

(1998) 10 J&K CK 0009
In the Jammu And Kashmir High Court
Case No : Others Writ Petition (OWP) No. 392/86

Shahid Iftikhar

APPELLANT

Vs

State & Ors.

RESPONDENT

Date of Decision : 12-10-1998

Acts Referred:

Constitution of India, 1950 — Article 226
Land Acquisition Act, 1990 — Section 3

Citation : (1999) KashLJ 596

Hon'ble Judges : T.S.Doabia, J

Bench : Single Bench

Advocate : Masooda Akther, Advocates appearing for the Parties

Judgement

1. The circumstances under which this petition has come to be filed be noticed. The respondent No 3 initiated steps for laying down foundation of Transmission tower in respect of 132 KV Transmission Line. As these transmission lines were to be taken over and above the land of the petitioner and as his land was likely to rendered unfit for use he approached this court. It is submitted that if the base of the Electric Tower is raised then no construction can be raised in a radius of 100 ft around the tower. It is submitted that petitioners are likely to be deprived of the use of the land. The petitioners submit that they should be paid compensation. It is submitted that if definition of land as occurring in section 3(a) of the Land Acquisition Act is noticed then a person is supposed to be compensated even when he is to be deprived of any benefit which is likely to arise out of the land. As the petitioner is going to be deprived of the user of the land when the Transmission Tower is laid, it is submitted that the petitioners are entitled to compensation.

2. The transmission tower and the Transmission Lines are laid in terms of Electricity Act of 1910. The over head lines are laid in terms of Section

18 of the Act. As to how a person has to be compensated in case some damages is caused on account of the laying of the transmission line Is

contemplated by Section 19 of the aforementioned Act.

3. It be seen that this aspect of the matter was considered by the Madhya Pradesh High Court in the case reported as Rajak Vs. National Thermal

Power Indoor AIR 1998 MP 172, it was observed that once a scheme is duly sanctioned then the licence i.e. the authority which is to lay down

transmission line can go ahead with the laying of these lines, but then compensation has to be paid. The compensation is to be determined on the

same principles, which have been indicated, in the Indian Telegraph Act 1885.

4. This petition is accordingly disposed of with a direction that the respondent authorities would take notice of statutory provisions and also Indian

Telegraph Act and determine loss sustained by the petitioners. The petitioners would be at liberty to file their claim petitions also. Loss for

severance if claimed be examined. Let a decision would be taken by the respondent authorities within a period of six months. The period of six

months would begin from the date of copy of the order along with the writ petition and annexure are made available by the petitioner to the

respondent authorities.

5. Disposed of accordingly.