grid Corporation of India Limited, who has vast experience in construction of transmission lines including routing and spotting thereof and it is a neutral party to the case in hand. The report, as has been stated above, does not approve the alternative suggested by the Appellant and, therefore, we do not find any justification to interfere in the appeal. Otherwise also, the work carried out by the Respondent-Corporation being a public utility is in the larger interest of the public which should give way to private interest especially in the facts and circumstances of the present case. If there is a conflict between the private interest and the public interest, public interest has to prevail and to be given precedence over the private interest and individual hardships and difficulties are liable to be overlooked.

6. As per the Respondents, commissioning of the 220 KV Lalton-Humbra Line is critical for the power system of Ludhiana city which has already been sufficiently delayed. There is acute problem of overloading in the city. Unscheduled power cuts have to be imposed, to cater to the huge load growth this transmission line is essential. The basic amenity like electricity is to be made available to the people at large which is in public interest and, therefore, No. interference is called for in the present appeal. The same is accordingly dismissed.

Appeal dismissed.