



**ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION**

4<sup>th</sup>Floor, Singareni Bhavan, Red Hills, Hyderabad 500004

WEDNESDAY, THE SIXTEENTH DAY OF AUGUST,  
TWO THOUSAND AND TWENTY THREE

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:Present:

**Justice C.V. Nagarjuna Reddy, Chairman**  
**Sri Thakur Rama Singh, Member**  
**Sri P.V.R. Reddy, Member**

**O.P.No.45 of 2022**

Between:

Sri Ch. Venugopal Rao, S/o Late Sri Ch. Chadramouli  
R/o 1-191, Guntupally (Village), Ibrahimpatnam Mandal,  
N.T.R District (Erstwhile Krishna District),  
Andhra Pradesh, Mobile: 9490206969.

...Petitioner

And:

1. The Collector & District Magistrate, Chilakalapudi,  
Machilipatnam, N.T.R District-521002,  
Vijayawada (Post), Andhra Pradesh.
2. Chairman & Managing Director, APTRANSCO,  
Vidyut Soudha, Gunadala, Eluru Road, Vijayawada,  
NTR District. Andhra Pradesh - 520004.
3. Chief Engineer Construction 400 KV, APTRANSCO,  
Vidyut Soudha, Eluru Rd, Gunadala, Vijayawada,  
NTR District, Andhra Pradesh -520004.

....Respondents

This Original Petition has come up for hearing before us on 21-6-2023 in the presence of Sri P.Chengal Reddy, learned counsel for the petitioner, and Sri P. Shiva Rao, learned Standing Counsel for respondents 2 and 3, that none having appeared on behalf of respondent No.1; and that after carefully considering the material available on record and after hearing the arguments of the learned counsel for both parties, the Commission passed the following:

**:O R D E R:**

This Original Petition has been filed seeking award of minimum compensation of Rs.17,58,350/- plus Crop compensation as per Section 26 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short “the LARR Act); and compensation for Right of Way (RoW) Corridor in terms of the Guidelines for payment of compensation with regard to Right of Way for Transmission Lines in Urban Report dated 16-7-2020 and G.O.Ms.No.86 dated 03-3-2006 issued by the Municipal Administration and Urban Development (M) Department). The undisputed facts, forming the backdrop of the case, are briefly set out hereunder:

During the period 2009-10 the Transmission Corporation of Andhra Pradesh (APTRANSCO) has formulated and approved a Scheme for laying 2 Nos., of Double Circuit Lines for Loop-in and Loop-out of Nunna-Srisailam/ Narasaraopet 400 KV Double Circuit line to VTPS (State-IV). The Scheme in this regard was published in the A.P. Gazette on 17-7-2007 calling for objections from the general public. As no objections were raised by anyone, including the petitioner, the Scheme was finalised and the work was completed during 2009-10.

It is the pleaded case of the respondents, which is not disputed, that the above mentioned line was laid in the place of the dismantled 220 KV line, which was originally laid on 29-9-1982. The foundation for one 400 KV tower was dug over the petitioner’s land in RS No.41/1 of

Guntupalli village, Ibrahimpatnam Mandal, Krishna District, for locating tower No.7. Before commencement of the construction of the line, the petitioner herein and other land owners filed Writ Petition No.29161 of 2008 before the Honourable High Court of Andhra Pradesh. Interim orders were passed in the Writ Petition; notwithstanding, a line was erected. The Writ Petition was ultimately dismissed for default on 18-12-2015 along with the Miscellaneous Petitions. Later, the petitioner along with his deceased father approached this Commission by filing O.P.No.51 of 2017 seeking compensation for Ac.0.31 cents of land. The respondents resisted the said O.P by filing a detailed counter. By an elaborate Order passed on 30-6-2018, the Commission held that the petitioners are entitled to payment of compensation as per the Statute and the Statutory Rules, which shall be determined by the District Collector, Krishna District. The Commission finally directed the District Collector, Krishna District, being the Authorised Officer under G.O.Ms.No.6, Energy, Infrastructure and Investment (Power-III) Department, dated 06-3-2017, to fix the amount of compensation or of annual rent or of both, which should, in his opinion, be paid by the Licensee i.e., APTRANSCO, to the petitioners in respect of the work carried out on their land and also to determine the full compensation for any loss or damage incurred by the petitioners by reason of default of the APTRANSCO in complying with any of the Statutory Rules, within six months from the date of communication of that order. A further direction

was also given to APTRANSCO to pay the compensation, so determined, within two months from the date of receipt of the order of the District Collector.

Feeling aggrieved by the said order, APTRANSCO has filed Writ Petition No.7359 of 2019 in the Honourable High Court of Andhra Pradesh. The said Writ Petition was dismissed, vide: order dated 30-1-2020 holding that the order dated 30-6-2018 of this Commission in OP No.51 of 2017 does not suffer from any infirmity. Even during the pendency of the said Writ Petition, the petitioner filed O.P.No.37 of 2019 under Sections 142 and 146 of the Electricity Act, 2003 to punish the respondents for violation of the said order in O.P.No.51 of 2017. Pending the said OP, the District Collector, Krishna District, passed orders dated 03-9-2021 determining the compensation. The District Collector having taken the land value, as per the Market Value Register, at Rs.50,60,000/- per acre, awarded a sum of Rs.2,47,940/- for an extent of Ac.0.049 cents allegedly occupied by the tower and Rs.1,22,958/- representing 10% of the market value towards compensation for diminution of land value for an extent of Ac.0.243 cents falling under the Right of Way (RoW) corridor. Dissatisfied with the quantum of the said compensation, the petitioner has filed the present O.P. The petitioner felt aggrieved with respect to the following aspects:

- a) The extent of land occupied by the tower was taken as Ac.0.049 cents i.e., 04.90 cents. As per the petitioner's claim, compensation is required to be awarded for Ac.0.12 cents;
- b) The Collector & District Magistrate awarded 100% of market value, while the petitioner claims 250% as prescribed under the LARR Act; and
- c) The petitioner claimed equal compensation, as claimed for tower area, even for an extent of Ac.0.19 cents covered by the RoW corridor.

In all, the petitioner claims Rs.17,58,350/- as compensation for Ac.0.31 cents of his land.

In their counter-affidavit, respondents 2 and 3 have taken the stand that, in strict sense, the petitioner is not entitled to compensation because the new line was laid in the place of the old 220 KV line, which was laid as far back as 29-9-1982. However, without prejudice to the said plea, the respondents sought to justify the compensation of Rs.3,70,898/- awarded by the Collector & District Magistrate, Krishna District. The respondents have relied upon G.O.RT No.83, Energy, Infrastructure and Investment (Pr.II.A.2) Department, dated 20-6-2017, which prescribed payment of 100% of the land value for the tower base area and 10% of the land value for the RoW corridor. According to the respondents, the tower base area is the area bounded by concrete as visible from outside of four legs of the tower and, accordingly, this area is arrived at as 04.90 cents as

calculated by the Revenue Authorities. Opposing the claim of the petitioner for payment of 250% of the land value in terms of LARR Act, the respondents have pleaded that while the tower over the petitioner's land was erected in 2009, the LARR Act came into force from 01-1-2014; and that, therefore, there is no justification to claim 250% of the land value as envisaged under the said Act.

Having regard to the respective pleas of the rival parties, the following points arise for consideration:

1. Whether the petitioner is entitled to compensation for an area of Ac.0.12 cents as claimed by him or only for an area of 04.90 cents as awarded by the Collector & District Magistrate, Krishna District?
2. Whether the petitioner is entitled to 250% of the market value for the tower area?
3. What is the quantum of compensation which the petitioner is entitled to receive for the RoW corridor?

**Point No.1: Whether the petitioner is entitled to compensation for an area of Ac.0.12 cents as claimed by him or only for an area of 04.90 cents as awarded by the Collector & District Magistrate, Krishna District?**

As there was a serious dispute between the parties on the actual tower base area, this Commission has authorised the Deputy Director (T&E) of this Commission to make a personal inspection of the location, after issuing one week's notice to the petitioner to enable him to be present at the location, and submit a report. Accordingly, the Officer has inspected the petitioner's land on 15-5-2023, after issuing notices to the petitioner and his Advocate and the respondents. After such inspection, the Officer has submitted his Inspection Report dated 16-6-2023.

After receipt of the Inspection Report, the case was posted for hearing on 21-6-2023. When the Commission has asked the learned counsel for the petitioner whether the petitioner would like to file any objections to the Inspection Report, the learned counsel, while replying in the negative, submitted that, based on the Inspection Report, appropriate orders may be passed. Accordingly, the hearing was closed and orders were reserved on the same day.

In the Inspection Report, the Officer has stated that apart from the Officials of the respondents, the petitioner and others were present. In his report, the Officer has noted that, while the area occupied by the four legs of the tower was taken as 04.89 cents in the drawings furnished by the APTRANSCO, the area at the ground level bounded by concrete as visible from outside of four legs of the tower as measured by the Mandal Surveyor in his presence is found to be 05.25 cents. It is further noted that the land area affected under and surrounding the tower due to non-removal of soil heaps as measured by the Mandal Surveyor is 11.84 cents; that, however, the area of 06.59 cents (11.84 cents - 05.25 cents) can be used for farming by the petitioner, if the soil heaps are removed; and that the total area of RoW, including the tower base, as measured by the Mandal Surveyor is Ac.0.29 cents out of the total land of Ac.0.31 cents belonging to the petitioner. The Drawing prepared by the Mandal Surveyor has been enclosed to his Report.



It is, thus, clear from the said Inspection Report and the Drawings of the Surveyor that the tower area is 05.25 cents while the RoW corridor area is 23.75 cents. As noted above, no objections have been filed to the said Inspection Report. Thus, as against the claim for compensation for Ac.0.12 cents in respect of the tower area, only an extent of 05.25 cents was found to be occupied by the entire tower. Therefore, the petitioner cannot claim compensation for any area in excess of 05.25 cents.

The petitioner has placed reliance on certain proceedings, vide: Annexures-A.10 to A.14 in respect of his claim for payment of compensation for Ac.0.12 cents for the tower area. No doubt, in all those proceedings, Ac.0.12 cents were taken as the tower occupied area. But, when a specific dispute was raised with respect to the exact area occupied by the tower and such area is specifically ascertained by the authorised Officer (Deputy Director) of this Commission, which remained uncontroverted, it is not possible to rely upon those proceedings. It is common knowledge that the extent of land that could be occupied depends upon the design and drawing of the towers, which may vary from location to location depending upon the nature of the soil and the particular design of the tower, which is required to be located on the soil. As noted by the Deputy Director (T&E) in his Inspection Report, as per the drawings for the tower on the location in dispute, only an extent of 04.89 cents was shown. However, in the Inspection Report he has found that the exact area occupied by the tower is 05.25 cents. He has also



found that the balance area of 06.95 cents can be used for farming if the soil heaps are removed. In the light of these specific findings, we do not find any reason to award compensation for any area in excess of the actual area occupied by the tower i.e., 05.25 cents.

Accordingly, we hold that the petitioner is entitled to the compensation for an area of 05.25 cents. However, the petitioner is entitled to a reasonable amount for removal of the soil heaps to enable him to cultivate the said land, if he so desires.

**This point is, accordingly, answered.**

**Point No.2: Whether the petitioner is entitled to 250% of the market value for the tower base area?**

The petitioner claimed 250% of the market value as compensation for the tower base area.

Under Section 67 of the Electricity Act, 2003, the appropriate Government is empowered to make Rules, *inter alia*, specifying the determination and payment of compensation or rent to the persons affected by works regarding laying down or placing electric supply lines by the licensee. Under sub-section (3) thereof, an obligation is cast on the licensee to pay full compensation for any damage, detriment or inconvenience caused by him or by any one employed by him while carrying out the works over private lands. Under sub-section (4), where any difference or dispute arises in the determination of compensation, the matter shall be determined by the appropriate Commission. In pursuance of the said rule making power, the State Government of Andhra Pradesh

has framed the A.P. Works of Licensees Rules 2007. These Rules are *pari materia* with the Works of Licensees Rules 2006 issued by the Government of India. Under Rule 13, where the licensee makes default in complying with any of the provisions of these rules, he shall make full compensation for any loss or damage incurred by reason thereof to the person affected, as may be determined by the Collector & District Magistrate or by any other officer authorised by the State Government in his behalf. This rule also envisages that where any difference or dispute arises as to the amount of compensation determined under sub-rule (1), the matter shall be determined by the Commission.

In ***R.Ramamurty Naidu Vs. Collector & District Magistrate, Nellore***<sup>1</sup> this Commission has held that if the State Government chooses to exercise the powers conferred on it by Section 67(2)(e) of the Electricity Act, 2003, it can make Rules for laying down or specifying the guidelines for determination of compensation in general, and, later, they shall be placed before the State Legislature. It was also held that as the Government did not appear to have framed any Rules, G.O.Rt.No.83, dated 20-6-2017 cannot be treated as containing Rules and that it has laid down the guidelines only for payment of compensation and damages; that, in the absence of the State Government making Rules, the Collector & District Magistrate has the freedom to determine the compensation by following fair and acceptable methods, such as, taking fair market value;

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<sup>1</sup>) Order dt.21-9-2021 in Revision Petition No.1 of 2020 and Revision Petition Nos.1,2 and 3 of 2021 on the file of this Commission.

or, in the absence of any criteria, the Collector & District Magistrate may even follow the procedure being followed by the authorities concerned under the LAAR Act.

In the instant case, the Collector & District Magistrate has followed G.O.Rt. No.83 dated 20-6-2017 in the absence of any Rules framed by the Government. Under the said G.O., 100% of the land value determined by the Collector & District Magistrate is payable for the tower base area and 10% of the land value for the RoW corridor. The petitioner has relied upon the order dated 20-11-2021 passed by the District Collector, Sri Pottisriramulu Nellore District (Annexure-12), Order dated 20-11-2021 passed by the District Collector, West Godavari District at Eluru (Annexure-13) and the order dated 05-9-2021 passed by the Collector & District Magistrate, Krishna District (Annexure-A.14), wherein 250% of the land value was awarded for the tower base area.

As rightly pointed out by the respondents, all these orders were passed in respect of the towers laid after 01-01-2014, the date on which the New Land Acquisition Act (LAAR Act) has come into force, which, for the first time, has prescribed compensation at 2.1/2 times of the market value. Admittedly, the tower on the petitioner's land was laid as far back as the year 2009 i.e., much before the LAAR Act has come into force. Therefore, in the absence of any Law, including the executive instructions, prescribing payment of any sum in excess of the market value, the petitioner is not entitled to claim any higher sum than the

market value of the land. Hence, the Collector & District Magistrate has rightly fixed 100% of the market value as ascertained by him for the tower base area.

**This point is, accordingly, answered.**

**Point No.3: What is the quantum of compensation which the petitioner is entitled to receive for the RoW corridor?**

Despite drawal of the power line, the petitioner can continue to enjoy the RoW corridor. However, having regard to the realisation that the land value may diminish on account of drawal of electric line over the land, the State Government has provided for payment of 10% of the land value for the RoW corridor, vide: GO Rt.No.83, dated 20-6-2017. As the ownership as well as the possessory rights of the petitioner remained intact, he cannot complain of deprivation of his proprietary rights as well as the rights to enjoy the property. Therefore, the Collector & District Magistrate cannot be said to have committed any error in fixing 10% of the land value as compensation for the RoW corridor.

Before concluding the discussion, we are left with two more aspects for adjudication. One is - how much amount the petitioner is entitled to for removal of the soil heap? and another is - whether the petitioner is entitled to be compensated for the delayed payment of the compensation determined by the Collector & District Magistrate?

As the expenditure for removal of the soil cannot be arrived at with precision, we feel that a sum of Rs.20,000/- (Rupees twenty thousand only) is reasonable to be awarded to the petitioner.

As regards the second aspect, though it has not been specifically claimed by the petitioner, we are of the view that the petitioner must be reasonably compensated for the delay in receipt of the compensation. Under the statutory enactments governing acquisition of lands, a certain amount of interest is payable when advance possession was taken without payment of compensation. In the present case, the line was laid in the year 2009. However, the disadvantage of non-payment of compensation is offset by the fact that market value was determined as prevailing in the year 2021. The petitioner is, therefore, entitled to be paid reasonable interest from the date of the order passed by the Collector & District Magistrate i.e., 03-9-2021 till the payment is made. We feel that interest at 9% per annum is payable by the APTRANSCO to the petitioner on the sum of damages as determined in this order.

In the result, the petitioner is granted the following reliefs:

- a) The petitioner is entitled to 100% compensation for the tower base for an extent of 05.25 cents by taking the land value as Rs.50,60,000/- per acre;
- b) the petitioner is also entitled to compensation at 10% of the market value of Rs.50,60,000/- per acre for an extent of 23.75 cents for the RoW corridor area;
- c) the petitioner is entitled to simple interest at the rate of 9% per annum from 03-9-2021 till the date of payment; and

d) the petitioner is also entitled to a sum of Rs.20,000/- (Rupees twenty thousand only) towards the expenditure for removal of the soil heap.

The OP shall stand, accordingly, disposed of. There shall be no costs.

Pronounced on this the 16th day of August, 2023.

**Sd/-  
P.V.R. Reddy  
Member**

**Sd/-  
Justice C.V. Nagarjuna Reddy  
Chairman**

**Sd/-  
Thakur Rama Singh  
Member**