

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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CASE NO. 51 of 2017

Dated: 11 May, 2017

CORAM: Shri Azeez M. Khan, Member
Shri Deepak Lad, Member

In the matter of Petition filed by Maharashtra State Electricity Distribution Co. Ltd. under Rule 3(3) of the Works of Licensee Rules, 2006 in compliance of the Nagpur High Court's Order dated 10.10.2016 in Writ Petition No. 3075 of 2015.

(Case No. 51 of 2017)

Maharashtra State Electricity Distribution Company Ltd.
(Superintending Engineer, O&M Circle MSEDCL, Wardha, and
Executive Engineer, O&M Division MSEDCL, Wardha.) ... Petitioner

V/s

- 1) Shri Gajanan Dinkarrao Hingmire
- 2) Shri Sanjay Dinkarrao Hingmire
- 3) District Magistrate, Wardha
- 4) Pee Vee Textiles Ltd. ... Respondents

Appearance

Representatives for the PetitionerMs. Deepa Chawan (Counsel)Shri Suhas Barahate (Rep.)
Representative of Respondents No.1 & 2 Shri Gajanan Hingmire
Representative of Respondent No. 3 None
Representative of Respondent No. 4None

Daily Order

Heard the Advocates of the Petitioner and Representative of the Respondents No. 1 and 2. No one appeared on behalf of the Respondent No.3 and 4.

- 1) The Advocate of MSEDCL (Petitioner) submitted a copy of the amended Petition at the hearing and stated that:
 - 1.1. On 31.1.2007, MSEDCL started erecting 33kV electricity poles on land belonging to Respondents No. 1 and No. 2, which is agricultural land. The work of erection of 33 kV Line was completed on 30 April, 2007. MSEDCL has filed the Petition as per the provisions of the Work of Licensees Rules (WLR), 2006. A copy of map was given to affected farmers at the time of execution of the 33 kV Line work. On 10 July, 2007, three months after completion of work, the Respondents protested against the erection of poles on their agriculture land. The 33 kV Line was charged by MSEDCL on 29.9.2007.
 - 1.2. Aggrieved by the erection of 33 kV Line on the Respondents' agricultural land, they had filed an application before the District Magistrate, Wardha which was rejected vide Order dated 16.10.2010. The Respondents thereafter challenged the Order before the Bombay High Court (Nagpur Bench) vide Writ Petition (WP) No. 413/2011. The High Court disposed of the matter vide its Order dated 26.9.2011, directing the District Magistrate, Wardha to decide the application of the Respondents afresh on merits and in accordance with law.
 - 1.3. In compliance with the High Court's Order, the District Magistrate, Wardha heard the parties and passed an Order on 19.11.2011 holding that MSEDCL was entitled to erect the 33 kV Line, but reasonable compensation should be paid to the Respondents. This Order was again challenged by the Respondents before the High Court in WP. No. 6105 of 2012. The High Court vide Order dated 28.01.2014 partly allowed the WP and remanded the matter to the District Magistrate, Wardha for fresh disposal.
 - 1.4. The District Magistrate, Wardha, after hearing the parties, passed the impugned Order on 16.6.2014 directing MSEDCL to shift the 33 kV Line/Poles erected on the land of Respondents towards the western Dhura, and to pay compensation of Rs. 2, 40,000/- and 12% interest with effect from 26.03.2008 till realization of the amount towards damages due to erection of the 33 kV Line.
 - 1.5. MSEDCL challenged the impugned Order before the High Court vide WP No. 3075 of 2015. The WP was disposed of by the High Court vide Order dated 10.10.2016, ruling the MSEDCL has the remedy of filing a Revision Petition under Rule 3(3) of the WLR, 2006 before the Appropriate Commission. Accordingly, MSEDCL has filed the present Revision Petition.
 - 1.6. The land in dispute is 1.5 Hectares surrounded by farms on three sides and National Highway No. 7 on one side. As there were no standing crops on the agriculture land at the time of erection of 33 kV Line, the question of damage to crops did not arise. As

per Rule 3(1) (b) of the WLR, 2006, the District Magistrate has the power for removal / alteration of any works, support, stay or strut.

- 1.7. To a query of the Commission, MSEDCL stated that initially the 33 kV Line was erected for supply of power to Pee Vee Textiles Ltd. Thereafter that consumer has shifted to 132 kV voltage level, and presently the Line is utilized as a source for MSEDCL's 33/11 kV sub-stations.
 - 1.8. On the concern raised by the Commission regarding delay in complying with the Order, MSEDCL stated that the objections of the Respondents would have been accommodated if they had been raised during erection of the 33 kV Line. The Respondents raised objections after completion of the Line work. MSEDCL is ready to settle the issue mutually, if the Respondents wish to do so.
- 2) The Representative of the Respondents submitted their Reply at the hearing, and stated that:
- 2.1 Respondents are the owners of the 2.5 acre agriculture land which is in dispute due to erection of 33 kV Line by MSEDCL. In the months of May and June, no agricultural activity is carried out by farmers, and consequently there were no standing crops at the time of erection of 33 kV Line at that time. The Respondents had raised oral objections during erection of the 33kV Line but, MSEDCL did not respond. Prior consent of the land owners was not taken by MSEDCL for erection of the Line. On 19.10. 2010, an application was submitted to MSEDCL to provide a copy of route map of the Line to the affected farmers, but MSEDCL did not respond. MSEDCL told them that the grievance of the affected farmers will be redressed after permission of the appropriate authority.
 - 2.2 Aggrieved by erection of the 33 kV Line on their agriculture land without consent, the Respondents had filed an application before the District Magistrate, Wardha for removal of poles from their land which was initially rejected.
 - 2.3 MSEDCL did not comply with the subsequent impugned Order dated 16.6.2014. Therefore, the Respondents filed contempt application before the District Magistrate against MSEDCL on 5 December, 2014. After receipt of the contempt notice for non-compliance of the impugned Order, MSEDCL filed WP No. 3075 of 2015 before the High Court to prolong the matter and avoid compliance instead of approaching the Commission. As the Respondents pressed again for contempt on 23 March, 2017 before the District Magistrate, Wardha and notice was served to MSEDCL, it has now filed the Revision Petition before the Commission.
 - 2.4 After erection of 33 kV Line poles in the middle of their agriculture land in 2007, no cultivation could be carried out till date, due to which Respondents have sustained large financial loss. MSEDCL has also relocated some Poles of the existing 11 kV Line, which were on their land since long but close to the Highway towards the centre of the land.
 - 2.5 The compensation awarded by the District Magistrate, Wardha is not enough as neither the land can be used for agricultural activity nor could it be sold for commercial purposes due to erection of 33 kV Line, even though it is situated at a vantage location next to the Highway.

- 2.6 The Respondents understand the technicality in erection of 33 kV Line, hence they will not claim land compensation if the Line is shifted to the Western Dhura of their field as per District Magistrate, Wardha's Order dated 16.6.2014.
- 3) MSEDCL stated that the notice of the Contempt Application and of Contempt by the District Magistrate are two different things and Respondents have misrepresented it. The Respondents were invited to resolve the issues but they did not respond. If the Respondents approach MSEDCL, the issues can be resolved by mutual consent.
 - 4) The Commission observed that, as per the submissions of the parties, map of Line and location of the land, prima-facie it seems that shifting of Line elsewhere may be difficult task as necessary safety clearances from the road and between the two Lines (33kV and 11kV) need to be maintained. Also, other land owners may raise the objections. However, there could be other alternatives also which could have been explored earlier along with the affected parties, which MSEDCL did not do.
 - 5) The Commission observed that neither did any technical authority from MSEDCL appear at the hearing nor was its counsel able to put forth the ground reality at the hearing.
 - 6) On request of MSEDCL, the Commission granted it a week's time to file its Rejoinder with a copy to the Respondents.

The Case is reserved for the Order.

Sd/-
(Deepak Lad)
Member

Sd/-
(Azeez M. Khan)
Member