BEFORE THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION

**Quorum**

Shri Desh Deepak Verma, Chairman

Shri S. K. Agarwal, Member

**Petition No. 1144 of 2016**

**In the matter of:**

**Sub:** Representation/Application to determine the amount of compensation on the digging work of underground cable within local limit of Nagar palika Parishad, Badaun

**Petitioner**

 The Chairman, Nagar Palika Parishad, Badaun.

Versus

**Respondents**

1. Principal Secretary, State of U.P., Ministry of Energy, Govt. of U.P., Lucknow.
2. The Chairman, Uttar Pradesh Power Corporation Ltd., Shakti Bhawan, 14, Ashok Marg, Lucknow.
3. Managing Director, Madhyanchal Vidyut Vitran Nigam Ltd., 4-A, Gokhle Marg, Lucknow.
4. Director (Technical), Madhyanchal Vidyut Vitran Nigam Ltd.,
5. Chief General Manager (Finance), Madhyanchal Vidyut Vitran Nigam Ltd., Lucknow
6. Chief Executive Officer & Superintending Engineer, Electricity Distribution Circle, Madhyanchal Vidyut Vitran Nigam Ltd., Usawan Road, Budaun.
7. Executive Engineer, Electricity Distribution Division-I, Madhyanchal Vidyut Vitran Nigam Ltd., Budaun.

**Present in the Heaing:**

1. Shri Suraj Pal Maurya, Nagar Palika Parishad, Badaun
2. Shri V. K. Singh, Counsel Nagar Palika Parishad, Badaun
3. Shri A. S. Rakhra, Counsel MVVNL

**ORDER**

#  (Hearing on 16.01.2017)

The Petitioner, Chairman, Nagar Palika Parishad, Badaun has filed **Petition no. 1144/2016**, in the matter of Representation/Application to determine the amount of compensation for digging of street for laying the underground cable within local limit of Nagar Palika Parishad, Budaun.

The Petitioner had filed Writ Petition No. 3467 of 2016 in the Hon’ble High Court seeking a sum of Rs. 22,64,40,000/- towards damages / compensation from MVVNL on account of damage to public road and street. MVVNL has accepted the liability of Rs. 44912110/- towards restoration of public road and street falling witness the jurisdiction of Nagar palika Parishad, Badaun.

“The Hon’ble High Court order dated 10.8.2016 is as follows:

“While the payment for restoration of damaged roads is an issue which stands substantially resolved in terms of the assurances given by and on behalf of the fourth respondent, we find that the claim of the petitioner is far in excess of the sum of Rs. 4,49,12,110/- which has been admitted by the fourth respondent as due and payable. We may in this connection refer to the provisions of Rule 13 of the Works of Licensee Rules which provided for and putting in place an adjudicatory mechanism in respect of such claims. Rule 13 makes provision for the payment of full compensation for any loss or damage caused on account of the works undertaken by a licensee to the person affected. The compensation payable is mandated to be such as may be determined by the District Magistrate. In terms of sub-rule (2), if any difference or dispute arises as to the amount of compensation determined, the matter is left to be adjudicated upon by the appropriate Commission. The appropriate Commission, here we may note for our purposes, is the U.P. Electricity Regulatory Commission.

We accordingly dispose of this writ petition with the following directions:

The fourth respondent shall pay the sum of Rs. 4,49,12,110/- immediately and forthwith upon receipt of the requisite funds from the State Government. Insofar as the claims of the petitioner in addition to and over and above the amount admitted to the fourth respondent is concerned, we leave it open to it to pursue its remedies before the UPERC in terms of the provisions of Rule 13(2) of the works of Licensee Rules, 2006. We also record and accept the undertaking given on behalf of the fourth respondent that henceforth it shall complete the work of restoration of damaged roads and streets within one week of completion of works.”

During the hearing on 07.12.2016, the Petitioner was not present. The Commission observed that if the Petitioner does not appear in the next hearing, the matter shall be heard ex-parte and decided accordingly. Before the next hearing the petitioner shall also submit a certified copy of Hon’ble High Court Order dated 10.8.2016.

During the hearing on 4.1.2017 the petitioner’s counsel Dr. B. K. Singh submitted that he has received the copy of order today only, so he is unable to go through the documents. He further requested to grant the adjournment.

The Commission directs the petitioner to submit the certified copy of the Hon’ble High Court order dated 10.8.2016 before the next date of hearing.

During the hearing on 16.01.2017, the Commission observed that the certified copy of the Hon’ble High Court order dated 10.8.2016 has been submitted by the petitioner. The petitioner, Nagar Palika Parishad, Badaun, counsel Shri V. K. Singh submitted that damages/ compensation of Rs. 22, 64, 40,000/- has been sought from the MVVNL on account of damage cost to public roads and street by its employees and agent during the course of laying the electrical lines.

The respondent counsel Shri A. S. Rakhra submitted that MVVNL has paid the sum of Rs. 4,49,12,110/- to Nagar Palika Parishad, Badaun, which they had accepted as their liability before the Hon’ble High Court.

The Commission enquired the petitioner’s counsel that what compensation has been decided by the District Magistrate as per the Rule 3 (2) of the Works of Licensees Rules, 2006 to which the petitioner’s counsel replied that they have not approached the District Magistrate.

The Commission noted that the respondent has paid the a sum of Rs. 4,49,12,110/- to Nagar Palika Parishad, Badaun, and no compensation has been decided by the District Magistrate.

Therefore the Commission directs the petitioner to approach the District Magistrate, Badaun to decide the compensation under Rule 3 (2) of works of licensee Rules 2006. They can later approach the Commission, in case they have any grievance about the compensation amount decided by the District Magistrate, Badaun.

The Petition is accordingly disposed off.

 (S. K. Agarwal) (Desh Deepak Verma)

 Member Chairman

 Dated: 27.01.2017