

BEFORE THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION

Quorum

Shri Desh Deepak Verma, Chairman

Smt. Meenakshi Singh, Member

Shri I. B. Pandey, Member

In the matter of:

Sub: Petition under section 142 of the Electricity Act 2003 for Admissibility of Petition No. 972/2014 in the matter of order issued by DM, Varanasi.

1. Shri Basantu Yadav S/o Shri Gajadhar, Residents of Village Daniyalpur, Post Office Chubeypur, Paragana Katehar, Tehsil And District Varanasi.
2. Smt. Jiuti Devi W/o Shri Basantu Yadav, Residents of Village Daniyalpur, Post Office Chubeypur, Paragana Katehar, Tehsil And District Varanasi

-----Petitioners

Versus

1. The District Magistrate, Varanasi, District Varanasi.
2. The Executive Engineer, Electricity Distribution Division Ist, Uttar Pradesh Power Corporation Ltd., 132, KV Sub Centre Cantt, Imiliya Ghat Marg, Cantonment Board, Cantt, Varanasi.

-----Respondents

Present in the Hearing

1. Shri Kamlesh Kumar Singh, Advocate
2. Shri Isar Husain, Advocate

ORDER

(Hearing on 3.3.2015)

The petitioner Shri Basantu Yadav has filed this petition no. 972/2014 on 10.10.2014 under rule 3 (3) of the works of licensee rules 2006 framed in accordance to Electricity Act 2003 as per the direction of the Hon'ble High Court order dated 12.4.2014 given in writ petition no. 22282 of 2014. The operative part of the order runs as follows:

“Learned standing counsel for the respondent-corporation has submitted that under the Rule namely, Works of Licensees Rules, 2006 against such an order passed by the District Magistrate or the Commissioner, a revision would lie to the Commission under Rule 3(3) of the said Rules. He states that when statutory remedy is available to the petitioners, the Court should not entertain this writ petition and should relegate the petitioners to avail the statutory remedy.

In view of the aforesaid submission, we find that there is no cogent reason given in the writ petition so as to enable this Court to entertain this writ petition against the impugned order when a statutory remedy of revision is available to the petitioners.

In view of the aforesaid, we dispose of this writ petition by providing that the petitioners should avail the statutory remedy available to him as referred to herein above.

No order is passed as to costs.”

The petitioner approached the District Magistrate and the order dated 24.2.2014 passed by the District Magistrate, Varanasi which is reproduced below:

“अतः इण्डियन इलेक्ट्रिसिटी रूल्स 1956 के प्रस्तर –80 में उच्च एवं अति उच्च विभव की लाइनों हेतु निर्धारित ऊँचाई के मानक के दृष्टिगत प्रार्थी श्री बसन्तु यादव का प्रत्यावेदन दिनांक 30/9/2013 बलहीन है। अधिशासी अभियन्ता, विद्युत प्रेषण खण्ड—प्रथम को निर्देशित किया जाता है कि अधूरे कार्य को इण्डियन इलेक्ट्रिसिटी रूल्स 1956 के प्राविधानों के क्रम में पूर्ण कराये। यदि अधूरे कार्य को पूर्ण कराने में याची श्री बसन्तु यादव के भवन को कोई क्षति होती है तो नियमानुसार याची को क्षतिपूर्ति अदा करें। याची श्री बसन्तु यादव का प्रत्यावेदन दिनांक 30/9/2013 तदनुसार निस्तारित किया जाता है।”

Aggrieved by the order of the District Magistrate the petitioner approached the Hon'ble High Court by means of petition no. 70999 of 2013. The order of the Hon'ble High Court runs as follows:

“Considering the facts, the writ petition stands disposed of with the direction to the District Magistrate, Varanasi to consider and pass orders on the representation of the petitioner in accordance with the law as expeditiously as possible, preferably within 2 months from the date of production of the certified copy of the order.”

The petitioner has approached to the Commission to quash the order dated 24-02-2014 passed by the District Magistrate and to further restrain the opposite party no. 2 from completing the work for shifting the electric pole in the premises of the revisionists and

further to direct the opposite party no. 2 to shift the electric pole from the vacant land situated near the house of revisionists by making adjustment either in the corner or on the vacant land.

The hearing was held on the point of admissibility of petition. During the hearing, the Commission enquired the petitioner to submit his pleadings regarding admissibility. The petitioner submitted that the High Tension Line is under constructions and will pass over and above the house of revisionist so against the installation of this line he approached to the District Magistrate, Varanasi. As the matter was dismissed by the District Magistrate so he has approached to the Commission, as per works of licensee rules 2006 clause(3):

“Every order made by a District Magistrate or the Commissioner of Police, or an authorized officer under sub-rule (1) shall be subject to revision by the Appropriate Commission.”

The respondent submitted that the District Magistrate examined the matter and directed him to complete the line and the line was energized in 2014. The District Magistrate, Varanasi in his order has also directed the petitioner that on the matter of compensation he may approached the Tehsildar. The respondent further submitted that the petition is not maintainable.

The Commission again asked the petitioner that how the petition is admissible at this Forum. The petitioner requested to grant some time to file his reply. The Commission grants the same.

List on 7.4.2015.

(I. B. Pandey)
Member

(Meenakshi Singh)
Member

(Desh Deepak Verma)
Chairman

Dated: 07.04.2015