



BEFORE THE VIDYUT OMBUDSMAN FOR THE STATE OF TELANGANA
First Floor 33/11 kV Substation, Beside Hyderabad Boat Club
Lumbini Park, Hyderabad - 500 063

PRESENT : SRI MOHAMMAD NIZAMUDDIN
VIDYUT OMBUDSMAN

WEDNESDAY THE TWENTY SIXTH DAY OF JUNE
TWO THOUSAND AND TWENTY FOUR

Appeal No. 13 of 2024-25

Between

Smt. K. Vijaya Laxmi, w/o. late K. Srinivas Rao, Kondareddypally Village,
Balmoor Mandal, Nagarkurnool District. Cell: 9010869101.

.....Appellant

AND

1. The Assistant Engineer/Operation/Achampet/TGSPDCL/Nagarkurnool.
2. The Assistant Divisional Engineer/Operation/Achampet/TGSPDCL/
Nagarkurnool.
3. The Divisional Engineer/Operation/Nagarkurnool/TGSPDCL/Nagarkurnool.
4. The Superintending Engineer/Operation/Nagarkurnool/TGSPDCL/
Nagarkurnool.
5. The Chief General Manager/Commercial/Corporate Office/TGSPDCL/
Hyderabad.

..... Respondents

This appeal is coming on before me for final hearing on 22.06.2024 in the presence of Sri K. Ramachander Rao, authorised representative of the appellant and Sri Y Sudhakar Rao - AE/Op/Balmoor and Sri T.E.K.S.Kameswara - ADE/Op/Achampet, representing the respondents and having stood over for consideration till this day, this Vidyut Ombudsman passed the following:-

AWARD

This appeal is preferred aggrieved by the Award passed by the Consumer Grievances Redressal Forum - I (Rural), (in short 'the Forum') of Telangana State Southern Power Distribution Company Limited (in short 'TGSPDCL') in C.G. No.239/2023-24/Nagarkurnool Circle dt.16.03.2024, rejecting the complaint.

CASE OF THE APPELLANT BEFORE THE FORUM

2. The case of the appellant is that the appellant is the owner of the agricultural wetland bearing Sy. No. 390, situated at Kondareddypally Village, Balmoor Mandal, Nagarkurnool District. On 13.12.2023, in her absence three pits were dug and installed three 11 kV electric poles in the middle of her land to an extent of two meters for each pole without notice to her and without her consent causing inconvenience to cultivate paddy crop in her land with tractor. The 11 kV electric poles were erected in the middle of the Village pond in Shikham land bearing Sy.No.405 at Kondareddypalli Village. There is also danger of touching the machines with 11 kV High Tension electric wires endangering to human life. Therefore it was prayed to shift the 11 kV electric poles to an adjacent vacant land or to the border of her agriculture land and also to direct the respondents to pay damages of Rs.2,00,000/- (Rupees two lakhs only) for each pole for spoiling the agricultural land of the appellant and causing mental agony to her.

WRITTEN SUBMISSIONS OF THE RESPONDENTS

3. In the written reply and additional written reply filed by respondent No.1 before the learned Forum, it is, inter-alia, submitted that the work in question was sanctioned under the Departmental improvement works on interlinking line budget. The estimate was sanctioned for eighteen poles economically as it is proposed under the Departmental improvement 11 kV interlinking line work. The 11 kV Godal feeder was tripping frequently because it is overloaded as it is feeding six Villages and agriculture loads also. The poles were erected straightly as per the norms and around (60) meters distance is maintained between pole to pole. The site suggested by the appellant was not viable since a 33 kV line was already existing very close near to that place. Two poles were erected on the ridge of the land of the appellant and only one pole came near the ridge of the said land. The appellant is also one of the beneficiaries of getting uninterrupted power supply to her land. As per G.O.Ms.No.26 Energy (Budget) dt.03.09.2015, the respondents have power for placing of the electric supply lines. There are fifteen DTRs which were rectified from low voltage.

AWARD OF THE FORUM

4. After considering the material on record and after hearing both sides, the learned Forum has rejected the complaint.

5. Aggrieved by the Award passed by the learned Forum, the present appeal is preferred, reiterating the contents of the complaint filed before the

learned Forum. It is accordingly prayed to direct the respondents to shift the poles in the periphery of the land of the appellant without demanding the shifting charges, to pay compensation of Rs.2,00,000/- per pole for causing mental agony, legal expenses and for not taking prior consent by issuing notice and to direct the respondents to shift the poles from the middle of the Village pond (Shikham land) bearing Sy.No.405 at Kondareddypalli Village.

WRITTEN SUBMISSION OF RESPONDENTS

6. In the written reply filed by respondent No.1, he has reiterated the contents of his written replies filed before the learned Forum. It is accordingly prayed to reject the appeal.

ARGUMENTS

7. The authorised representative of the appellant submitted written arguments, contending among other things, that the respondents without the notice and without consent of the appellant have erected 11 kV poles in the middle of her agriculture land bearing Sy.No.390 at Kondareddypally Village; that under Sec.12(2) of the Indian Electricity Act 1910, without consent of the appellant the respondents are not supposed to erect the subject 11 kV electric poles in her land and therefore it is prayed to direct the respondents to shift the 11 kV poles from the agricultural land of the appellant to the vacant periphery of the land and also to direct for payment of compensation.

8. On the other hand, it is submitted by the respondents that in the public interest the subject poles were erected with due care and caution; that

the appellant is also one of the beneficiaries from the present line; that they have power to erect poles without notice and consent of the owner of the land and hence it is prayed to reject the appeal.

POINTS

9. The points that arise for consideration are:-

- i) Whether the 11 kV poles are liable to be shifted from the agriculture land of the appellant and whether the appellant is also entitled for compensation of Rs.2,00,000/- for each pole in her land from the respondents?
- ii) Whether the impugned Award passed by the learned Forum is liable to be set aside ? and
- iii) To what relief?

POINT No. (i) and (ii)

ADMITTED FACTS

10. It is an admitted fact that three 11 kV electric poles were erected in the agricultural land of the appellant out of (18) such poles. There is no dispute that the appellant is also one of the beneficiaries of getting uninterrupted supply to her land.

SETTLEMENT BY MUTUAL AGREEMENT

11. Both the parties have appeared before this Authority virtually. and physically. Efforts were made to reach a settlement between the parties through the process of conciliation and mediation. However, no settlement could be reached. The hearing, therefore, continued to provide reasonable

opportunity to both the parties to put-forth their case and they were heard.

REASONS FOR DELAY IN DISPOSING OF THE APPEAL

12. The present appeal was filed on 10.06.2024. This appeal is being disposed of within the period of (60) days as required.

CRUX OF THE MATTER

13. The present appeal is in respect of shifting of the 11 kV Kondareddypally feeder covering four poles in the agriculture land of the appellant to the border area of her land. The appellant claims that the respondents have not given her notice and her consent was not obtained before erecting the 11 kV line. The appellant is mainly relying on Sec.12(2) of the Indian Electricity Act to contend that without notice to her and without her consent, the respondents are not empowered to erect 11 kV electricity line in her agriculture land. Now it is necessary to extract the said provision, which is as under:-

Sec 12 (2) of Indian Electricity Act:- Nothing contained in sub-section (1) shall be deemed to authorise or empower a licensee, without the consent of the local authority or of the owner or occupier concerned, as the case may be, to lay down or place any electric supply-line or other work in, through or against any building, or on, over or under any land' not dedicated to public use whereon, wherever or where under any electric supply line work has not already been lawfully laid down or placed by such licensee:

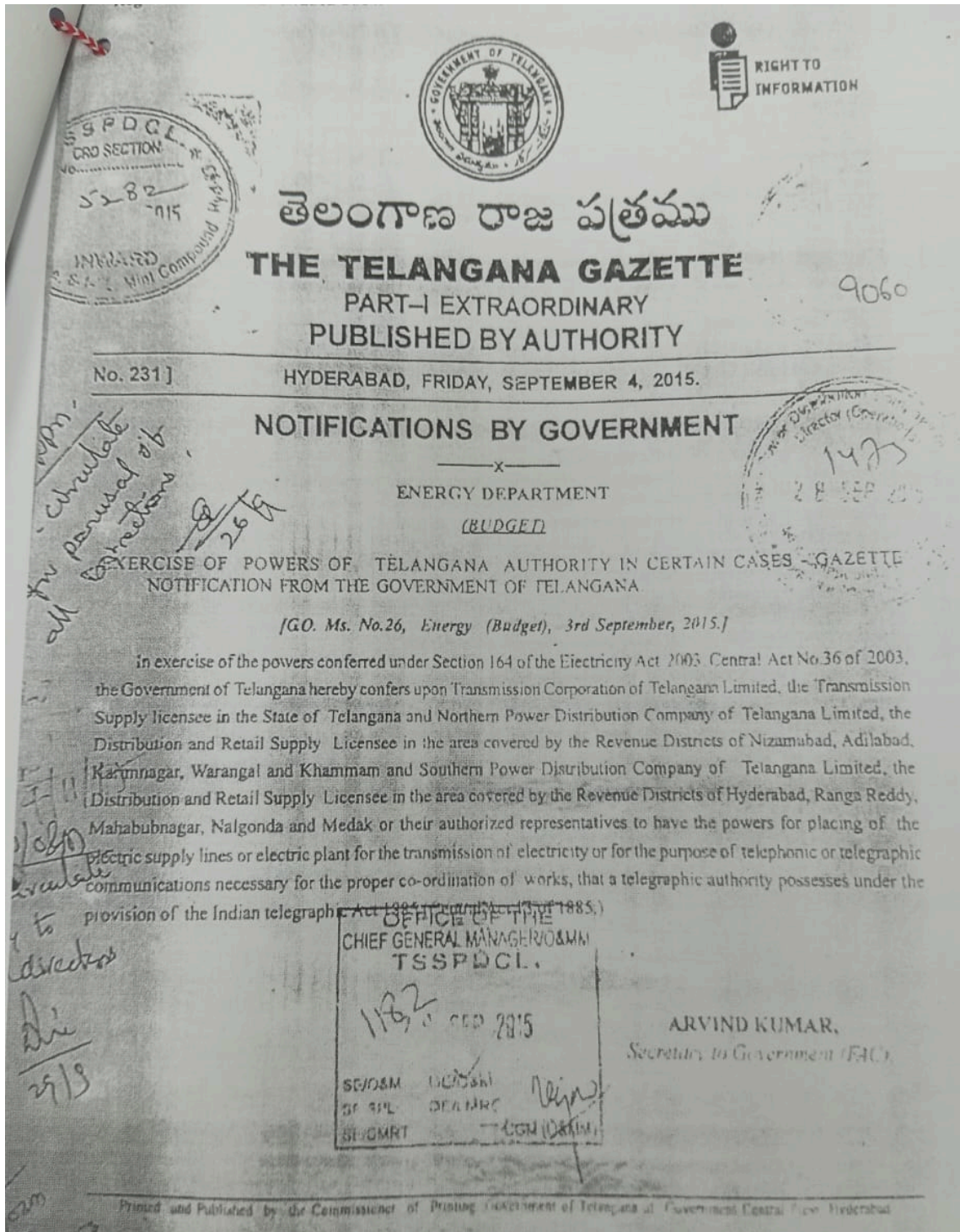
Provided that any support of an overhead line or any stay or strut required for the sole purpose of securing in position any support of an overhead line may be fixed on any building or

land or, having been so fixed, may be altered, notwithstanding the objection of owner or occupier of such building or land, if the District Magistrate or, in a Presidency town, the Commissioner of Police by order in writing so directs:

Provided also, that, if at any time the owner or occupier of any building or land on which any such support, stay or strut has been fixed shows sufficient cause, the District Magistrate or, in a Presidency-town the Commissioner of Police may by order in writing direct any such support, stay or strut to be removed or altered.

The learned authorised representative of the appellant has also relied upon a Division Bench Judgement of the Hon'ble High Court of Madras at Madurai in Superintending Engineer, Tamil Nadu Electricity Board, Tirunelveli & another v. M. Sengu Vijay & another (Writ Appeal M.D.) No.932 of 2010 and M.P(M.D.) No.2 of 2010 dt.22.02.2011 and also the judgement of the Hon'ble High Court of Madras reported in BHEL v. Tamil Nadu Electricity Board (laws)(MAD) 2007-1-317 dt.10.01.2007 (full text is not furnished) for the proposition that when the Licensee-electricity officials erect new electric wires, it is necessary for them to obtain consent from the owner of the property. In the instant case admittedly no such consent was obtained by the respondents from the appellant. The reason stated by the respondents for erecting the subject line in the existing place is that they took a straight line consisting of eighteen poles and on one side already 33 kV line was existing. The respondents have also took the plea that under G.O.Ms.No.26 Energy (Budget) dt.03.09.2015, they are authorised to erect electric poles without

notice to the owner of the land and without consent of the said owner. The said G.O. is extracted as under:-



14. A perusal of this G.O., shows that the respondents have power to lay electric lines. No notice or consent is mentioned in it. In the present case it is necessary to refer to Sec.164 of the Electricity Act (in short 'the Act') and Sec.10 and 16 of the Telegraph Act 1885 which are as under:-

Section 164. (Exercise of powers of Telegraph Authority in certain cases): The Appropriate Government may, by order in writing, for the placing of electric lines or electrical plant for the transmission of electricity or for the purpose of telephonic or telegraphic communications necessary for the proper co-ordination of works, confer upon any public officer, licensee or any other person engaged in the business of supplying electricity under this Act, subject to such conditions and restrictions, if any, as the Appropriate Government may think fit to impose and to the provisions of the Indian Telegraph Act, 1885, any of the powers which the telegraph authority possesses under that Act with respect to the placing of telegraph lines and posts for the purposes of a telegraph established or maintained, by the Government or to be so established or maintained.

10. Power for telegraph authority to place and maintain telegraph lines and posts.—The telegraph authority may, from time to time, place and maintain a telegraph line under, over, along or across, and posts in or upon, any immovable property:

Provided that— (a) the telegraph authority shall not exercise the powers conferred by this section except for the purposes of a telegraph established or maintained by the 1[Central Government], or to be so established or maintained;

(b) the 1[Central Government] shall not acquire any right other than that of user only in the property under, over, along, across, in or upon which the telegraph authority places any telegraph line or post;

(c) except as hereinafter provided, the telegraph authority shall not exercise those powers in respect of any property vested in or under the control or management of any local authority, without the permission of that authority; and

(d) in the exercise of the powers conferred by this section, the telegraph authority shall do as little damage as possible, and, when it has exercised those powers in respect of any property other than that referred to in clause (c), shall pay full compensation to all persons interested for any damage sustained by them by reason of the exercise of those powers.

16. Exercise of powers conferred by section 10, and disputes as to compensation, in case of property other than that of a local authority.—(1) If the exercise of the powers mentioned in section 10 in respect of property referred to in clause (d) of that section is resisted or obstructed, the District Magistrate may, in his discretion, order that the telegraph authority shall be permitted to exercise them.

(2) If, after the making of an order under sub-section (1), any person resists the exercise of those powers, or, having control over the property, does not give all facilities for their being exercised, he shall be deemed to have committed an offence under section 188 of the Indian Penal Code (45 of 1860).

(3) If any dispute arises concerning the sufficiency of the compensation to be paid under section 10, clause (d), it shall, on application for that purpose by either of the disputing parties to the District Judge within whose jurisdiction the property is situate, be determined by him.

(4) If any dispute arises as to the persons entitled to receive compensation, or as to the proportions in which the persons interested are entitled to share in it, the telegraph authority may pay into the Court of the District Judge such amount as he deems sufficient or, where all the disputing parties have in writing admitted the amount tendered to be sufficient or the amount has been determined under sub-section (3), that amount; and the District Judge, after giving notice to the parties and hearing such of them as desire to be heard, shall determine the persons entitled to receive the compensation or, as the case may be, the proportions in which the persons interested are entitled to share in it.

(5) Every determination of a dispute by a District Judge under sub-section (3) or sub-section (4) shall be final:

Provided that nothing in this sub-section shall affect the right of any person to recover by suit the whole or any part of any compensation paid by the telegraph authority, from the person who has received the same.

15. Sec.164 of the Act deals with exercise of power of Telegraph Authority in certain cases. Further as per Sec.10 of the Telegraph Act 1885 there is power for Telegraph Authority to place and maintain telegraph lines and poles. Sec.16 of the Telegraph Act 1885 deals with exercise of power conferred by Sec.10 of the said Act and disputes as to compensation. These provisions do not mention about issuing notice to the owner of the land. More or less in a similarly situated case our own Hon'ble High Court in a judgement reported in ACHA SAMBAIAH v. UNION OF INDIA (W.P.No.26497 of 2022 dt.01.08.2022) after referring several judgements, including the judgement of the Hon'ble Supreme Court has held that there is no need of prior consent under the Electricity Act 2003 and there is no need to issue prior notice under the Telegraph Act 1885 to the owner of the land while erecting electric lines. This judgement is binding on this Authority. Thus the judgements relied upon by the learned Authorised representative of the appellant are not binding on this Authority. Right to property is not a fundamental right. The only right which is available to citizens is Article 300-A, that no person shall be deprived of this property, save by authority of law. Further for any compensation it is the District Judge who is competent authority to decide it as per Sub-Section (3) of the Sec.16 of the Indian Telegraph Act. Accordingly, I hold that the three 11 kV poles are not liable to be shifted from the agriculture land of the appellant and the appellant is not entitled for compensation of Rs.2,00,000/- for each pole in

her land from the respondents. These points are accordingly decided against the appellant and in favour of the respondents. As regards the electric poles in the middle of the Shikham land it is for the respondents to ensure safety from such poles.

POINT No. (iii)

16. In view of the findings on point Nos. (i) and (ii), the appeal is liable to be rejected.

RESULT

17. In the result, the appeal is rejected confirming the Award passed by the learned Forum.

A copy of this Award is made available at <https://vidyutombudsman-tserc.gov.in>.

Typed to my dictation by Office Executive cum Computer Operator, corrected and pronounced by me on the 26th day of June 2024.

**Sd/-
Vidyut Ombudsman**

1. Smt. K. Vijaya Laxmi, w/o. late K. Srinivas Rao, Kondareddypally Village, Balamoor Mandal, Nagarkurnool District. Cell: 9010869101.
2. The Assistant Engineer/Operation/Achampetl/TGSPDCL/Nagarkurnool.
3. The Assistant Divisional Engineer/Operation/Achampet/TGSPDCL/Nagarkurnool.

4. The Divisional Engineer/Operation/Nagarkurnool/TGSPDCL/Nagarkurnool.
5. The Superintending Engineer/Operation/Nagarkurnool/TGSPDCL/
Nagarkurnool.
6. The Chief General Manager/Commercial/Corporate Office/TGSPDCL/
Hyderabad.

Copy to

7. The Chairperson, Consumer Grievances Redressal Forum of TSSPDCL-
Rural, H.No.8-03-167/14, GTS Colony, Yousufguda, Hyderabad. - 45

