

HIGH COURT OF JUDICATURE AT ALLAHABAD

Court No.40
Neutral Citation No. - 2025:AHC:88345-DB

WRIT-C NO. 12360 of 2025

ANTRAM GOYAL

V.

POWER GRID NEEMRANA BAREILLY TRANSMISSION LIMITED
AND OTHERS

For the Petitioner : Ms. Shreya Gupta, Advocate
For the Respondents : Mr. Pratik J. Nagar, Advocate

HON'BLE SHEKHAR B. SARAF, J.
HON'BLE Dr. YOGENDRA KUMAR SRIVASTAVA, J.

(Judgment dictated by Shekhar B. Saraf, J. in open Court)

1. This is a writ petition under Article 226 of the Constitution of India wherein the writ petitioner, being aggrieved by the action of the Power Grid Neemrana Bareilly Transmission Limited (hereinafter referred to as the 'Power Grid Company'), has prayed for the following substantial reliefs:

“(i) issue a writ, order or direction in the nature of mandamus directing the District Magistrate, Aligarh (respondent no.3) to decide the representation of the petitioner dated 28.3.2025 (Annexure No.6), after providing him with an opportunity of hearing, most expeditiously or within such time period as this Hon'ble Court may direct;

(ii) issue a writ, order or direction in the nature of mandamus directing the respondents not to interfere in the possession of the petitioner and not to erect any tower for installation of High Tension wires in the land of the petitioner in Khasra no.61/1, area .9446 hectare situated in Village Narayanpur, pargana Chandaus, Tehsil-Khair District Aligarh, until disposal of the representation of the

petitioner dated 28.3.2025, by means of a reasoned and speaking order.”

2. Ms. Shreya Gupta, counsel appearing on behalf of the petitioner has submitted that upon a reading of Section 10 read with Section 16 of the Indian Telegraph Act, 1885 (hereinafter referred to as the ‘Act’), the District Magistrate is required to pass an order under Section 16(1) of the Act. It is her submission that this provision mandatorily requires the Power Grid Company, that is, the Telegraph Authority to grant hearing to the petitioner, and thereafter, pass a reasoned order with regard to the resistance/obstruction made by the petitioner. To buttress her argument, she has relied upon paragraph 23 of the Full Bench judgment of the Kerala High Court in **Bharat Plywood and Timber Products Ltd. v. Kerala State Electricity Board Trivandrum and Others** reported in **AIR 1972 Kerala 47 (V 59 C 10)**. The relevant extract of the said paragraph is delineated below:

“23. ... We have, therefore, necessarily to understand the statute as enabling an owner or occupier or a person having control over the property over which a line is sought to be placed as having the right to resist or obstruct. When the Telegraph Authority is so resisted or obstructed, the District Magistrate can be approached. If he is approached, the District Magistrate would decide whether the authority should be permitted to exercise the powers. When the District Magistrate decides that he should be so permitted resistance thereafter is made an offence. And there is an obligation cast upon the owner or occupier to render all facilities for the exercise of that power. The sections (Sub-sections (1) and (2) of Section 16) can only be understood in this manner. In short Sections 10 and 16 have to be read together, and when there is resistance or obstruction, the power under Section 10 can be exercised only when the District Magistrate passes an order under Section 16(1) that he shall be permitted to exercise them.”

3. She further relies on the judgment of the coordinate Bench of this Court in **Jagir Lal and Another v. State of U.P. and Others**; **Netural Citation No.-2011:AHC:120828-DB**. The relevant paragraph of the said judgment reads as under :

“From the provisions of Sections 10 and 16 of the Telegraph Act and the provisions of U.P. Electricity Act, 2003, it is clear that there is no requirement of obtaining any permission from the owner of the property for laying down the transmission line. The only protection which has been given to the owner is one as contemplated under Section 16 sub-section (1) where the District Magistrate has been conferred with the power to take a decision in his discretion as to whether telegraph line be permitted to lay down or not. The District Magistrate can exercise that power either suo moto or on a request made by either the Telegraph Authority or by the owner of the land. There is no dispute that whenever telegraph line is laid down on a property of a person, he is entitled to claim compensation from the authority and in the event he is not satisfied with the amount of compensation, he is entitled to make an application to the District Judge as per Section 16 (3) of the Telegraph Act.”

4. She further relies on the recent judgment of the coordinate Bench of this Court passed in **Arun Kumar v. State of U.P. and Others** (Writ-C No.1024 of 2023 decided on February 10, 2023). The relevant paragraphs of the said judgment are provided below:

“14. In Jagir Lal (supra) the Division Bench considered all judgements rendered earlier by Coordinate Division Benches of this Court and came to a conclusion that the landowner on whose land electric line is drawn, is entitled to compensation and there was no specific discussion of Section 16 sub-Section (1), nor any proposition had been laid down in them that even though laying down of line is obstructed, no permission of the District Magistrate is required. The Court was of the opinion that power conferred upon the District Magistrate under Section 16 is to exercise discretion in cases where laying of Transmission Line is obstructed. Such power is to be exercised for a purpose and an object. The object is that whenever a dispute arises between the Telegraph Authority and owner of the property, on whose land Transmission Line is to be laid down, the District Magistrate is to consider the facts of the particular case and then in his discretion, decide as to whether laying of the line should be permitted or not. In the above, it is implicit that in a given case the District Magistrate may permit laying of the line or may refuse to permit the same. The power that has been conferred is with an object that the District Authority may adjudicate and decide any such issue raised on such obstruction or resistance. However, from the provisions of Section 10 and 16 of the Telegraph Act and the provisions of the U.P. Electricity Act 2003, it is clear that there is no requirement of obtaining any permission from the owner of the property for laying down the Transmission Lines. The only protection which has been given to the owner is one as contemplated under sub-Section (1) of Section 16, where the District Magistrate

has been conferred with the power to take a decision in his discretion as to whether Telegraph Line be permitted to be laid down or not. The District Magistrate can exercise such power either Suo Moto, or on the request made by either the Telegraph Authority or by the owner of the land. There is no dispute that whenever Telegraph Line is laid down on a property of a person, he is entitled to claim compensation from the authority and in the event he is not satisfied with the amount of compensation, he is entitled to make an application to the District Judge as per Section 16 (3) of the Telegraph Act.

15. This Court has carefully gone through the judgment rendered by the Supreme Court in Century Textiles (Supra) and cited by the learned counsel for the respondent and finds that there is a specific reference to Section 16 of the Act of 1885 by the Supreme Court in its para 18 and the Supreme Court has also observed that if any dispute arises concerning sufficiency of compensation to be paid under Section 10 clause (d) an application for the said purpose can be moved by either of the disputing parties to the District Judge within whose jurisdiction the property is situated and the court of District Judge shall direct the Telegraph Authority to deposit in the court of District Judge such amount as it deems sufficient in case there is a dispute regarding apportionment also.

17. This Court has also gone through Section 16 of the Act of 1885 which has been referred to by the learned counsel during the course of his argument. Under Section 16 of the Act of 1885, it is provided that while exercising powers conferred by Section 10 or on raising of dispute as to compensation, in case of property other than of the local authority, such exercise is resisted or obstructed, the District Magistrate shall in his discretion, order that the Telegraph Authority be permitted to exercise such powers. If after making of such order by the District Magistrate, under Sub Section (1), any person still resists the exercise of such power, or having control over the property, does not give all facilities for them to be exercised, he shall be deemed to have committed an offence under Section 188 I.P.C. If any dispute arises concerning the sufficiency of the compensation given under Section 10(d), the District Judge shall decide such dispute including that of apportionment of such compensation.”

5. She submits that the recent judgment in **Arun Kumar (supra)** relies upon the judgment in **Jagir Lal (supra)** quoted above and tenor of the said judgment makes it clear that the District Magistrate can exercise the power under Section 16(1) of the Act either suo moto or on a request made by either Telegraph Authority or by the owner of the land.

6. Per contra, Sri Pratik J. Nagar, counsel appearing on behalf of the Power Grid Company relies upon the Supreme Court judgment in **Power Grid Corporation of India Limited v. Century Textiles and Industries Limited and others** reported in **AIR 2017 Supreme Court 1141** to submit that the power exercisable under Section 10 read with Section 16 of the Act is a power with the District Magistrate to exercise only on the request of the Telegraph Authority, which in the present case is the Power Grid Company. He relies on paragraphs 19 and 20 of the said judgment to support his argument. Paragraph 19 and the relevant extract of paragraph 20 are delineated below:

“19) In the instant case, the aforesaid Rule is not applicable in view of Section 164 of the Electricity Act, 2003, which reads as under:

“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 (13 of 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.”

20) ...This coupled with the fact that Power Grid is treated as Authority under the Indian Telegraph Act, 1885, it acquires all such powers which are vested in a Telegraph Authority under the provisions of the Indian Telegraph Act, 1885 including power to eliminate any obstruction in the laying down of power transmission lines. As per the provisions of the Indian Telegraph Act, 1885, unobstructed access to lay down telegraph and/or electricity transmission lines is an imperative in the larger public interest.The legislature has not permitted any kind of impediment/ obstruction in achieving this objective and through the scheme of the Indian Telegraph Act, 1885 empowering the licensee to lay telegraph lines, applied the same, as it is, for laying down the

electricity transmission lines. Powers of the Telegraph Authority conferred by Sections 10, 15 and 16 of the Indian Telegraph Act, 1885, stand vested in and are enjoyed by the Power Grid.”

7. From a reading of the judgment of the Supreme Court in **Power Grid Corporation of India Limited (supra)**, it is crystal clear that provisions of the Act provide for unobstructed access to lay down telegraph and/or electricity transmission lines to the Telegraph Authority and the Supreme Court clarifies that this access has to be unobstructed in the larger public interest. Supreme Court has further laid down the ratio that the Legislature has not permitted any kind of impediment/obstruction in achieving this objective through the scheme of the Act conferring powers on the Telegraph Authority under Sections 10, 15 and 16 of the Act.

8. In our view, the facts and circumstances in the judgment of the Kerala High Court in **Bharat Plywood and Timber Products Ltd. (supra)** are distinct from the present facts and the law laid down therein. Though having a persuasive value, it is required to be seen that this judgment was passed in the year 1972, much prior to the Supreme Court judgement that has been passed in the year 2017. Similarly, the judgment in **Jagir Lal (supra)** of the coordinate Bench of this Court is a judgement of 2011 and the ratio laid down therein has been impliedly overruled by the Supreme Court in **Power Grid Corporation of India Limited (supra)**. With reference to coordinate Bench judgment of this Court in **Arun Kumar (supra)**, upon a perusal of the entire judgement, we do not find any specific ratio that has been laid down therein that the District Magistrate is required to hear every representation that is in the nature of obstruction/resistance/objection to the laying down of the lines. In light of the same, the judgement in **Arun Kumar (supra)** does not come to the rescue of the petitioner. We are, accordingly, of the view that the Supreme Court judgement in **Power Grid Corporation of India Limited (supra)** holds the field. Accordingly, ratio laid down therein is required to be followed.

9. In light of the same, we hold that the District Magistrate is not required to pass an order under Section 16(1) of the Act in every case where a person, on whose property the transmission line is being laid, raises an objection or files a representation before the District Magistrate. We are of the view that the District Magistrate is only required to pass an order under Section 16(1) when the Telegraph Authority refers a particular matter to the District Magistrate for passing an order therein.

10. Under the present circumstances, it is seen that a representation has been filed by the petitioner in the month of March 2025 and he is objecting to the laying down of transmission lines over his property. In effect, one may say that there is a kind of resistance being offered by the petitioner. This particular situation has to be left to the wisdom of the Telegraph Authority being the respondent No.1 herein.

11. We grant liberty to the Telegraph Authority to act in accordance with law including their right to refer the matter to the District Magistrate under Section 16(1) of the Act for dealing with the said obstruction/resistance/representation made by the petitioner.

12. With the aforesaid directions, the writ petition is disposed of.

23.5.2025

Kuldeep

(Dr. Y.K. Srivastava, J.) (Shekhar B. Saraf, J.)