

## WEST BENGAL HUMAN RIGHTS COMMISSION

File No.10/SMC/22

Date : 05/06/2023**Present**

1. Mr. Justice Jyotirmay Bhattacharya - Chairperson
2. Mrs. Justice Madhumati Mitra - Member
3. Mr. Naparajit Mukherjee - Member

A news item appeared in Times of India dated.27/8/2022 entitled "*Low-hanging high-tension wire chars AC mechanic. 24-Yr-Old Flung Off The Ledge*". The West Bengal Human Rights Commission, on the basis of this news item took suo motu cognizance and called for a report from both Chairman, West Bengal State Electricity Distribution Company Limited (W.B.S.E.D.C.L) and West Bengal State Electricity Transmission Company Limited (W.B.S.E.T.C.L) by September 12, 2022.

2. The news item reported that a 24 year old AC mechanic was carrying out some repair work at Saradapally in Tagore Park, off E.M. Bypass when he accidentally contacted a low hanging high tension wire carrying 220 KV electricity to Kasba Sub-Station when he was electrocuted. According to locals, the person electrocuted was one Utpal Patra who was called by the owner of the four-storied building to repair

a split Air Conditioner unit. It was also reported that the high tension line was low hanging and passed barely 30 ft. above the ground pose to multi storied houses. The news-item further reported that according to sources in W.B.S.E.T.C.L entire area was prone to such accidents as power lines passed through the area that used to be without habitation. So the height of these wires was around 30 ft. when initially erected 15 to 20 years ago.

3. The Director (HR) of West Bengal State Electricity Distribution Co. Ltd. vide their Memo No.CHR/MISC/23/188 dt.28/2/2023 replied that this matter did not relate to West Bengal State Electricity Distribution Co. Ltd. but to West Bengal State Transmission Co. Ltd.

4. Subsequently, a reminder was issued on 13/3/2023 to West Bengal State Electricity Transmission Co. Ltd. to expedite submission of its report to West Bengal Human Rights Commission when vide Memo No.WBSETCL/Corp(HR&A)/Accident/1141 dt.28/3/2023, the General Manager (HR&A) forwarded an enquiry report conducted by Addl. Chief Engineer, Corporate-Safety as Chairman and S.E.(E), Howrah, Testing Area Office, D.E. and Area Manager, Barasat Area office, Manager (HR &A), Salt Lake Area office as the three other members of the said committee. They admitted that an accident occurred at Kasba-Sonarpur 132 KV line near Tagore Park Sub-Station on 26/8/2022 around 12.08 p.m. Following this accident it was observed that between Tower No.4

and 5, unauthorized encroachment/access on live line was causing severe fault. The person electrocuted/victim Lt. Utpal Patra in charred condition was sent by police to Ruby General Hospital for post mortem. According to report of Ruby General Hospital the victim, Utpal Patra was brought dead.

The enquiry committee concluded that the transmission line was in operation for more than 50 years and that unauthorized infringement/constructions of building, shops have taken place below the line violating Indian Electricity Rules. The vertical distance between the conductor and roof top of the building is 2.315 mts. which should have been 4.6 mts. At the place of accident the vertical distance from AC machine to conductor is hardly 3.715 mts. which should have been at least 4.6 mts. as per rule. The enquiry committee alleged that the owner of the house, one Haradhan Roy, was perfectly aware of the low hanging electrical conductor wires despite which he sent AC mechanic for undertaking repair works. The owner did not participate during the enquiry, despite notice to him. The report alleged that similar accident may occur due to unauthorized activity. It has been stated in the report that the Indian Electricity Rules, 77 mandated the required clearance to be 6.1 mts. from the ground. At the accident spot the required clearance from the ground was 8.2 mts. which were above the requirement of Electricity Rules.

The enquiry committee concluded that there was no lapse on the part of West Bengal State Electricity Transmission CO. Ltd. and the victim as well as the house owner was at fault. It recommended that whenever such constructions occurred causing encroachment local body should be informed, safety leaflet distributed, municipal authorities informed and that a data base be maintained regarding such unauthorized construction areas.

5. The matter was duly examined by Commission and clarification was sought from W.B.S.E.T.C.L authorities on point (A) that it was admitted in the report that Indian Electricity Rules were violated as the distance between roof top to the high voltage conductor wire was only 2.31 mts. whereas according to the said rules it should be 4.6 mts. (B) Why no criminal action was initiated by WBSETCL authorities under the Electricity Act to avoid such untoward incident. (C) Whether the WBSETCL awarded any compensation to the victim. A reply was received vide Memo No.CETR (O&M)-1/3730 dt.26/4/2023 from Chief Engineer (O&M-I) WBSETCL to our queries. It stated that there was no claim for compensation received by W.B.S.E.T.C.L. over this incident. Further, the report stated that the 132 Kv. Kasba-Sonarpur Double Circuit line was operational for more than 50 years and during this period several unauthorized construction have come up within this corridor. The W.B.S.E.T.C.L was not the owner of the land under the corridor and has legal right for access to the line and towers for



maintenance purposes under Clause 11 of Indian Telegraph Act, 1885 and Section 64 of Electricity Act, 2003. It further commented that “the responsibility of abiding by the applicable rules lies with the building owners and any unauthorized constructions that do not comply with the rules should be taken care of by the law and administration”. Thereby stating that the W.B.S.E.T.C.L was in no way liable for this incident / accident. Not being satisfying with the report of Chief Engineer (O&M) – I, The Commission decided to examine him u/s 16 of the PHR Act which was duly done on 17/5/2023 and statement of Shri Tapas Chakrabarti, Chief Engineer (O&M)I was recorded.

6. During the course of examination the Chief Engineer, O&M-I, WBSETCL accepted that the place of occurrence was within his jurisdiction. He further informed that from the notice of West Bengal Human Rights Commission which was served on W.B.S.E.T.C.L on 07/9/2022 came to his knowledge in early 2023. He further added that the initial enquiry report was forwarded to the Commission by Ms. Sujata Datta, General Manager (HR&A) while the actual enquiry was conducted by the members of a committee who were all holding very responsible position in the organization. He stated that the enquiry report was correct and that observation to that effect was also correct. He further added that from the report it was clear that requisite distance was not being maintained between transmission line and building as per Indian Electricity Rules. He admitted that at the place of

accident the vertical distance from the AC machine to the conductor wire was hardly 3.715 mts. whereas, according to Rules it should be at least 4.6 mts. He stated that the area was densely populated and construction in ROW was rampant. Accidents of similar nature may happen at any time due to such unauthorized activities. He added that he came to know of such violations only through report of enquiry committee which was very serious in nature. The Commission enquired of him that as per provisions of Section 68(5) of Electricity Act, 2003 was it mandatory duty on the part of W.B.S.E.T.C.L to report about any structure or other object which has been placed or has fallen near an overhead line subsequent to placing of such line which interrupts or interferes with transmission of electricity to the Executive Magistrate seeking removal of such obstructions. The witness added that the in-charge of 220 Kv. Sub-Station had reported the matter to police authority and Chief Electrical Inspector. He also added that the in-charge of Kasba Sub-Station was responsible for such inspection. When the witness was specifically asked about the provisions of Section 68(5) of Electricity Act under which the organization was responsible for reporting such violations to the Executive Magistrate, the witness insisted that such reports were given to police authority and Chief Electrical Inspector whenever any interruption occurs. He added that line patrols were being conducted by Kasba 220 KV. Sub-Station regularly and that local police authority have been informed about such

unauthorized constructions. He added that the police was responsible to take appropriate action when such reports were received from W.B.S.E.T.C.L. When he was specifically asked as to whether the in-charge of Kasba 220 Kv. Sub-Station ever approached Magistrate seeking removal of unauthorized construction, the witness informed that they have submitted such report to local police and Chief Electrical Inspector only. When the witness was asked as to whether he was aware of the principle of vicarious liability, he answered in negative. The matter was duly explained to him by the Commission. He was asked what would be appropriate compensation if such recommendation was made by Commission when the witness answered that this can be decided by HR & A Department of the organization. It was also enquired of him as to whether an intimation to Chief Electrical Inspector u/s 161(2) of the Indian Electricity Act was submitted, on which he initially stated that he was not aware but after obtaining permission of the Commission, he enquired telephonically the matter from his office and informed the Commission that the same has been submitted in the prescribed format to Chief Electrical Inspector within 24 hours but was not aware of the results of such enquiry (although, nearly 8 months have lapsed since the incident).



**Findings :**

7. The Commission examined the two enquiry reports submitted by W.B.S.E.T.C.L, the statement of Chief Engineer (O&M)-I, the statement of Chief Engineer (O7M)-I, Shri Tapas Chakrabarti as well as provisions of Indian Electricity Act. It came to the conclusion that there was a clear violation of Rule 77 of Indian Electricity Act as was also admitted in the enquiry report of WBSETCL. The standard clearance from the roof top to the high voltage line should have been 4.6 mts. whereas at the place of occurrence the vertical distance was actual 2.315 mts. It was admitted by W.B.S.E.T.C.L authority that the high voltage line has been erected 50 years ago and during this period a large number of unauthorized constructions have come up. Section 68(5) of Indian Electricity Act was examined by the Commission where it has been mandated that whenever any obstruction/construction etc. comes up causing any obstruction or likely to cause obstruction in the flow of electricity within its jurisdiction, the organization should mandatorily report the matter to the Executive Magistrate for appropriate action. Unfortunately, the W.B.S.E.T.C.L authorities took no such action as it is clear from the enquiry report and the statement of Chief Engineer. It is also unfortunate that a senior officer like Shri Tapas Chakrabarti who is Chief Engineer of O&M-I is not aware of the difference between powers and jurisdiction between the Executive Magistrate and police



authorities. Despite prompting by the Commission as well as drawing attention to the provisions of Section 68(5) of Indian Electricity Act, 2003 he went on insisting that the police authorities have been intimated for removal of such construction, little knowing that the police have no jurisdiction under provisions of Indian Electricity Act. The Commission came to the conclusion that there was definite negligence on the part of the W.B.S.E.T.C.L authorities in removal of unauthorized construction thereby leading to violation of provisions of Section 77 of Indian Electricity Rules (which has been admitted time and again during enquiry ) and there was definite negligence on the part of the W.B.S.E.T.C.L authorities leading to untimely death of Shri Utpal Patra. Furthermore, a lackadaisical attitude was shown by W.B.S.E.T.C.L authorities in sending reply to the Commission's notice which was issued on 07/9/2022 and after several round reminders the first report was received by the Commission on 28/3/2023 i.e. a delay of nearly seven months.

8. The Commission, therefore, makes following recommendations :

- i. A sum of Rs.3 lakhs ( Rupees three lakhs ) only be paid as compensation to the legal heirs of deceased, Utpal Patra who died as a result on electrocution by the transmission line of WBSETCL between Tower No.4 and 5 in Tagore Park which are under Kasba 220 kv. Sub-Station on 26/8/2022;

ii. Since there are large number of unauthorized constructions in the area causing obstruction to free flow of electricity and to avoid future accidents, the W.B.S.E.T.C.L authorities would consider laying of underground cables in such areas, if technically feasible or alternatively may replace the bare high voltage electricity line by insulated cable wire;

iii. There has been a clear violation of Section 68(5) of Indian Electricity Act as the Executive Magistrate has never been moved by W.B.S.E.T.C.L for removal of unauthorized constructions/obstructions. It is recommended that whenever such activities come to the notice of the W.B.S.E.T.C.L, the D.M./S.D.M. should be approached for removal of such high risk bearing high voltage electricity line, by taking recourse to the provisions of Section 68(5) of Indian Electricity Act;

iv. The Chairman, W.B.S.E.T.C.L. should issue instructions to concerned department responsible for causing enquiries into Human Rights violations that whenever any notice is served or report is called for from Human Rights Commission, reply should be given within the stipulated period and long delay in responding to the query/notice of the Commission, as happened in the instant case, should be avoided, in the interest of justice;

v. It appears from the statement of Shri Tapas Chakrabarti, Chief Engineer (O&M) that the Chief Electrical Inspector, after a lapse of more

than eight months have not submitted any enquiry report about the accident occurred on 26/8/2022 although, the W.B.S.E.T.C.L has submitted the complaint under provisions of 161(2) of Indian Electricity Act. The Chief Electrical Inspector should be duly cautioned to conduct such enquiries promptly and submit reports;

9. Special Secretary, W.B.H.R.C. is directed to send authenticated copy of the recommendations to the Chief Secretary, Govt. of West Bengal. Chief Secretary, Govt. of West Bengal should inform the Commission about the action taken or proposed to be taken on the recommendations within a period of 3 (three) months from the date of receipt of this communication.

Ld. Registrar, W.B.H.R.C is directed to upload the recommendations in the website

  
( N. Mukherjee )  
Member

  
( Justice Jyotirmay Bhattacharya )  
Chairman

  
(Justice Madhumati Mitra )  
Member

Encl : (i) Reports of W.B.S.E.T.C.L.  
(ii) Statement of Chief Engineer (O&M-I), WBSETCL.  
(iii) Photocoy of newspaper clipping.