
(2016) 07 AHC CK 0122

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 33094 of 2016

Chaudhary Pooran Singh

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 21-07-2016

Acts Referred:

Citation : (2016) 7 ADJ 692

Hon'ble Judges : V.K. Shukla, A.C.J. and Mahesh Chandra Tripathi, J.

Bench : Division Bench

Advocate : Vinod Kumar Singh Parmar, Advocate, for the Appellant; C.S.C, Baleshwar Chaturvedi, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the petitioner and learned Standing Counsel. Shri Baleshwar Chaturvedi appears for the contesting respondents.

2. Chaudhary Pooran Singh is before this Court for assailing the validity of the order dated 28.6.2016 passed by the Collector, Aligarh and for a direction to the respondents to lay 132 K.V. high voltage electric wire at the proper and suitable direction/ line as reported under the report dated 27.5.2016 submitted under the joint signature of Lekhpal and Revenue Inspector.

3. This much is reflected from the record for the similar relief the petitioner has earlier been before this Court by means of Writ Petition No.17551 of 2016, which was disposed of on 20.04.2016 with following observations:-

"Chaudhary Pooran Singh son of Jaypal Singh is before this Court with a grievance that respondents may be directed to lay 132 K.V. high voltage electric wire at the proper and suitable direction and in view of this requisite exercise is required to be undertaken.

From perusal of record, it appears that the matter has already been represented by the petitioner before the Collector/District Magistrate, Aligarh/Respondent no.

2 through his representation dated 25.3.2016, which is said to be still pending without any decision.

Consequently, without entering into the merits of the case, we dispose of this writ petition finally asking the District Magistrate, Aligarh to look into the matter of the petitioner and pass appropriate reasoned order on the said representation in accordance with law within a reasonable time preferably within a period of three months from the date a certified copy of this order is presented before him by the petitioner. It is made clear that final order will be passed after affording proper opportunity of hearing to the licensee also.

This order has been passed with due assistance of Sri Baleshwar Chaturvedi, learned counsel for respondents no. 3, 4, 5 and 6."

4. In compliance of the aforesaid order, the District Magistrate, Aligarh has considered the matter and passed the present impugned order rejecting the representation of the petitioners. The petitioner has contended that the District Magistrate, Aligarh has overlooked the ground reality and the impugned order is improper and against the prescribed norms.

5. The claim of the petitioners has been opposed by learned counsel for the respondents.

6. We have gone through the record and find that the law on this subject is clear. In *Deva Raj v. U.P. State Electricity Board, Lucknow & Ors.*, AIR 1977 Allahabad 452, a Division Bench of this Court had examined the provisions of Section 51 of the Indian Electricity Act, 1910, which is similar to the provisions of Section 164 of the Electricity Act, 2003 and observed that in view of the notification issued by the State Government under Section 51 of the 1910 Act read with Section 10 of the Telegraphs Act, the respondents have the power to instal the towers on the land owned by a person.

7. Similarly the Madras High Court, in *E. Venkatesan & Ors. v. Chairman, Tamil Nadu Electricity Board, Madras & Ors.*, AIR 1977 Madras 64 while dealing with the powers under Section 51 of the Act of 1910, also observed :-

"From the above settled position of law, it is clear that when the Electricity Board exercises power under Section 51 of the Electricity Act read with Section 10 of the Telegraphs Act, they are not acquiring any land. They are only making use of the land for the purpose of laying electricity lines for which full compensation is given for the damage caused. It is also clear therefrom that no notice is required to the owner before laying the poles or constructing any tower, nor any consent is required from them."

8. This Court, in Writ C No. 29995 of 2016 (*Pooran Singh and 30 others v. State of UP and 3 ors.*) decided on 5.7.2016, has observed that the construction of transmission power service lines cannot be stopped for want of payment of compensation. However, an appropriate direction can be issued to the competent authority for determining the compensation in accordance with law and pay the

same to the tenure holders over whose land the towers are being erected.

9. This is factual situation that on the directives so issued by this Court, the District Magistrate has examined the record in question in detail and given full opportunity to the petitioner. He has got inspected the site several times and taking into account the technical specifications and alignment of the land in question he had taken a specific decision not to shift the pole in question. Once the District Magistrate, who is the competent authority in this regard, has considered the issue in detail, then we cannot come to rescue and reprieve of the petitioner and we do not find any infirmity or illegality in the order impugned.

10. The writ petition sans merit and is accordingly dismissed.