



**TELANGANA STATE ELECTRICITY REGULATORY COMMISSION**  
**5<sup>th</sup> Floor, Singareni Bhavan, Red Hills, Hyderabad-500 004**

O. P. (SR) No. 20 of 2017

Dated: .05.2018

**Present**

Sri. Ismail Ali Khan, Chairman

Between:

Smt. Lavanya Yeju w/o Raja Sai Venkata Bangar Balabhadruni,  
Flat No. 201, Ananda Nilayam, Widia Colony, Miyapur,  
Near Talkie Town Theatre Miyapur, Hyderabad – 500 049.

.... Petitioner

**AND**

1. The State of Telangana Rep. by its Principal Secretary,  
Department of Energy, Telangana Secretariat,  
NTR Marg, Khairtabad, Hyderabad – 500 002.
2. The Chairman & Managing Director, Transmission  
Corporation of Telangana Limited, Vidyuth Soudha,  
Hyderabad.
3. The Chief Engineer Construction, TS TRANSCO,  
Vidyuth Soudha, Khairtabad, Hyderabad.
4. The Executive Engineer, 400 KV / Construction – II / Metro,  
Erragadda, Hyderabad.
5. The District Collector & Magistrate, Ranga Reddy District,  
Hyderabad.
6. DRR AIMS Properties Pvt. Ltd., Rep by its Chairman &  
Managing Director, Plot No. 57 / A and 58 / A, Flat No.401,  
Sai Vishal Apartments, S. R. Nagar, Ameerpet, Hyderabad.

.... Respondents

This petition came up for hearing on 16.11.2017, 08.12.2017 and 02.05.2018.  
Ms. Jyothisri Vankina alongwith Ms. Anupama Maganti, Advocates for the petitioner

appeared on 16.11.2017, Ms. Jyothisri Vankina alongwith Sri. Parasaram, Advocates appeared on 08.12.2017 and 02.05.2018. Sri. Y. Rama Rao, standing counsel for the respondents along with Ms. Pravalika, Advocate appeared on 16.11.2017 and 08.12.2017. Sri. Y. Rama Rao, standing counsel for the respondents along with Sri. M.V.R. Prasad, Advocate appeared on 02.05.2018. The petition having stood for consideration to this day, the Commission passed the following:

### **ORDER**

Smt. Lavanya Yeju (petitioner) has filed a petition under sec 67 (4) and (5) of the Electricity Act, 2003 (Act, 2003) seeking compensation for acquisition of the property for laying high tension towers.

2. The petitioner stated that being the adversely affected owner of the property due to the actions of the respondents electricity corporation officials, government officials and respondent No. 5. She stated that the present petition is being filed aggrieved by non-payment of compensation after having taken over her property in Anandah Nilayam – II, Raikal Village, Farooq Nagar Mandal, Mahaboob Nagar District (now reorganized into Ranga Reddy District) without any notice and without any attempt to make any payments.

3. The petitioner stated that she is the owner of plots numbered 59, 58, 57, 56, 55, 54, 65 and 66 in Anandah Nilayam – II, Raikal Village, Farooq Nagar Mandal, Mahaboob Nagar District (now reorganized into Ranga Reddy District) which was a layout laid down by the respondent No. 6. She stated that her predecessors in title had got their lands in survey Nos. 70, 71, 72, 74 & 75 of Raikal Village, converted from agricultural land to residential lands vide proceedings by the concerned Revenue Divisional Officer, Mahabubnagar vide multiple proceedings dated 23.08.2013, by duly paying conversion tax.

4. The petitioner stated that the respondent No. 6 had purchased the above stated lands vide multiple registered sale deeds Doc. No. 10368 of 2013, dated 16.08.2013, Doc. No. 13854 of 2013, dated 30.12.2013, Doc. No. 1005 of 2014, dated 10.02.2014, Doc. No. 3255 of 2014, dated 21.04.2014, Doc. No. 5639 of 2014, dated 05.08.2014 and developed the layout Anandah Nilayam – II. She stated that

vide registered sale deed Doc. No. 82 of 2015, dated 05.01.2015, certain small area was added to the layout for further improvement of the plan. She also stated that she paid substantial amounts for purchasing the property and copy of receipts of various payments are filed along with this petition.

5. The petitioner stated that she had purchased plots in the above said layout under various registered sale deeds, Doc. No. 7136 of 2015, dated 31.07.2015, Doc. No. 7137 of 2015, dated 31.07.2015, Doc. No. 4287 of 2015, dated 06.05.2015, Doc. No. 4288 of 2015, dated 06.05.2015 and Doc. No. 4282 of 2015, dated 06.05.2015. The relevant encumbrance certificates are filed along with this petition. She stated that immediately after the purchase of the plots, to secure the plots, she had laid fencing around them and also placed some material in the plots to improve her plots into a residential house. She also stated that there is no claim from any person leave alone by any of the respondents against her title to the plots which she owns till date.

6. The petitioner stated that while the matter stood thus, on 14.10.2016, when she came to know that some people are doing some work in her plots, her father-in-law went to check the place and found that the plot Nos. 55, 56, 57, 58, 59, 65 and 66 have been dug up. She stated that on enquiry it was found that the plots are dug up by contractors at the behest of the respondents No. 1 to 4 for the laying of a high tension tower for the purpose of electric transmission. She also stated that she had not been given any notice whatsoever nor she was informed of any compensation payment.

7. The petitioner stated that on behalf of the various plot owners, the developer respondent No. 6 has filed a writ petition W. P. No. 30357 of 2016 before the Hon'ble High Court at Hyderabad, wherein the question of law on the due process of law and the issue of notice to be given before the property of a party is to be used or taken over by the respondents under the Act, 2003 and rules made thereunder is seized of by the Hon'ble Court. She stated that this petition is being filed for due compensation for complete takeover of her property by the electricity officials who are arrayed as respondents herein.

8. The petitioner stated that she had filed a writ petition in W. P. No. 37819 of 2016 before the Hon'ble High Court at Hyderabad on a question of law that the

process of taking over the property without acquiring the land as illegal and unconstitutional, whereas this claim petition is for compensation payable to her. She stated that in the present case, the tower has come up on her plots and all the plots except plot No. 54 are right under the tower directly and hence completely dug up and thus it is essentially that the plots have been occupied in entirety by the respondents No. 1 to 4 and Plot No. 54 being in the impact area is of absolute no use and has been taken over by the Respondents No.1 to 4.

9. The petitioner stated that in the writ petition vide W. P. No. 30357 of 2016, the respondent No. 4 herein has filed a counter affidavit stating that compensation based is being paid to the farmers while the factual position on the ground remains that she is the owner of the land where the tower is being built and absolutely no compensation has been paid to her till date. She stated that her address has remained the same as what is shown in the sale deeds of her plots and she has not received any communication whatsoever from the respondents.

10. The petitioner stated that the acts of the respondents in entering upon her property and completely using it up for their purpose with no compensation paid is totally illegal and thus she is entitled to compensation and exemplary damages. She stated that in the above stated compelling circumstances, having no other alternative, she is invoking the jurisdiction of the Commission for compensation and damages due to the respondents taking over her property without paying any compensation.

11. The petitioner stated that the respondents No.1 to 4 have taken over her property and have run foul of their obligation under Section 67 (3) of the Act, 2003 and also they have not acquired the land as per the law in force that is The Right to Fair Compensation Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, which has come into force since 01.01.2014. She stated that as per Section 67 (4) of the Act, 2003 “where any difference or dispute including amount compensation under sub-section (3) arises under this section, the matter shall be determined by the Appropriate Commission”, thus this Commission has specified jurisdiction to entertain the present claim petition.

12. The petitioner stated that for the actual acquisition of her 8 plots, each with an extent of 147 sq. yards, totaling 1176 sq. yards, the then prevailing market rate of Rs. 2,999 per sq. yard was paid to the Respondent No. 6 who is the developer of the layout. She stated that the total cost for purchasing the property as follows:

Total number of plots	:	8 (Plots Nos. 54, 55, 56, 57, 58, 66, 59, 65)
Total area	:	1176 sq. yds
Market value paid	:	Rs. 35,26,824/-
Registration charges	:	Rs. 56,950/-
Fencing for property	:	Rs. 1,25,000/-
Total cost	:	Rs. 37,08,774/- (in year 2015)

13. The petitioner stated that at present the prevailing market rate is higher than the value at which she had purchased the land is more than the market value per square yard, but in the interest of speedier settlement, she is basing her claim on the monies she had paid in acquiring the same. She stated that the minimum prescribed factor for land acquisition under The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 is factor of one (1) and also the solatium is for 100% of the market value. She also stated that the total compensation now claimed is as follows:

a) Total cost of acquisition	:	Rs. 37,08,774/-
b) Solatium (100%)	:	Rs. 37,08,774/-
c) Total Compensation	:	----- Rs. 74,17,548/- -----

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14. The petitioner has sought the following prayer in the petition.

“I therefore pray that the Hon’ble Commission directs the respondents to jointly / severally pay me the compensation of Rs. 74,17,548/- (Rupees Seventy Four Lakhs Seventeen Thousand Five Hundred and Forty Eight only) under Section 67 (4) of the Electricity Act, 2003 and also impose a penalty of the like sum of Rs. 74,17,548/- (Rupees Seventy Four Lakhs Seventeen Thousand Five Hundred and Forty Eight only) under Section 67 (5) of the Electricity Act, 2003 on the respondents jointly / severally in my favour.”

15. The Respondents No. 2, 3 and 4 have filed their counter affidavit. The contents of it are extracted below.

(i)“ In the exercise of powers conferred under section 164 of the Act, 2003, the Government of Telangana has the powers for placing of the electricity supply lines (or) electric plant for transmission of electricity (or) the purpose of telephonic (or) telegraphic communications necessary for proper co-ordination of works that a telegraphic authority possesses under the provision of the Telegraph Act, 1885 (Central Act, 13 of 1885). It is stated that the Chief Engineer / Construction / APTRANSCO (presently denoted as TSTRANSCO in further matter) under the concurrence of the then Government of Andhra Pradesh approved a Gazette Note No. 60, Dt:04.03.2013 duly mentioning the forth coming list of transmission lines of 400 / 200 / 132 KV Suryapet SS to 400 / 200 KV Shankarapally.

(ii) It is further stated that during the surveys / proceedings, the proposed transmission line was passing through Raykal Village through all open lands including majority agricultural lands and no real estate activities were in that area.

(iii) It is further stated that while execution of transmission line erections in the year 2014, M/s. DRR Aims Management i.e. Respondent No. 6 raised objections as to erection of lines stating the reason that the respondent No. 6 had got the land conversion on 23.08.2013 and the subject land in Sy. Nos. 70, 71, 72, 74 and 75 is being developed by them. The director of Town and Country Planning had issued the final layout plan in the year 2015. It is pertinent to state here that on the date of Gazette Note No. 60 dt: 04.03.2013 this subject lands were agricultural lands even according to the petitioner in O. P. (SR) No. 20 of 2017 as the said lands were not converted from agricultural to Non-agriculture.

(iv) It is stated that in pursuance of representations made by the respondent No. 6 herein the authority had conducted a joint inspection on 26.06.2014 and same is rejected on the ground that technically not feasible to shift the lines to neighboring lands as the same are adjacent to railway track.

(v) It is stated that the answering respondent on repeated requests of the Respondent No. 6, proposal was made vide Lr. Dt.05.05.2016 to the

respondent No. 6 that to minimize the damage to the plots that the answering respondent authority is ready to reroute the line along the internal road of the layout but no consent or whatsoever was received. Therefore, the lines were erected by this respondents after following due procedure of law.

(vi) It is stated that as the petitioner herein has purchased certain plots from the respondent No. 6 in the year 2015, therefore, the petitioner shall have no grievance as the plots are purchased from the respondent No. 6 with the knowledge of the lines were passing through their plots. Hence, the petitioner is not entitled to the said relief except the procedure under the law.

(vii) It is stated that the District Magistrate of Ranga Reddy District by exercising his powers under Section 164 of Act, 2003 read with Section 10 of the Indian Telegraph Act, 1885 had already dealt with the objections for the erection of lines which are passing through Yacharam, Kandukur, Shabad, Chevella and Shankarpally Mandals of Ranga Reddy District and fixed the compensation vide order dated: 08.08.2014. The petitioner's claim of compensation is falling under the Farooqnagar Mandal, Mahaboobnagar District. TSTRANSCO extended same benefit to Farooqnagar Mandal also vide their Memo Dt. 28.08.2014. The same orders are attached as Annexure and the answering authorities are ready to make payments as per the orders Dt: 08.08.2014 of the District Magistrate of Ranga Reddy and TSTRANSCO orders Dt. 28.08.2014.

(viii) It is stated that the District Collector of Ranga Reddy had also observed in his proceedings Dt. 08.08.2014 that there is no necessity for acquiring the land or to take the consent of the owner / occupier before laying the transmission lines as per the Acts referred above. Therefore, the answering respondent denies all the allegations made by the petitioner herein."

16. Having considered the petition and noticing the status of the petitioner with reference to the issue raised in the petition, entertaining a doubt about the maintainability of the petition, the office had raised the question on the issue, the counsel for the petitioner has replied to the objections of the office as below.

*Objections*

(a) You have stated that the developer of the property owned by the petitioner i.e., DRR AIMS Properties Pvt. Ltd. had filed Writ Petition No.30357 of 2016, wherein the prayer in the said writ petition is as follows:

“Issue a writ, order of direction, one or more particularly in the nature of the writ of “Mandamus” declaring the highhanded action of the respondents in proposing to install 400 KV High Tension Towers and also Draw Lines over the petitioner layout in Sy. Nos. 70, 71, 72, 74 and 75 of Raykal village, Farooqnagar Mandal, Mahabubnagar District without following due process of law by causing notice to the petitioner, as arbitrary, illegal and without adherence to the Electricity Act, 2003 and Rules made thereunder and consequently direct the respondents to follow the procedure as per the provision of the Electricity Act and Rules made thereunder and pass”

State and explain how a prayer, which is a consequential and having bearing on the prayer in the writ petition can be sought before the Commission as unless the writ petition is withdrawn or dismissed, the present prayer does not arise.

*Response*

1. The present petition is filed by the petitioner / applicant as the owner of the plots numbered 59, 58, 57, 56, 55, 54, 65 and 66 in Anandah Nilyam – II, Raikal Village, Farooq Nagar Mandal, Mahaboob Nagar District (now reorganized into Ranga Reddy District) which was a layout laid down by the Respondent No. 6 (As clearly stated in para 3 of the claim petition / application).
2. The developer who is also arraigned as Respondent No. 6 is NOT the owner of the plots which is the property regarding which the present petition / application is before this Hon’ble Court.
3. The developer had filed the writ seeking the violation of his right to notice by the authorities causing disruption in the layout and is distinct from the present petition before the Hon’ble Commission seeking compensation by the petitioner / owner it does not in any way bind the rights of the petitioner and hence the writ filed by the respondent No. 6 and the mere fact of pendency of the writ petition does not preclude the right of the petitioner / applicant herein.

4. The fact that there is a consequent relief is not material and relevant as any relief which is given is to the benefit of the Writ Petitioner in WP No. 30357 of 2016 who is the developer of the layout and does not in any way deliver any relief to the plot owner like the present applicant / petitioner thus the WP No. 30357 of 2016 does not come in way of the present application before the Hon'ble Commission.
  5. The present petition / application is for the relief of compensation to the petitioner / applicant under Section 67 (4 ) & Section 67 (5) of the Electricity Act, 2003 and being a substantive right is liable to be entertained by this Hon'ble Commission. The Hon'ble High Court is moved under the Article 226 for violation of fundamental rights under Part III of the Constitution of India. Thus the rights and the reliefs are substantially distinct and the petitioners are also distinct thus the objection / defect is not tenable.
- (b) You have stated that the petitioner has filed W.P. No. 32819 of 2016, wherein the petitioner has sought the following prayer.

“to issue a writ, direction or order more particularly one in the nature of writ of mandamus under article 226 of Constitution of India and declare the high handed actions of the respondents 1 to 4, completely taking over / occupying the petitioner's property as being illegal, arbitrary, unconstitutional violative of article 14, 21 and 300A of Constitution of India and consequently direct the respondents 1 to 5 to pay compensation in accordance with law in the interest of justice”.

State and explain how this petition is maintainable when a superior court has seized off the issue of acquiring the land to which the prayer in the present petition is a consequential one apart from it being a similar prayer with that of the prayer in the writ petition filed by the petitioner herself.

*Response*

1. The petitioner has filed the WP No. 37819 of 2016 for the violation of her fundamental rights and the compensation which is sought is for the violation of her fundamental rights by the state machinery. This compensation for violation of fundamental rights is substantially distinct from the compensation which is being sought in the present petition notwithstanding the illegal method of taking over the property.

2. Till date the writ is pending and no compensation is paid to the petitioner so that such an amount may be taken into consideration by this Hon'ble Commission while granting compensation to the petitioner.
3. It is respectfully submitted that the superior court, in the present case the Hon'ble High Court at Hyderabad is seized of the issue of "unlawfully taking over of the property" in violation of the principles established by law, but not "acquisition of property".
4. It is respectfully submitted that there are two parallel rights and it is the compliance of law in terms of notice and procedure which are violated by the respondents and the writ petition before the Hon'ble High Court at Hyderabad is seized of the procedural rights.
5. The petitioner has come before this Hon'ble Commission for compensation irrespective of the legality of the procedure of taking over the property of the petitioner. Thus it is the substantial right of compensation which is in question before this Hon'ble Commission and hence there is no principle or bar against taking cognizance of the present petition / application and if at all any compensation is awarded either at the commission or at the High court the other forum would adjust the compensation keeping in view of the compensation already granted.
6. Hence, the present objection / defect is also not tenable.

(c) How this petition is maintainable when the petitioner had already handed over the land to a developer, who had already filed a writ petition independently and the said firm is also a party to the writ petition filed by the petitioner herein.

*Response*

1. The contention that the land has been handed over to the developer is completely inaccurate and nowhere in the petition does the petitioner make such a statement.
2. The developer is liable to develop the roads and other parts in the layout which are completely different from the plots owned by the petitioner and the objection / defect is completely inaccurate and not based on any factual basis.

3. In the petition the word developer is present in Para 14 & Para 24 and neither of these state anything which gives an impression that the plots are handed over to the developer.
  4. The petitioner has made the firm a party to the petition as the Hon'ble Commission would benefit from the records in the control of Respondent No.6.
  5. The purpose of adding the present Respondent No. 6 in the writ petition before the Hon'ble Court is also for the purpose of bringing all the parties whose records would be relevant to the proceedings before the appropriate forum.
  6. Hence the present objection / defect is also not tenable.
- (d) The provision under the Electricity Act, 2003 particularly section 67 (3) & (4), which is reproduced below.

“(3) A licensee shall, in exercise of any of the powers conferred by or under this section and the rules made thereunder, cause as little damage, detriment and inconvenience as may be, and shall make full compensation for any damage, detriment or inconvenience caused by him or by any one employed by him.

(4) Where any difference or dispute [including amount of compensation under sub-section (3)] arises under this section, the matter shall be determined by the Appropriate Commission.”

The provision clearly states that the Commission assumes jurisdiction only in case of difference or dispute arising in respect of compensation and not otherwise. How this petition is maintainable in the absence of payment of compensation or dispute or difference raised by the petitioner?

*Response*

1. The provision talks about payment of compensation by the licensee and the language employed is “any difference or dispute including amount of compensation”. This includes the case of dispute of non-payment of compensation and also “zero” compensation by not paying the same whilst making of claims by the respondent that payments are being made to the owners.
2. The petitioner is raising the dispute with the respondents and since Section 145 of Electricity Act, 2003 excludes the jurisdiction of the Civil

Courts, the dispute is to be adjudicated before this forum in regards to the compensation for the plots of the petitioner.

3. Hence the present objection / defect is also not tenable.

(e) Under which provision of the Electricity Act, 2003, does this Commission has authority to fix solatium and penalty?

*Response*

1. The power of the commission to impose penalty is under Section 67 (5) of the Electricity Act, 2003.

“The Appropriate Commission, while determining any difference or dispute arising under this section in addition to any compensation under sub-section (3) may impose a penalty not exceeding the amount of compensation payable under that sub-section.

2. The power of the commission to award compensation is not in dispute. ‘Solatium’ being a form of compensation for injury to feelings as distinguished from pecuniary loss or physical suffering as provided, commonly payable on acquisition of property of private individuals by the state which is apart from and over and above market value payable. Thus solatium is type of compensation and thus the powers of the commission to pay solatium are under the ‘compensation provisions’ in Section 67 (5) r/w Section 67 (4) of the Electricity Act, 2003.

3. Hence the present question in objection / defect is answered.

(f) Are there any specific provisions under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and resettlement Act, 2013, dealing with acquisition or utilization of land for laying lines and towers?

*Response*

1. Prima facie there are none which directly relate to the activity of laying lines and towers.

2. Hence the question regarding defect / objection is answered.

(g) Explain the rational in not filing the copies of the writ petitions in W. P. Nos. 30357 and 37819 of 2016 along with this petition whiling counter affidavit filed by the respondents No. 2, 3 and 4 in W. P. No. 30357 of 2016.

*Response*

1. The rationale behind filing of the counter of the respondents No. 2, 3 & 4 in WP. No. 30357 of 2016 was to establish the falsities being stated by them regarding compensation being paid to owners.
2. Insofar as the petition and the material for the writ petitions being not relevant, they were not felt necessary. If the Hon'ble Commission seeks the petitioner to file the same during the proceedings for any specific purpose, the petitioner undertakes to file the same.
3. Hence the explanation to the defect / objection is answered.

17. After perusing the replies to the objections raised by the office and not satisfied with the replies of the petitioner, the petition was ordered to be taken on file at SR stage itself and to hear the petitioner and respondents on the issue of the maintainability. The parties were issued notice and the matter was heard on three occasions as noted above. I have noticed the pleadings and the counter affidavit filed by the parties and the reply to the objections apart from hearing the counsel for the parties. The gist of the proceedings on the respective dates of hearing is reproduced below for better appreciation of the facts involved in the petition.

*16.11.2017*

"The counsel for the petitioner has stated that the petition is filed for compensation towards land acquired for laying lines. The petitioner is the owner of six plots being developed by the developer, who is respondent in this petition. The petition is filed by the petitioner for payment of compensation for the land acquired by the government on behalf of licensee. No procedure with regard to acquiring lands has been followed by the District Collector and the borrowing authority also. It is her case that in the counter affidavit filed by the DISCOM before the Hon'ble High Court in the writ petition filed by the developer and herself also, had stated that the compensation had been paid to the owners. She claims that no compensation is paid by the government or any information is given to the land owner, which had been purchased by her in the year 2015.

The counsel for the respondents sought to emphasize that the compensation had been paid to the owners of the land pursuant to the order of the Collector and the present petition is premature as under section 67 of the Act, 2003, the Commission has to decide or can entertain an appeal on the order of the

Collector and not otherwise. It is also his case that the present petition is not maintainable before this Commission as the petitioner and the developer of the property are already before the Hon'ble High Court challenging the action of the respondent and the government. Therefore, he sought rejection of the petition as not maintainable.

The counsel for the petitioner has sought to distinguish the petitions before the Hon'ble High Court and the present petition filed by the petitioner. It is stated that the said writ petition complains of the violation of the rules and regulations in acquiring the land and to protect the rights of the individuals under the Constitution. The present petition is not with reference to the same. The Commission having noticed that it had in a similar petition had taken a view in respect of land acquisition in another matter and made some observations, felt that the present petition is not maintainable. It also pointed out to the parties that the present petition cannot be proceeded with as a higher forum has seized of the matter and the Commission is duty bound by the propriety not to engage itself in the matter having come to know that higher forum has initiated proceedings in the matter. However, in order to facilitate itself to look into factual matrix and know the veracity of the statement that the Collector had passed orders in the matter of compensation, the Commission has directed the counsel for the petitioner to ascertain, obtain and file the orders of the Collector as to what extent the compensation had been awarded by the competent authority. Accordingly, the matter is adjourned."

*08.12.2017*

"The counsel for the petitioner has stated that the petition is filed for compensation towards land acquired for laying lines. She stated that as directed by the Commission, a representation has been made to the District Collector & Magistrate, R. R. District to furnish the required information as to whether any compensation had been paid and if so, to whom the same had been paid and for what amount. She stated that no response has been received from the District Collector. She stated that the present petition is for determination of compensation and direction for payment of the same. It is her case that without paying the compensation, action has been taken to install the lines and towers in the land.

The Commission sought to know from the respondents, whose representative was present at the time of hearing as to whether the District Collector had passed orders permitting the respondents to lay the lines and they have done so. The representative confirmed that without any order for possession and compensation, they have laid the lines. On detailed questioning, a general order has been passed by the Collector is the statement of the representative. On further questioning he also stated that no compensation had been paid to the land oustees. However, upon specific order, they are willing to pay the determined compensation to the owners of the land.

The Commission also observed that in the absence of an order passed by the District Collector invoking Land Acquisition Act and following the procedure set out therein for determining the compensation, the Commission cannot entertain the petition, as it is required to adjudicate the difference or dispute in respect of the compensation so determined. The present petition appears to be premature as according to the parties, there is no order from the District Collector & Magistrate concerned. While it is not correct on the part of the DISCOM to lay lines and towers without obtaining necessary orders from the competent authority for land acquisition, it is also equally not correct that the Commission can *prima facie* decide compensation itself. Therefore, the present petition needs to be rejected.

At this stage, the counsel for the petitioner sought time and also stated that the respondents should file their counter affidavit and state whether they are willing to pay compensation at all, as there is an oral concession before the Commission as to payment thereof upon proper order. In these circumstances, the parties have sought adjournment of the case.

It has also been contended on behalf of the respondents that the petitioner before the Commission has already invoked the jurisdiction of the Hon'ble High Court. The reply from the counsel for the petitioner is that the said petition is with reference to violation of fundamental rights and legal rights and the same does not amount to plurality of remedies. She also read out a reply given to the office of the Commission when it raised objection after filing of the petition, explaining the position in respect of litigation before the Hon'ble High Court and the Commission. The Commission made it clear that it has no

authority with regard to violation of fundamental rights or any other remedy except that one which is provided under the Act, 2003.

Keeping in view the detailed arguments made on behalf of the parties, while the parties are required to take necessary steps of obtaining the orders of the Collector as well as filing of the counter affidavit etc., the matter is adjourned but without any date.”

*02.05.2018*

“The counsel for the petitioner has stated that the petition is filed for compensation towards land acquired for laying lines. She stated that as directed by the Commission, a representation has been made to the District Collector & Magistrate, R. R. District to furnish the required information as to whether any order has been passed awarding compensation and the same has been paid and if so, to whom the same had been paid and for what amount. She stated that no response has been received from the District Collector. She stated that the present petition is for determination of compensation and direction for payment of the same. It is her case that without paying the compensation, action has been taken to install the lines and towers in the land.

The counsel for the respondents stated that counter affidavit had been filed opposing the petition and that they have already taken steps to pay the compensation subject to the petitioner accepting the same. The petitioner had already approached to the Hon’ble High Court on the same issue. Since, the present petition is not challenging the order of the District Collector, this Commission lacks jurisdiction to entertain the same. The Commission may be pleased to dismiss the petition with liberty to approach the Commission as and when the District Collector passes suitable order or an order has already been passed, which the petitioner may seek to challenge before this Commission. This Commission cannot go into the rights of the parties amenable under the Article 226 of the Constitution of India. The counsel for the petitioner pointed out that this present petition is not for enforcement of rights under the Constitution.

The Commission took the view that this petition cannot be proceeded further in the absence of an order having been passed by the District Collector. As

such the present petition is not maintainable. Therefore, the present petition is not entertained.”

18. From a reading of the proceedings that took place earlier, the fact of acquiring land stood undisputed. It is also not disputed that the lines and towers had already been laid. The short bone of contention between the parties appears to be passage of appropriate orders under the land acquisition enactment. While the petitioner is emphasizing that no order has been passed by the District Collector and no notice was issued for that purpose, the licensee is emphatic that an order of acquisition had been passed and they are willing to implement the said order in favour of the petitioner also as has been implemented in respect of other land owners.

19. Perusal of the record would demonstrate that an order of acquisition of the lands had been passed by the District Collector as early as 08.08.2014, whereas the petitioner has approached this Commission only on 20.05.2017 for the first time seeking the relief of compensation for the acquired plots of the petitioner. The other record placed before me is reference to the gazette notification issued by the then Government of Andhra Pradesh through Transmission Corporation of Andhra Pradesh for erection of towers and lines at several places in the then State of Andhra Pradesh. It does not figure out the line in issue in this petition. However, a proceedings of APTRANSCO dated 15.04.2013 mentions about the DC line from Suryapet 400 KV SS to Shankarpalli 400 KV SS. Thus, the position of the petitioner is also not clear warranting interference by this Commission in the matter.

20. The present petition is not filed questioning the order of the District Collector determining the compensation in respect of the acquired plots of the petitioner. Under the Act, 2003, this Commission has jurisdiction only when an order is passed by the Collector towards compensation and any difference or dispute that has arisen on such determination. Section 67 clause (3), (4) and (5) of the Act, 2003 set out the procedure in the matter of compensation and appeal while laying lines and towers. In the absence of challenge to the order of the District Collector, the present petition is not maintainable abinito. Therefore, I have no other option except reject the petition even without admitting the same.

21. Suffice it to state that when there is fact of passing of order by the District Collector has been made known to the petitioner at first instance in this proceedings, the petitioner did not take effective steps to confirm or deny the said fact, instead, it was submitted across the table that representation has been made to the District Collector on 20.11.2017 and there is no response from them. It is also canvassed before me that despite notice by this Commission, no appearance is made by the District Collector and therefore, insisted on drawing adverse inference. However, in the teeth of respondents placing an order of the District Collector before me, such a finding cannot be arrived at.

22. I may gainfully refer to an order passed by this Commission in O. P. No. 17 of 2016 on 07.08.2017. At paragraph 39 of the said order, this Commission had made the following observations.

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In view of the finding above, this case also falls substantially in similar position and as such calls for no interference by this Commission.

It is also on record from the material filed by the petitioner that the then Government of Andhra Pradesh through the Revenue Divisional Officer, Mahboobnagar had issued orders permitting conversion of the agricultural land into non-agricultural land and orders to that effect were communicated to the original owners, who made representation to the R.D.O., Mahaboobnagar. This was done in the year 2013. Whereas, the encumbrance certificates filed by the petitioner herself showed that she owned the land only in the year 2015 and 2016. Even assuming the District Collector had passed orders, the compensation could have been claimed by the original owners, who were in possession of the lands according to self same document as on the date of the order that is 08.08.2014. For all these reasons, no case is made out by the petitioner.

23. In view of the foregoing discussion and material on record as discussed above, the petition is not maintainable and accordingly is not admitted and dismissed. The parties shall bear their own costs.

*This order is corrected and signed on this the      day of May, 2018.*

**(ISMAIL ALI KHAN)  
CHAIRMAN**

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