

(1998) 05 OHC CK 0022
In the Orissa High Court
Case No : O.J.C. No. 9457 of 1996

Susanta Kumar Mohapatra		APPELLANT
	Vs	
State of Orissa and Others		RESPONDENT

Date of Decision : 14-05-1998

Acts Referred:

Constitution of India, 1950 — Article 226
Telegraph Act, 1885 — Section 10

Citation : AIR 1998 Ori 171

Hon'ble Judges : S.C. Datta, J;A. Pasayat, J

Bench : Division Bench

Advocate : Savitri Rathe, for the Appellant; J. Sahoo, B.K. Mishra, S.K. Mohanty, G.K. Sahu, M. Das and B.P. Ray, P.C. Rout, S. Pujari, P.K. Patnaik and P.C. Das, for the Respondent

Final Decision : Dismissed

Judgement

S.C. Datta, J.—The petitioner is one Susanta Kumar Mohapatra. He has filed this writ application in public interest on behalf of about 200 people of Deogarh, who have been allegedly affected by the construction of Electric Transmission Lines over their agricultural lands. According to the petitioner those people could not approach this Court on account of poverty and illiteracy. Their claim to receive compensation for the damage done to their standing crops and trees having remained unattended to, the petitioner has taken up their cause and approached this Court praying for a direction to the opposite parties to pay compensation to them. According to the petitioner in course of execution of work of Talcher-Rourkela 400 KV. Electric Transmission Line, the crops and trees standing over the lands of the private persons have been damaged and cut down. Heavy machineries and equipments which have been used for construction purposes have damaged the agricultural lands, roads, bridges and culverts in the area. The petitioner states that in accordance with Section 10 of the Indian Telegraph Act, 1885, the people of Angul and Donai whose crops and lands had been damaged and whose trees had been cut down, have been paid compensation. But the

people of Deogarh have been discriminated against and are still waiting for their compensation. It has been alleged that the timber lay open exposed to sun and rain and in consequence their market value has deteriorated considerably much to the concern of the persons aggrieved. Accordingly the petitioner has approached this Court for a direction to the opposite parties to compensate all the affected persons mentioned in Annexure 1 for the loss sustained by them. It was further prayed that the opposite parties may be directed to repair the road, bridges and culverts which are damaged in course of the construction work.

2. The petition is resisted by opposite party No. 2, Power Grid Corporation of India Limited (for short the "Corporation") by filing a counter. Opposite Party No. 3 is the Principal Contractor through whom the aforesaid work was executed. Opposite Party No. 4 is the Collector and District Magistrate, Deogarh. On his behalf the Tahesildar, Deogarh has tiled a counter, wherein it has been asserted that necessary compensation as due and admissible has been paid to the respective beneficiary, Besides, the repair work of the road has been undertaken and completed.

3. In the counter-affidavit filed on behalf of Opposite Party No. 2, the locus standi of the petitioner to file this writ application has been questioned. It has been averred that the writ petitioner has not been authorised by 145 numbers of so-called affected persons. It has been alleged that the claim of the petitioner is maliciously designed with an oblique motive and for self gain. It is further claimed that all the affected persons have received compensation from the Corporation, and as such, the present writ petition is required to be dismissed in limine. According to the Corporation, the Talcher-Rourkela 400 KV. transmission line is a sanctioned scheme which has been notified in the gazette published by the State Government, and the Corporation in exercise of power available under the Indian Telegraph Act for the purpose of erection of transmission line for the interest of general public, removed the standing trees which came across in course of erection of such transmission line. Any damage so caused to the agricultural crops and such trees felled also duly compensated for by the Corporation. It is claimed that Section 15(4) of the Indian Telegraph Act provides statutory bar which enjoins that if any dispute arises as to the persons entitled to receive compensation, they shall have to approach the District Judge of the concerned district for determination of such dispute by the District Judge and its decision shall be final. In the present case all the affected persons having been duly paid compensation by the Corporation for damage done to the standing trees and agricultural crops, no grievance subsists. It is claimed that the Corporation maintains some principles in the manner of payment of compensation to different persons for damage done to the crops and standing trees and no discrimination was made to any one. Accordingly, Opposite Party No. 3 prays for dismissal of the writ petition.

4. We have heard learned counsel appearing for the parties.

It appears that Opposite Party No. 2 is a Government of India undertaking

engaged in construction of electric transmission line of the country. The present Talcher-Rourkela 400 KV. Transmission Line is a sanctioned scheme notified in the Orissa Gazette. Opposite Party No. 2 while constructing/erecting electric transmission line, exercised powers u/s 10 of the Indian Telegraph Act. Section 10(d) *ibid* provides for payment of full compensation to all the persons affected thereby. In course of construction of transmission line, agricultural crops which are inevitably damaged and trees which are felled, full compensation are paid to the affected persons. It has been asserted that all the affected persons have been paid full compensation and they have no grievance to make. They have annexed several documents. It is noteworthy that none of the affected persons has come forward to claim compensation. According to Opposite Party No. 2, the trees after felling down, are left to the possession of the tree-owners and measurement of the same is taken in presence of the Forest Department Officers and tree owners.

5. Opposite Party No. 2 has assailed the locus-standi of the petitioner to file this petition in public interest. It does not appear that the petitioner has been authorised by any of the 145 numbers of persons as claimed by him for filing the present writ petition. As already indicated, not a single so-called affected person has come forward to support the petitioner. The petitioner himself has sworn an affidavit in the Court of the Executive Magistrate, Pannosh on 15-7-96 to the effect that he has no claim whatsoever against Opposite Parties Nos. 2 and 3 of this writ petition. He has admitted also that he has filed criminal cases against two officers of Opposite Party No. 3 to expedite settlement of his dues. Incidentally, it may be mentioned that the petitioner is a power of attorney holder of one M/s. G. P. Mishra, said to be the Contractor of Rourkela, who was entrusted to execute foundation job in respect of 400 KV. Talcher-Rourkela Transmission Line by the Principal Contractor, namely Opposite Party No. 3. This narration of events aforesaid amply signifies that he has taken up cudgels for his self-gain and thereby attempts to abuse the process of the Court, which should be discouraged. In this connection it is apt to quote the observations of a Bench decision of the Court, reported in *Villagers of Jajarsingh Basantinath Dutta Vs. State of Orissa and Others*, in which, one of us, brother A. Pasayat, J. was a party, (at page 165 of AIR) :

"Public interest litigation is a weapon which has to be used with great care and circumspection and the judiciary has to be extremely careful to see that behind the beautiful veil of public interest any ugly private malice, vested interest and/or publicity seeking is not lurking. It is to be used as an effective weapon in the armoury of law for delivering social justice to the citizens. The attractive brand name of public interest litigation should not be used for suspicious products of mischief. It should be aimed at redressal of genuine public wrong or public injury and not publicity-oriented or founded on personal vendetta. Court must be careful to see that a member of public, who approaches the Court is acting bona fide and not for personal gain or private motive or political motivation of other oblique consideration. They indulge in the pasttime of meddling with the judicial

process either by force of habit or from improper motives. Often they are actuated by a desire to win notoriety or sheep popularity. The petitions of such busy bodies deserve to be thrown out by rejection at the threshold."

6-7. In this case no public interest is involved, inasmuch as, none of the so-called affected persons has come forward to deny the assertion made by opposite parties regarding payment of compensation to the persons affected. Moreover, there being statutory remedy to deal with such dispute, this Court will be slow to entertain this petition. We are of the view that the writ petition filed by the petitioner in the guise of public interest litigation is not maintainable. In our opinion, the writ petition is devoid of any merit. This being the position, we feel inclined not to interfere in the matter.

The writ application is accordingly dismissed.

A. Pasayat, J.

8. I agree.