



ASSAM ELECTRICITY REGULATORY COMMISSION

FILE NO. AERC. 610/2017

Petition No.:04/2017

ORDER SHEET

07.09.2017

Before the Assam Electricity Regulatory Commission

ASEB Campus, Dwarandhar,

G. S. Road, Sixth Mile, Guwahati – 781 022

Sri Dasarath Basumatary s/o Sri Madan Basumatary, Udalguri ----- Petitioner

Power Grid Corporation of India Ltd. (PGCIL) represented by DGM--Respondent-1

Sri C Borkotoki, DGM, PGCIL, Collegiate High School,

Mazgaon Barua Chuburi, Dist-Sonitpur, Assam, Pin-784001-----Respondent-2

Deputy Commissioner, Udalguri

-----Respondent-3

Secretary, Revenue, Boro Territorial Council (BTC), Kokrajhar-----Respondent-4

In the matter of

Misc Petition No. 04 of 2017 filed by Sri Dasarath Basumatary regarding dispute on non-payment of compensation under section 67 (3) of the Electricity Act'2003 while carrying out the work of tower erection and stringing of +800 kV HVDC power line from Biswanath Chariali to Agra by Power Grid Corporation of India Ltd.

CORAM

Shri Naba Kr. Das Chairperson,

Shri Subhash C. Das, Member

ORDER

1. Sri Dasarath Basumatary filed a Petition (Petition No 04/2017) regarding dispute on non-payment of compensation under section 67 (3) of the Electricity Act'2003 while carrying out the work of tower erection and stringing of +800 kV HVDC power line from Biswanath Chariali to Agra by Power Grid Corporation of India Ltd. on 21.03.2017. The salient submissions of the Petitioner were:
 - a. A 800 kV HVDC power line of PGCIL, from Biswanath Chariali to Agra, passes over the land of the Petitioner having Patta No 14 & Dag No 165 located at village Bellow Chuburi, Mouza-Ambagan, Dist-Udalguri, BTAD, Assam.
 - b. PGCIL has offered compensation for surface damage caused to the Petitione amounting to Rs 3,37,118/-. However, the Petitioner has got rubber and other (Jiya & Citrus) plantation in its land, for which no compensation was provided
 - c. ThePetitioner referred to complaint raised before the Deputy Commissioner in this regards and submitted the copies of correspondences.
 - d. The Petitioner further submitted a copy of certificate issued by Revenue Circle, Udalguri, in this regard and as per which the Assessment of compensation is Rs. 87,52,500/-.
 - e. The Petitioner prayed for direction to PGCIL for payment of the compensation as per valuation fixed by Revenue Circle, Udalguri.
2. The Commission fixed 05.05.2017 as the date of 1st Hearing. As scheduled the hearing was held. During the Hearing, the following direction was issued by the Commission:
 - a. The Commission directed PGCIL for submission of views & comments on the Petition on or before 22.05.2017.

- b. Based on the submission of BTC, it may be concluded that Circle Officer is not having any power related to deciding on compensation amount.
 - c. PGCIL submitted break up of total compensation amount to be paid to the Petitioner.
 - d. PGCIL submitted documentary evidence related to completion of the project.
8. BTC made its submission on 05.07.2017. The salient submissions made are:
- a. As per enquiry done at the Circle Office, the assessment report of Circle Officer submitted by the Petitioner is without any internal official record. Further no verification of the site was done by the Circle Officer.
 - b. A joint verification was done at the site of the Petitioner and it was found that the total land is 4B-1K-17L and there is still 4-5 Rubber trees standing in the corner of land but out of ROW corridor. So it can be ascertained that a rubber plantation was done by owner.
9. The Petitioner made additional submission on 07.07.2017. The salient submissions made by the Petitioner are:
- a. The valuation done by Rubber Board alone cannot be considered as base for computation of assessment value. The rulings of various Judgment/Order passed by the Hon'ble Supreme Court and various High Court also need to be considered over and above the valuation of rubber board.
 - b. The Petitioner stated that he is liable to receive compensation for land acquisition/land value diminished owing to the stringing of the Transmission line. According to the various notifications of Governments only the rates are changed, however, the principle/methodology for computation is kept same. Hence, the Petitioner should be paid the compensation related to land as well.
10. The 3rd Hearing on the matter was held on 07.07.2017. During the Hearing, the Commission directed the following:
- a. The Commission directed the Petitioner for submission as per format prescribed in the AERC (Conduct of Business) Regulation and to submit the details of Supreme Court Order if any on or before 22.07.2017.
 - b. The Commission directed the Respondent 4 for submission of views & comments as per format prescribed in the AERC (Conduct of Business) Regulation on the Comments of PGCIL on or before 22.07.2017.
11. However, the Petitioner and Respondent-4 did not make the submission as directed by the Commission on the scheduled date.
12. The 4th Hearing on the matter was held on 08.08.2017. During the Hearing, the PGCIL submitted a copy of Judgment of Hon'ble Supreme Court dated 14.12.2016 in the matter of Civil Appeal No. 10951 of 2016 (arising out of SLP (C) No 34382 of 2010) and submitted the following:
- a. The District Magistrate is authorized to decide the Compensation Amount.
 - b. The State Commission does not have jurisdiction for adjudicating cases related to compensation between PGCIL and consumer. The District Judge may only be approached if there is any dispute related to compensation amount
- The Commission directed the Respondent-4 for submission of its affidavit related to its submissions.
13. The Respondent-4 submitted the Affidavit on 01.09.2017 reiterating the submissions made on 05.07.2017.

Analysis and Decision

14. After scrutinizing the Petition and the additional submissions made by Petitioner and Respondent the following points are observed:
- a. The case is a dispute arising out of payment of compensation by PGCIL to a resident of the state of Assam.
 - b. The Petitioner has submitted the Petition under Section 67 (3) of the Electricity Act'2003. However, the same provision is mainly related to the works carried out by Licensee for opening up of streets, railways etc. The drawal of overhead lines is covered under Section 68 of the Electricity Act, 2003.
 - c. In case there is dispute related to the compensation paid by PGCIL to the affected party then District Judge is the appropriate authority to decide on such matter. In this case ,the Commission rely upon the Judgment of Hon'ble Supreme Court dated 14.12.2016 in the matter of Civil Appeal No. 10951 of 2016 (arising out of SLP (C) No 34382 of 2010).

Based on the above observation, the Petition No 04/2017 is dismissed. However, it is open to the Petitioner to approach the District Judge for resolving the dispute.

(Subhash C Das)
Member
AERC

(Naba Kumar Das)
Chairperson
AERC