
(2010) 11 P&H CK 0184
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 20423 of 2010

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

Date of Decision : 17-11-2010

Acts Referred:

Penal Code, 1860 (IPC) — Section 188
Telegraph Act, 1885 — Section 16, 17(1), 17(3)

Citation : (2011) 161 PLR 670

Hon'ble Judges : Surya Kant, J

Bench : Single Bench

Judgement

Surya Kant, J.—The Petitioner-M/s. Cee Enn Promoters & Developers (P) Ltd. is aggrieved by the order dated 25.10.2010 passed by the Experts Committee of the Respondent-Corporation comprising its Director (Technical); Engineer-in-Chief (Sub- Station); and Chief Engineer whereby the Petitioner's request for revising the route-plan for installation of Towers No. 19 to 22-A of Lalton Humba Line has been partly accepted to the extent that the proposal for installation of Towers No. 19 to 21-A given by the Petitioner has been approved subject to the deposit of actual cost estimated by the Corporation. However, the Petitioner's request regarding shifting of Tower No. 22-A has been turned down after observing as follows:

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The senior officials also went personally at the site to examine the various proposals as well as in terms of the representations made by the Petitioner, wherein they had sought that the Senior officials/Committee should personally visit the site. However, it was found and observed that:

(1) Tower No. 22A is required to be shifted because of four-laning of the Road.

(2) First Option to shift Tower No. 22A inside the boundary wall of the Sukhmani Enclave is technically most suitable. However, the Second technically suitable

option is to shift Tower No. 22A across the canal on the Distributory-2R. Thus, keeping in view the entire position as explained above, the First Option of the two is technically better and same shall be implemented.

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2. Learned Counsel for the Petitioner as well as the Respondents who are on caveat, have been heard at some length and record perused.

3. The Petitioner had initially though refused to bear the estimated cost of the revised route-plan in respect of Tower No. 19 to 21, nevertheless its learned Counsel states that the Petitioner is now willing to deposit the said cost amount. That being so and subject to the Petitioner's depositing the cost amount, the Respondents are directed to follow the revised route-plan so far as the Tower Nos. 19 to 21 are concerned.

4. Adverting to the Petitioner's request for shifting Tower No. 22-A also, no interference with the impugned order, in my considered view, by this Court in exercise of its writ jurisdiction is called for.

5. I say so for the reason that laying of high voltage wire-routes is essentially a task to be assigned to the subject experts having technical expertise, acumen, knowhow and the desired experience. Such like issues do not fall ordinarily within the ambit of judicial review by a writ court, unless a clear case of violation of the fundamental, Constitutional or civil rights is made out by the aggrieved person.

6. The Indian Telegraph Act, 1885 (in short, "the Act"), the relevant provisions whereof have been referred to in extenso, postulates adequate compensatory mechanism for the owner of the property/land utilized for installation of the towers of high-voltage wires. The Petitioner may, if so advised, seek such compensation in accordance with law.

7. The contention that a District Magistrate is bestowed with overriding or sweeping powers under the Act and in exercise thereof, the Deputy Commissioner, Ludhiana vide his order dated 05/21st August, 2010 (Annexure P12), has directed for re-alignment of the High Tension Wires and the Respondents are hell-bent to bypass that order, in my considered view, is wholly misconceived. Firstly, the above-stated order has not been passed by the Deputy Commissioner/District Magistrate, Ludhiana in purported exercise of his powers under the Act. Secondly, the aforesaid letter, at the best, contains a request by the Deputy Commissioner being one of the "aggrieved party" for shifting of certain Towers from the land of PWD (B&R) to that of the Canal Department. The said order is bereft of any command. Thirdly, Section 17(3) of the 1885 Act pertains to the "removal" or "alteration" of the Telegraph line or post only subject to the compliance of Sub-section (1) thereof. The provision deals with post-compensatory eventuality and has no bearing on the issue raised hereinabove. Fourthly, Section 16 of the Act which has also been pressed into

aid, does not intend to grant any right to a landowner, rather it empowers the District Magistrate to remove "resistance" or "obstruction" caused by an individual in the implementation of the Scheme under the Act, as in the event of non-removal of such resistance or obstruction, the defaulter is deemed to have committed an offence u/s 188 of the Indian Penal Code.

8. It needs no special emphasis that in the event of any conflict between the "private interest" and the "public interest", the latter shall have its supremacy and the individual hardships are liable to be overlooked. A scheme meant to provide basic amenity like electricity to the public at large is ex facie in "public interest".

9. For the reasons afore-stated, I do not find any merit in this writ petition which is dismissed accordingly.

10. However, the Respondents shall be bound by their own decision in respect of the revised layout plan for the shifting of Towers No. 19 to 21-A subject to the Petitioner's depositing the actual cost estimated vide the impugned order, within a period of two weeks from the date of receipt of a certified copy of this order.