

AFR

HIGH COURT OF JUDICATURE AT ALLAHABAD

Court No.40
Neutral Citation No. - 2025:AHC:45291-DB

**CORAM : HON'BLE SHEKHAR B. SARAF, J.
HON'BLE VIPIN CHANDRA DIXIT, J.**

**WRIT-C NO. 25120 OF 2020
RAJENDRA PRASAD AND OTHERS**

V.

DISTRICT MAGISTRATE, BAREILLY AND ANOTHER

For the Petitioners : Mr. Udit Chandra, Advocate
For the Respondents : Mr. Mukul Tripathi, Standing Counsel for
the State
Mr. J. Nagar, Senior Advocate assisted by
Mr. Prateek J. Nagar, Advocate for
respondent No.2

Last heard on March 11, 2025
Pronounced on April 2, 2025

SHEKHAR B. SARAF, J.

1. This is a writ petition under Article 226 of the Constitution of India wherein the petitioners are praying for the issuance of a writ of mandamus commanding and directing the District Magistrate, Bareilly (hereinafter referred to as 'respondent no.1') to decide their representation dated September 30, 2020.

FACTS

2. Factual matrix of the instant writ petition is delineated below:
- a) The petitioners are small-scale farmers who own agricultural land in District Bareilly. A scheme for Northern Region System Strengthening Scheme-XXI (hereinafter referred to as the 'Scheme') for laying a 400 kV Bareilly-Kashipur-Roorkee-Saharanpur D/C (Quad) transmission line was approved by the Ministry of Power, Government of India, under its authority granted by Section 68 of the Electricity Act, 2003, vide notification dated November 16, 2009.
 - b) In pursuance of this notification, the Power Grid Corporation of India Limited (hereinafter referred to as the 'PGCIL'), an undertaking of the Government of India, was granted authority for the project. In exercise of its powers under Section 164 of the Electricity Act, 2003 read with Section 10 of the Telegraph Act, 1885 (hereinafter referred to as 'Telegraph Act'), selected the petitioners' land alongwith some other villagers for the erection of poles/towers and laying down transmission lines for execution of the scheme. The project was supposedly started in the year 2011 and was completed in 2019 as contended by petitioners.
 - c) In 2014, PGCIL issued separate notices to the respective petitioners under Section 42 of the Electricity Supply Act, 1948 read with Part III of the Telegraph Act, regarding the cutting of trees for laying down of transmission lines within 30 days of receipt of the notice. PGCIL also requested the Tehsildar or concerned government department to determine the compensation for Right of Way (RoW) arising from laying down of the transmission line, which was to be paid by PGCIL.

A copy of the aforementioned notice was also forwarded to the Tehsildar and the Additional District Magistrate for determination of compensation.

- d) Subsequently, in 2015, PGCIL issued separate cheques of varying amounts to the petitioners as compensation.
- e) Meanwhile, some other farmers from the same district filed writ petition no. 26594 of 2016 (Dharam Pal v. State of U.P.), alleging that they have received less compensation compared to the farmers in adjacent District of Rampur. This writ petition, being premature, was disposed of vide order dated May 30, 2016, with a direction to petitioners to approach respondent no.1 for the determination of compensation for both land as well as trees.
- f) In compliance of the aforementioned order, respondent no.1 passed an order dated July 13, 2016 observing disparity in compensation between the farmers in District Rampur and Bareilly. Consequently, PGCIL was directed to provide compensation to farmers in Bareilly at par with those in Rampur. This order was further modified on September 3, 2016, extending its applicability to all farmers impleaded in writ petition no. 26594 of 2016.
- g) PGCIL challenged the orders dated July 13, 2016 and September 3, 2016 passed by respondent no.1 before this Court through writ petition no. 3679 of 2017 (Power Grid Corporation of India Ltd. v. D.M., Bareilly and Others) on the ground that the District Magistrate was not the competent authority to enhance the compensation, as such power vests with the District Judge. The said writ petition was dismissed vide order dated September 5, 2018, with the observation that the impugned order was passed in an administrative capacity

pursuant to the direction of the High Court and did not constitute quasi-judicial orders under Section 18 of the Telegraph Act.

- h) Ultimately, PGCIL accepted the order passed by respondent no.1 and accordingly paid compensation to the farmers who had contested the aforementioned writ petition.
- i) The petitioners in the present writ petition, after getting knowledge of the compensation awarded to those other farmers who were petitioners in writ petition no. 3679 of 2017, submitted representations dated October 10, 2018 and January 1, 2020, before the respondent no.1 seeking compensation for cutting of trees on their respective lands.
- j) Since the representations dated October 10, 2018, and January 1, 2020, were not decided by respondent no.1, several petitioners filed individual writ petitions, including writ petition no. 37675 of 2018, 37407 of 2018, 37675 of 2018, 38594 of 2018, 37780 of 2018 and 12576 of 2020, seeking a writ of mandamus from this Court in order to get their representations decided. Except for the present petition, all other writ petitions pertain solely to compensation for trees.
- k) During the pendency of aforementioned writ petitions, a Coordinate Bench of this Court disposed of Writ C No. 37675 of 2018 vide order dated March 29, 2019, observing that the parties should be relegated to approach the District Magistrate, who would decide the claim based on the report submitted by the committee constituted as per the said order.
- l) PGCIL filed a review petition against the aforementioned writ petition, which was dismissed vide order dated August 26, 2019. Meanwhile, respondent no.1 decided the representation vide order dated June 14, 2019, in compliance of the direction

issued to him.

- m) PGCIL challenged the order dated June 14, 2019, before this Court through writ petition no. 21207 of 2019 (Power Grid Corporation v. State of U.P.), on the ground that the District Magistrate has no locus to decide the said representation. However, the writ petition was dismissed vide order dated November 7, 2019.
- n) The petitioners whose writ petitions had been decided were given compensation by the PGCIL, while those, whose writ petitions are still pending before the Court are waiting for the disbursement of their compensation.
- o) Meanwhile, the Central Government pursuant to the order of the National Green Tribunal, framed a policy dated October 15, 2015, for awarding compensation for damages caused to land due to the erection of poles/towers, in addition to compensation for trees, which was to be determined by the District Magistrate.
- p) The aforementioned policy was implemented in the State of Uttar Pradesh on November 19, 2019. It was made effective at the request of PGCIL to the Chief Secretary, U.P. Government, vide letter dated June 20, 2019.
- q) The petitioners, through their counsel, submitted a representation on September 30, 2020, regarding damages caused to their land in view of the policy framed by the Central Government. However, the District Magistrate has not acted upon it, thereby violating their fundamental rights under Articles 21 and 300A of the Constitution of India.
- r) Since the representation dated September 30, 2020, seeking compensation under the policy remained undecided by the respondent no.1, the petitioners have filed the present writ

petition.

CONTENTIONS OF THE PETITIONERS

3. Mr. Udit Chandra appearing on behalf of all the petitioners has made the following submissions:

- a) The present writ petition is on a fresh cause of action and not barred by constructive res-judicata. Earlier writ petitions were filed by the petitioners to decide the representation with regard to compensation for damages caused to trees and the same was decided under Section 18 (2) of the Telegraph Act.
- b) The notices which were issued to the petitioners were only with respect to determine compensation regarding damages caused to the trees and not for damages caused to the land by erecting electric poles/towers. There was no specific notice with regard to the acquisition of land for laying of electric poles/towers, therefore the present proceedings are different proceedings arising out of different causes of action. Hence, the doctrine of constructive res-judicata will not be applicable in the present situation.
- c) The compensation which has been decided and paid earlier by the respondent no.1 was only with respect to the cutting of trees under Section 18 (2) of the Telegraph Act whereas no compensation of any kind has been given for damages caused to the land by the erection of electric poles/towers which ought to have been assessed by the District Magistrate under Section 10 (d) of the Telegraph Act.
- d) Petitioners are entitled to receive compensation as per the Central Government policy dated October 15, 2015 whereby farmers are entitled to receive 80% of the land value for the tower base in addition to damages done to crops or trees. Petitioners received the compensation with regard to damages

caused to the trees and are not disputing that but have not received the compensation with regard to damages caused to the land. The present issue is to claim compensation with regard to the land as per the policy framed by the Government.

- e) To buttress the arguments counsels for the petitioners have placed reliance upon a judgment of the Apex Court in **Kukreja Construction Co. v. State of Maharashtra** reported in **2024 SCC OnLine SC 2547** wherein twin pivotal holdings were delivered. First, it affirmed that once developers have attained vested development rights—such as additional Floor Space Index (FSI) or Transferable Development Rights (TDR) via Development Rights Certificates (DRC)—these rights cannot be retroactively nullified by later amendments. Second, the Court held that once compensation for land acquisition is determined, it becomes immediately payable by the State without any further requirement for representation, and any delay would breach constitutional obligations under Article 300-A.
- f) The counsel further relied upon a judgment of the Apex Court in **Kolkata Municipal Corpn. v. Bimal Kumar Shah** reported in **(2024) 10 SCC 533** wherein the Court emphasized that any acquisition must adhere to a set of minimum procedural safeguards consisting of seven sub-rights, which are inherent in the constitutional guarantee under Article 300-A of the Constitution of India, thereby ensuring that property is not deprived except by proper legal authority.

CONTENTIONS OF THE RESPONDENTS

4. Mr. J. Nagar, Senior Advocate assisted by Mr. Prateek J. Nagar learned counsel appearing on behalf of the PGCIL has made the following submissions:

- a) The present writ petition is legally not maintainable intrinsically on three grounds. The first one is that the present writ petition is the second writ petition on the same cause of action and therefore barred by the principles of constructive res-judicata under Explanation IV to Section 11 CPC and Order II, Rule 2 of Civil Procedure Code (CPC).
- b) The petitioners had earlier filed writ petition no. 37407 of 2018 seeking similar reliefs. The said writ petition was disposed of by the Coordinate Bench of this Court on September 13, 2019, directing the District Magistrate to examine their claim by constituting a three-member committee. The petitioners had an opportunity to claim the present relief in their previous writ but they defaulted to do so, therefore they are barred from raising the same issue by filing another writ petition.
- c) Purported policy dated October 15, 2015 was in existence and was well known to the petitioners at the time of filing aforesaid writ petition but still petitioners failed to claim the reliefs in that writ petition.
- d) The project work was completed in the year 2015 and the different petitioners received varying cheques from the PGCIL in the year 2015, based on the evaluation of trees as contemplated by the Conservator of Forest, Moradabad, when district authorities had kept silent for a very long time with respect to determining compensation. The cheques so received have been aptly acquiesced to and also duly encashed by the petitioners. Therefore they are barred from approaching the Court due to the principle of estoppel.
- e) The Supreme Court in **Commissioner of Income Tax, Bombay v. T.P. Kumaran** reported in (1996) 10 SCC 561, has held that a subsequent claim on the same cause of action is

barred.

- f) The second ground is that the policy upon which the petitioner relied on was framed in the year 2015 and the cutting of trees and erection of electric poles on the land of the petitioners had already been done in the year 2013-14 and at that time compensation were given as per the valuation of trees, assessed by the Conservator of Forest, Moradabad, and compensation was paid to all affected parties. Consequently, policy which came later on has no retrospective effect on the cause of action which arose much before.
- g) The petitioners have approached the District Magistrate via representation dated September 30, 2020 and thereafter filed the present writ petition, after an inordinate delay of more than three years. Hence, making their claim barred by limitation and *laches*.
- h) The Supreme Court in **Kerala State Electricity Board v. T.P. Kunhaliumma** reported in (1976) 4 SCC 634, has held that the limitation period of three years (Article 137 of the Limitation Act, 1963) applies to proceedings under the Telegraph Act.
- i) The third ground is that the present writ petition is not maintainable as the petitioners have an alternative statutory remedy under Section 16 (3) of the Telegraph Act, which provides for adjudication of compensation disputes before the District Judge upon dissatisfaction of compensation received under Section 10 (d) of the Telegraph Act.
- j) The Supreme Court in **Power Grid Corporation of India Ltd. v. Century Textiles & Industries Ltd.** reported in (2017) 5 SCC 143 has categorically held that any dispute regarding compensation must be adjudicated by the District Judge and not the District Magistrate. The petitioners, having accepted

compensation without protest, cannot now challenge the same through a writ petition.

DISCUSSION AND ANALYSIS

5. We have considered the rival submissions and have perused the materials placed on record. Before proceeding to the rival contention canvassed by both the sides, we must look into Sections 10 (d), 16 (3) and 18 (2) of the Telegraph Act, which are quoted below:

“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) ...

(b) ...

(c) ...

(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) ...

(2) ...

(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 situated, be determined by him.

“18. Removal of trees interrupting telegraphic communication.—

(1) ...

(2) When disposing of an application under sub-section (1), the Magistrate shall, in the case of any tree in existence before the telegraph line was placed, award to the persons interested in the tree such compensation as he thinks reasonable, and the award shall be final.”

6. The counsel appearing on behalf of the petitioners submits that a representation dated September 30, 2020, has been filed before the District Magistrate in view of the policy dated October 15, 2015. This representation is wholly based on different causes of action arising from the erection of electric poles/towers on the land. The right to claim compensation for the land arose subsequent to implementation of the policy dated October 15, 2015, which mandates compensation for damages caused to the land in addition to compensation for damages to trees. Moreover, in all the previous writ petitions, the petitioners’ representations were decided under Section 18 (2) of the Telegraph Act, under which compensation was awarded specifically for trees.

7. The counsel for the petitioners further argued that the petitioners cannot file representation under Section 16 (3) of the Telegraph Act, as this is an appellate provision that pertains to the sufficiency of compensation rather than an initial claim for damages. There has to be an original order to be appealed against with regard to compensation for damages caused to land in order to approach the District Judge under Section 16 (3) of the Telegraph Act. Therefore, the petitioners have very well filed their representations before the District Magistrate in view of the policy and not before the District Judge.

8. Per contra, Senior Advocate appearing on behalf of the respondents while debunking the arguments of the petitioners, submits that previously compensation was provided by PGCIL to the petitioners. Therefore, the present representation should be filed before the District Judge as per Section 16 (3) of the Telegraph Act, as it pertains to the enhancement of compensation that was previously granted by PGCIL under Section 10 (d) of the Telegraph Act. Furthermore, the petitioners had duly accepted the earlier

compensation without any protest.

9. The learned counsel for the respondents further submits that the policy on which petitioners are relying cannot be applied retrospectively, as it was introduced after the trees were cut and the towers were erected.

10. Section 10 of the Telegraph Act empowers the Telegraph Authority to place and maintain lines and posts. Clause(d) of this provision acts as a check and balance on the powers granted to the Telegraph Authority, ensuring that compensation is provided to affected individuals while exercising these powers.

11. Section 18 (2) of the Telegraph Act provides for the removal of trees that interrupt telegraphic communication. Under this provision, a Magistrate of the first or second class is empowered to order the removal of trees obstructing telegraphic communication upon an application by the Telegraph Authority. The Magistrate is also responsible for determining and awarding compensation for the removed trees and such an award is deemed final.

12. Section 16 of the Telegraph Act, addresses disputes arising from the exercise of powers granted to the Telegraph Authority under Section 10 of the Telegraph Act. According to this provision, if there is any resistance or obstruction, the District Magistrate may, at his discretion, permit the Telegraph Authority to proceed with its operations. Clause(d) of this section further provides that if a dispute arises regarding the sufficiency or adequacy of compensation paid under Section 10 (d) of the Telegraph Act, then the aggrieved parties may approach the District Judge of the said jurisdiction where the affected property is situated.

13. Upon examining the policy, this court observed that albeit it was framed on October 15, 2015, it was made effective only after a request letter dated June 20, 2019, written by PGCIL to Chief Secretary, U.P., Lucknow. This was followed by a subsequent implementation letter dated November 19, 2019, issued by the Chief Secretary, U.P., Lucknow to all the District Magistrates.

14. The letter dated June 20, 2019 written by PGCIL to Chief Secretary, U.P, Lucknow is quoted below:

“To,

The Chief Secretary, Uttar Pradesh Government, Lucknow-226001

Subject: Implementation of the direction from Ministry of Energy, GD, regarding payment of compensation to the farmer and owners for construction of transmission lines in Uttar Pradesh.

Sir,

*Please refer to the letter No. 2023/chaubis/P-3-2018 dated 06.09.2018 (Copy enclosed) addressed to MD, UPPCL Shakti Bhawan Lucknow, regarding implementation of the direction from Ministry of Energy, GOI, for payment of compensation **with immediate effect** to the farmers land owners for construction of UPPCL transmission lines. As per direction, in the above referred letter, cost of 85% tower base land area to be compensated to the farmers/ land owners. The calculation of the compensation amount shall be made by the respective District Magistrate based on the circle rates.*

It is humbly prayed to issued necessary direction to the revenue department for issuance of guidelines in line with above referred letter to district magistrates regarding payment of compensation to the farmers/land owners for construction of transmission lines by POWERGRID/other agencies in the state of UP.”

15. The letter for the implementation of the policy dated November 19, 2019 written by Chief Secretary, U.P., Lucknow to all the District Magistrate is quoted below:

“सेवा में,

समस्त जिलाधिकारी,

उत्तर प्रदेश।

ऊर्जाअनुभाग-3

/

लखनऊ: दिनांक 19 नवम्बर, 2019

विषय- पावर ग्रिड कारपोरेशन आफ इण्डिया लि० के अन्तर्गत निर्मित होने वाली 765/400/220/132 के०वी० पारेषण लाइनों में लगाये जाने वाले विभिन्न कृषकों / भूस्वामियों को भूमि मुआवजे सम्बन्धी दिये जाने वाले क्षतिपूर्ति को भारत सरकार के ऊर्जा मन्त्रालय के दिशा -

निर्देशों के अनुरूप अंगीकृत करने के सम्बन्ध में।

महोदय,

उपर्युक्त विषय के सम्बन्ध में अवगत कराना है कि ऊर्जा अनुभाग -3 के शासनादेश संख्या-2023/24-पी-3-2018 दिनांक 06 सितम्बर, 2018 द्वारा उत्तर प्रदेश पावर ट्रांसमिशन कारपोरेशन लि० के अन्तर्गत निर्मित होने वाली 765/400/220/132 के०वी० पारेषण लाईनों में लगाये जाने वाले विभिन्न कृषकों/भूस्वामियों को भूमि मुआवजे संबंधी दिये जाने वाले क्षतिपूर्ति को भारत सरकार के ऊर्जा मन्त्रालय के दिशा-निर्देशों के अनुरूप उ०प्र० पा०टा०का०लि० के अन्तर्गत निर्माण होने वाली विभिन्न विभव की लाइनों में वर्तमान क्षतिपूर्ति के अतिरिक्त *Land Compensation* के पद से टावर बेस के नीचे 85 प्रतिशत क्षेत्रफल भूमि की लागत के रूप में अतिरिक्त क्षतिपूर्ति अनुमन्य किये जाने का प्राविधान किया गया है।

2. इस सम्बन्ध में उक्त शासनादेश दिनांक -06.09.2018 एवं अधिशासी, निदेशक, पावर ग्रिड कारपोरेशन आफ इण्डिया लि० के पत्र संख्या-पावर ग्रिड/एनआर-3/पीईएसए / 17684 दिनांक-20.06.2019 की प्रति प्रेषित करते हुये मुझे यह कहने का निर्देश हुआ है कि/ ऊर्जा विभाग की उपरोक्त व्यवस्था उत्तर प्रदेश में पावर ग्रिड कारपोरेशन ऑफ इण्डिया लि० के द्वारा स्थापित की जाने वाली पारेषण लाईनों पर भी लागू करने के लिये पावर ग्रिड कारपोरेशन ऑफ इण्डिया लि० के अनुरोध पर अन्तर्गत आवश्यक कार्यवाही की जाय।

3. उक्त आदेश राजस्व विभाग की सहमति से निर्गत किये जा रहे हैं।”

16. The policy of 2015 came into effect on November 19, 2019, following a request letter from PGCIL to the Chief Secretary on June 20, 2019. In the letter, PGCIL sought parity with UPPCL for the issuance of guidelines regarding implementation of compensation for land, in addition to compensation for trees, by the Ministry of Energy. The letter directed the policy to be implemented ‘with immediate effect’ for the UPPCL.

17. The phrase ‘immediate effect’ means the policy takes effect instantly or from a specified time. Therefore, the policy became effective immediately from the date of its implementation that is November 19, 2019.

18. It is pertinent to note that the project work has already been completed by this time. According to the petitioners, the project was completed in 2016 whereas the respondents claim it was completed in 2019. However, there is no dispute regarding the fact that the work has been completed.

19. The objective of the policy that has been framed earlier and implemented later was evidently to address the concerns of farmers whose trees were cut and whose lands were utilized for erecting towers. This suggests that the policy could be applied retrospectively to project work that had already been executed by the PGCIL. While PGCIL undertakes various projects across India, the policy does not specify the particular project work to which it applies.

20. The Supreme Court in **Power Grid Corporation of India Ltd. (Supra)** has held that Power Grid, as a Central Transmission Utility and deemed licensee under the Electricity Act, 2003, possesses powers akin to those of a Telegraph Authority under the Telegraph Act. This includes the authority to place and maintain transmission lines over private land without the owner's consent and provide compensation for any damages incurred in exercise of those powers. The Court emphasized that such powers are essential to ensure the development of infrastructure projects serving the public interest, such as electricity transmission, and that individual property rights may be subject to reasonable restrictions to achieve these objectives. The proper forum for determination of adequacy of compensation under the Telegraph Act rests upon the District Judge, as per Section 16 (3) and not the District Magistrate. The relevant paragraphs of the judgment are quoted hereinbelow:

“28. These are sufficient reasons to allow Civil Appeal No. 10951 of 2016 preferred by the Power Grid by setting aside those directions. Ordered accordingly. We make it clear that if the writ petitioner feels that it is entitled to any compensation, the appropriate course of action is to file a suit before the District Judge concerned for this purpose. It would also be apt to point out at this stage that the Central Government has framed guidelines dated 15-10-2015 in this behalf which inter alia provide that the issue of compensation may be resolved having regard to the mode and manner of assessment of compensation as per the said guidelines. Therefore, it would always be open to the writ petitioner to avail the remedy as per the said guidelines.”

“29. This appeal is filed by Power Grid in the case of Ram Naresh

Singh. In this case, transmission lines are in District Sasaram in the State of Bihar. The complete work for laying down the transmission lines where 524 overhead towers have been erected by the Power Grid. Out of these, only 1 tower is located at the land belonging to Ram Naresh Singh. The dispute raised is with regard to quantum of compensation and as per the provisions of Section 16 of the Telegraph Act, 1885, it is to be settled by the District Judge. Thus, for all the reasons [Set out in paras 1 to 28, above.] given above in the case of Century Textiles & Industries Limited, this appeal of the Power Grid stands allowed and the judgment [Power Grid Corpn. of India Ltd. v. Ram Naresh Singh, 2011 SCC OnLine Pat 603 : AIR 2011 Pat 83] of the High Court is set aside.”

21. The Division Bench of this Court in **Prem Pal v. State of U.P.** reported in **2011 SCC OnLine All 370** has specifically held that authority is constraint to pay compensation for any damages accrued from their act while executing the work and upon dissatisfaction with compensation, parties may approach District Judge for redressal of issue. The relevant paragraphs of the judgment are quoted hereinbelow:

“It will, thus, be apparent that the Authority under Section 10 of the Telegraph Act is bound to pay full compensation to all persons interested for any damage sustained by them, by reason of using the land or putting up any structure on the land thereby causing waste or damage. It is also provided that if a person is dissatisfied with compensation, such person may approach the District Judge within whose jurisdiction the property is situate, who will then decide the sufficiency of the compensation.”

“A licensee under Section 2(39) of the Electricity Act, is a person who has been granted a licence under Section 14 of the said Act. Section 14 confers power on the Appropriate Commission to grant a licence to any person to transmit electricity as a transmission licensee, or to distribute electricity as a distribution licensee, or to undertake trading in electricity as an electricity trader, in any area specified in the licence. The expression ‘licensee’, therefore, is a wide term, which can include various kinds of licensees. Normally, the compensation will have to be determined in terms of the Licensees Rules. In those cases where, under Section 164 of the Electricity Act, the powers of Part III of the Telegraph Act have been conferred on a licensee, then in that class of cases, the compensation determined would not be under the Electricity Act or

the Rules framed thereunder but under the provisions of the Telegraph Act. A construction of the provisions in this manner would lead to harmonious construction and will not result in conflict of exercise of jurisdiction under the Electricity Act on one hand and the Telegraph Act on the other. Under Section 10 of the Telegraph Act, the compensation is to be determined not by the District Magistrate or the Commissioner of Police but by the licensee itself, in the instant case, the Power Grid Corporation. The Power Grid Corporation, in the instant case, has determined the compensation. The petitioner was given a cheque which he had accepted on 15.01.2011. In our opinion, therefore, the remedy to the petitioner, if he is aggrieved by the insufficiency or inadequacy of the compensation, will be to apply before the District Judge within whose jurisdiction the land is situated, for enhancement of compensation or the like, which he is entitled to.”

“That, there is a power to locate a tower over the land possessed by private individuals and such individual would be entitled for the compensation for the damage sustained by him, was upheld by a Division Bench of this Court in Janardan Pandey v. State of U.P., Civil Misc. Writ Petition No. 41411 of 2007 decided on 5th September, 2007.

Considering the above discussion, this petition is disposed of, by directing the petitioner to apply, if not already applied, to the District Judge having jurisdiction for enhancement of compensation, and if such an application is made, the District Judge having jurisdiction to proceed to determine the compensation in accordance with law and dispose of the matter as expeditiously as possible.”

CONCLUSION

22. From the bare reading of the implementation letter, it appears that the wordings of the policy is slightly ambiguous. The letter neither clearly specifies whether it applies to claimants whose land had already been acquired before the policy came into effect nor explicitly states its applicability to specific projects undertaken by PGCIL. Moreover, ambiguity remains as to whether the policy extends to the farmers who have already received compensation from PGCIL but are dissatisfied with the amount paid to them.

23. At the outset, this Court deems it necessary to clarify that matters

involving policy decisions fall within the exclusive domain of the executive, and judicial interference in such matters is warranted only in cases of manifest arbitrariness, unreasonableness, or violation of fundamental rights. The Writ Court cannot substitute its wisdom with the policy making authorities unless it suffers from conditional infirmity. In view of the above, the present writ petition, which primarily seeks judicial intervention in a policy matter, does not warrant the Court's indulgence at this stage.

24. In the present case, the compensation granted earlier by PGCIL was based on a report of Conservator of Forests, Moradabad as stated in the counter-affidavit filed by the respondents. However, no supporting record has been annexed. Furthermore, before disbursing the compensation, no formal award was passed by the District Judge for the same.

25. Accordingly, this Court concludes that the earlier compensation granted by PGCIL in absence of an award, was merely a *suo moto* payment made by the PGCIL, that is, Telegraph Authority under Section 10 (d) of the Telegraph Act and not under Section 18 (2) of the Telegraph Act, which requires an award to be passed following a diligent application by the Telegraph Authority.

26. Thus, the contention of the petitioner that the earlier compensation was granted under Section 18 (2) of the Telegraph Act is categorically rebuffed by this Court, as no award was passed by the Magistrate. Consequently, the only remedy available to the petitioners, for their grievances in case they are aggrieved by the compensation or want to aggrandize the same which has been granted earlier by the Telegraph Authority, is to approach the District Judge under Section 16 (3) of the Telegraph Act by filing an appropriate application.

27. The Apex Court also affirmed in **Power Grid Corporation of India Ltd. (supra)** that it is the District Judge, and not the District Magistrate, who has jurisdiction under Section 16 (3) of the Telegraph Act, to determine issues relating to adequacy and sufficiency of compensation.

28. Accordingly, the present writ petition is disposed of on the ground of an alternative remedy available under Section 16 (3) of the Telegraph Act. The petitioners are relegated to approach the District Judge for redressal of their grievances.

(Shekhar B. Saraf, J.)

I agree

(Vipin Chandra Dixit, J.)

02.04.2025
Kuldeep