



TELANGANA STATE ELECTRICITY REGULATORY COMMISSION
5th Floor, Singareni Bhavan, Red Hills, Lakdi-ka-pul, Hyderabad 500 004

O. P. (SR) No. 7 of 2021

Dated 23.09.2021

Present

Sri T. Sriranga Rao, Chairman
Sri M. D. Manohar Raju, Member (Technical)
Sri Bandaru Krishnaiah, Member (Finance)

Between:

Sri Allu Venkat Reddy
S/o Nagi Reddy, R/o Pedda Ummantala (V),
Pudur Mandal, Vekarabad Distric.

... Petitioner.

AND

1. The Collector & District Magistrate,
District Collectorate, Burugupalli (V),
Vikarabad, Vikarabad District.

2. Chairman & Managing Director,
Transmission Corporation of Telangana Limited,
Vidyut Soudha, Khairatabad,
Hyderabad – 500 082.

... Respondents.

The petition came up for hearing on 29.07.2021 regarding the maintainability of the petition. Sri P. Chengal Reddy, counsel for petitioner has appeared through video conference on 29.07.2021. The matter having been heard and having stood over for consideration to this day, the Commission passed the following:

ORDER

The petitioner has filed the petition under sections 142 and 146 of the Electricity Act, 2003 (Act, 2003) read with Rule 3(5), 13(1) and 13(2) of Telangana State Works of Licensee Rules, 2007, seeking initiation of suitable action against the respondents. The averments of the petition are as under.

- a) The petitioner stated that the petitioner is the owner of land in survey No.353 and 358, two towers and lines, R/o of Pedda Ummantala village, Pudur manda!, Vikarabad district. The petitioner is the owner of land on which the TSTransco a licensee under the Act 2003, has constructed two towers and drawn lines in the project at Shankarpalli - Pargi 220 kV transmission line during 2013, 2014 and 2015.
- b) The petitioner stated that the TSTransco has constructed towers and drawn lines on the land without obtaining consent and without following the procedure as per Electricity Rules, 2006. The TSTransco has constructed towers and lines without any authority from District Magistrate as authorized under 2006 Licensee Rules (3) (2). Herein the then Government of Andhra Pradesh (GoAP) has issued Works of Licensee Rules vide G.O.Ms.No.24 dated 27.02.2007. These rules are in conformity with Government of India (GoI) Rules 2006. In 2006 Rules, Rule 3 (2) authorizes the District Collector to fix compensation. Whereas in rules issued in 2007 rule 3 (4) authorizes the Collector to fix compensation.
- c) The petitioner stated that these rules issued by the then GoAP vide G.O.Ms.No.24 dated 27.02.2007 were not made available to State Regulatory Commission. It is only on a letter written by the Andhra Pradesh Electricity Regulatory Commission (APERC) dated 05.11.2016, the Department of Energy, GoAP sent a copy of the Rules to the APERC. The letter of 05.11.2016 has legally authorized the District Collectors to fix compensation.
- d) The petitioner stated that the petition is for full payment of compensation for loss of crops under the towers and lines at the time of construction. Further, the value of the lands under towers and lines has totally eroded as all development activities are prohibited under the Act, 2003. The petitioner claims the compensation for the loss of crops, loss of value of the land and loss of livelihood since construction of the towers and lines. The interest from the date of eligibility to be calculated and paid to the petitioner.
- e) The petitioner stated that he is legally and constitutionally entitled for enhanced compensation. Accordingly sought directions from this

Commission vide O.P.No.17 of 2016 order, dated 07.08.2017 with following direction to 2nd respondent TSTransco and Collector.

“Para 41: As already observed, the petitioner has given consent by his conduct and also gave a notice to the District Collector, Ranga Reddy to award the compensation to his land lost under the tower base and also for right of way under the lines and the petitioner did not inform this Commission as what happened to it, similarly the respondent also wrote a letter to the District Collector, Ranga Reddy on 15.04.2015 to give the guidelines for payment of compensation in respect of 220 kV transmission lines. In view of the said facts, both parties are aware that it is the District Collector only, who is competent to award the compensation, but for the reasons best known to them, they approached this Commission contending that this Commission is having jurisdiction to award the compensation. This Commission cannot assume the jurisdiction on its own; the jurisdiction must be conferred on it by the Act and Rules.

Para 42. While awarding the compensation under the Electricity Act, 2003 the District Magistrate - Collector should follow the principles of natural justice and also the provisions of the Land Acquisition Act. The Collector must bear in mind, the land and its location whether it is in interior village or nearer to the cities and urban areas and having potentiality for developing into residential and industrial complexes. If the land is interior in the village it may not have much potentiality, if it is nearer to the cities and urban areas it will have potential for being converted into residential plots and commercial plots and therefore, obviously the rates will be higher for the lands abutting the highways and roads rather than the interior lands. The potentiality will also depend upon the amenities available like water, power, communications and transportation. Therefore, if the land is having the above amenities, it will fetch much higher rate than the land without the above amenities. The learned counsel for the petitioner relied on a number of decisions in support of his above contentions and

this Commission thought it necessary not to refer them as the compensation has to be decided by the District Collector only. The petitioner is at liberty to cite all the decisions before the District Collector for claiming the adequate compensation. The Collector while granting the compensation also has to keep in mind the guidelines issued by the Government of India in respect of right of way.

Para 43. Before parting with this case, the Commission expresses its deep concern about the farmers whose land values are diminishing on account of laying of towers without payment of adequate compensation. "This Commission directs the licensees to approach the District Collector urgently" for framing of the appropriate guidelines for awarding of compensation to the farmers and others for laying 132 kV, 220 kV and 400 kV lines and right of way through the land of various owners. We also advise the Direct Collectors to frame the guidelines in a fair and transparent manner to reduce the disputes, if not framed already, and also to keep in mind the public Interest. This Commission has the power to revise the compensation order passed by the District Collector. The role of this Commission has to be inconsonance with the provisions of Section 67 (4) of the Electricity Act, 2003 and not otherwise. Therefore, the Commission cannot grant the relief as prayed by the petitioner.

Para 44. IN THE RESULT, in view of the findings on issues 1 to 5, the petition of the petitioner is disposed of accordingly. In the circumstances, the parties shall bear their own costs."

- f) The petitioner stated that in accordance with the orders of Commission dated 07.08.2017 the petitioner has filed a petition before the Collector, Vikarabad (Old Ranga Reddy) District, on 05.10.2017 seeking to issue of proceedings for compensation. The 2nd respondent herein TSTransco is made a 1st respondent in the petition filed before the Collector.
- g) The petitioner stated that as the Collector Vikarabad has not taken up the case even after 25 months, petitioner sent a reminder on 29.11.2019 for early hearing.

- h) The petitioner stated that even as the Collector did not take case after 37 months, the petitioner once again sent a reminder through advocate on 23.10.2020.
- i) The petitioner stated that the 1st respondent Collector, and 2nd respondent TSTransco did not given pre-eminence to judicial order No. 17 of 2016, dated. 07.08.2017 by the Commission in spite of clear directions (Para 43)

“Before parting with this case, the Commission expresses its deep concern about the "farmers" whose land values are "diminishing" on account of laying of towers without payment of "adequate compensation". "This Commission" direct the licensees" to approach the District Collector urgently for framing of the appropriate guidelines for awarding of compensation to the farmers and others for laying 132 kV, 220 kV and 400 kV lines and "right of way" through the land of various owners. We also "advise the District Collectors" to frame the guidelines in a fair and transparent manner to reduce the disputes, if not framed already, and also to keep in mind the public interest.”

- j) The petitioner stated that the Collector, Vikrabad (earlier Hyderabad Collector) 1st respondent herein has been advised by the Commission to frame guidelines in a fair and transparent manner vldc its order dated 07.08.2017. He also did not comply with orders of the Commission, thereby, attracting provisions of Act 2003, section 142 as detailed below:

"Section 142. Punishment for non-compliance of directions by Appropriate Commission. In case any complaint is filed before the Appropriate Commission by any person or if that Commission is satisfied that any person has contravened any of the provisions of this Act or the rules or regulations made there under or any directions issued by the Commission, the Appropriate Commission may after giving such person an opportunity of being heard in the matter, by order in writing, direct that, without prejudice to any other penalty to which he may be liable under this Act, such person shall pay, by way of penalty, which shall not exceed one lakh rupees for each contravention

and in case of a continuing failure with an additional penalty which may extend to six thousand rupees for every day during which the failure continues after contravention of the first such direction."

Herein the 1st respondent did not follow direction by the Commission.

- k) The petitioner stated that the 2nd respondent TSTransco did not approach Collector till date even though the Commission has given direction to act urgently on 07.08.2017 (3 years 4 months) till date, thus attracting provisions of Act 2003, the Section 142 (the section relied up on by the petitioner is already extracted above). Herein the 2nd respondent did not follow direction by the Commission.
- l) The petitioner stated that further the 2nd respondent has also violated the provisions of Act 2003, Section 146. "Abets the contravention of any of the provisions of this Act, or any rules or regulations made there under". 2nd respondent is aware of the provisions of Act, 2003 and rules thereon. He is aware that land value under towers and lines diminish and that the landowners are legally entitled for compensation. The Commission in their order dated 07.08.2017 (Para 44) had given specific directions. Even then the 2nd respondent did not care to suitable action, thereby attracting provisions of the section 146 abetting violation of Commission directions.

"Section 146 Punishment for non-compliance of orders or directions. Whoever, fails to comply with any order or direction given under this Act, within such time as may be specified in the said order or direction or contravenes or attempts or abets the contravention of any of the provisions of this Act or any rules or regulations made thereunder, shall be punishable with imprisonment for a term which may extend to three months or with fine, which may extend to one lakh rupees, or with both in respect of each offence and in the case of a continuing failure, with an additional fine which may extend to five thousand rupees for every day during which the failure continues after conviction of the first such offence"

2. The petitioner has sought following prayer in the petition.
 - a. to initiate suitable action on 1st respondent for non-compliance of directions under Act, 2003 section 142.
 - b. to initiate suitable action on the 2nd respondent Collector, Vikarabad under Act, 2003 sections 142 and 146 for non-implementation of Commission orders vide O.P.No.17 of 2016 dated 07.08.2017.

3. The Commission heard the arguments of the counsel for the petitioner. The order upon which the present action has arisen is also considered. The submissions stated by the counsel is as below:

Record of proceedings dated 29.07.2021

"... .. The counsel for petitioner stated that the matter involves taking action against non-compliance of the order dated 07.08.2017 in O.P.No.17 of 2016 of the Commission by the Collector. The petitioner made representation in November, 2017 requesting the Collector to pass orders in terms of the rules subsisting with regard to works of the licensee. Till date no action is taken nor amounts towards acquisition / damages have been paid to the petitioner. The petitioner has lost his land due to laying of towers and lines by the licensees. Having heard the arguments of the counsel for petitioner, the matter is reserved for orders."

4. The Commission, while considering several submissions in the earlier proceedings, had in fact highlighted the role of the Commission in undertaking a decision on the matter of compensation for land acquisition. The Commission specifically observed in its order dated 07.08.2017 in O.P.No.17 of 2016 as below:

"43. The role of this Commission has to be in consonance with the provisions of Section 67 (4) of the Electricity Act, 2003 and not otherwise. Therefore, the Commission cannot grant the relief as prayed by the petitioner.

5. The Commission, in fact, refused to grant relief to the petitioner in the earlier litigation and while doing so, it had observed as below as has been extracted by the petitioner in the petition, the relevant paragraphs being 41 and 42 of the above said order. Nowhere in the entire order, the Commission made specific directions to the Collector and District Magistrate as also the Chairman and Managing Director of

Transmission Corporation of Telangana Limited. In fact, the Collector was not even a party to the original proceeding before the Commission.

6. In the absence of the specific directions by the Commission as to the course of action to be adopted by the TSTransco or for that matter the District Collector proceedings under sections 142 and 146 of the Act, 2003 to initiate penal action would not arise. At the cost of repetition, the Commission reproduces the paragraphs of the order dated 07.08.2017 appearing at No.41 and 42.

“41. As already observed, the petitioner has given consent by his conduct and also gave a notice to the District Collector, Ranga Reddy to award the compensation to his land lost under the tower base and also for right of way under the lines and the petitioner did not inform this Commission as what happened to it, similarly the respondent also wrote a letter to the District Collector, Ranga Reddy on 15.04.2015 to give the guidelines for payment of compensation in respect of 220 kV transmission lines. In view of the said facts, both parties are aware that it is the District Collector only, who is competent to award the compensation, but for the reasons best known to them, they approached this Commission contending that this Commission is having jurisdiction to award the compensation. This Commission cannot assume the jurisdiction on its own, the jurisdiction must be conferred on it by the Act and Rules.

42. While awarding the compensation under the Electricity Act, 2003 the District Magistrate – Collector should follow the principles of natural justice and also the provisions of the Land Acquisition Act. The Collector must bear in mind, the land and its location whether it is in interior village or nearer to the cities and urban areas and having potentiality for developing into residential and industrial complexes. If the land is interior in the village it may not have much potentiality, if it is nearer to the cities and urban areas it will have potential for being converted into residential plots and commercial plots and therefore, obviously the rates will be higher for the lands abutting the highways and roads rather than the interior lands. The potentiality will also depend upon the amenities available like water, power, communications and transportation. Therefore, if the land is having the above amenities, it will fetch much higher rate than the land without the above amenities. The learned counsel for the petitioner relied

on a number of decisions in support of his above contentions and this Commission thought it necessary not to refer them as the compensation has to be decided by the District Collector only. The petitioner is at liberty to cite all the decisions before the District Collector for claiming the adequate compensation. The Collector while granting the compensation also has to keep in mind the guidelines issued by the Government of India in respect of right of way.”

7. What has been observed in the order is that the Collector should initiate steps for preparation of the ‘guidelines’ for acquisition of land and there is no mention of the specific case of the petitioner. In fact, the petitioner could not have made representation in the matter as there is no liberty given to the petitioner to approach the Collector in so far his individual case is concerned. At the same time there is also no specific direction to the TSTransco to approach the Collector in so far as the acquisition of land of the petitioner is concerned. Albeit, it has been directed to approach the Collector for framing of ‘guidelines’. In those circumstances also the present petition is not maintainable.

8. In view of the foregoing discussion and attendant circumstances, the Commission is not inclined to admit the petition for taking the action as sought by the petitioner. In the result, the original petition is refused.

This order is corrected and signed on this the 23rd day of September, 2021.

Sd/-	Sd/-	Sd/-
(BANDARU KRISHNAIAH)	(M.D.MANO HAR RAJU)	(T.SRIRANGA RAO)
MEMBER	MEMBER	CHAIRMAN

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