

WEST BENGAL HUMAN RIGHTS COMMISSION

File No. 64/SMC/23

Present

1. Mr. Justice Jyotirmay Bhattacharya - Chairperson
2. Mrs. Justice Madhumati Mitra - Member
3. Mr. Basudeb Banerjee - Member

On 9th August, 2023 West Bengal Human Rights Commission took suo motu cognizance on the basis of a news item published in the Ananda Bazar Patrika dated 09/08/2023 under caption “ছাদের নাগালে হাই টেনশন তার, স্পর্শে দক্ষ শ্রমিক” and called for a detailed report from the Chief Electrical Inspector, Directorate of Electricity, West Bengal and Chairman, West Bengal State Electricity Transmission Company Limited.

2. Pursuant to the said direction of Commission dated 17/08/2023, the Chief Electrical Inspector, West Bengal submitted a report to the Commission vide letter no. CEI/783 dated 17/08/2023. On 24th August, 2023 the Commission considered the said report of Chief Electrical Inspector, West Bengal and sought for clarification on the following points :-

a) Whether action initiated u/s 68(5) of Indian Electricity Act, 2003 by the Chief Electrical Inspector, WBSETCL; (b) Whether WBSETCL awarded any compensation to the injured person; and (c) A report was called for from O/C, Anandapur P.S. asking him to submit injury report including name and address of the person electrocuted.

3. On 1st September, 2023 the Officer-in-charge, Anandapur P.S. submitted a report through e-mail. The said report was considered by the Commission wherefrom it appears that one Najibar Rahaman Sk., aged about 25 years, son of Tayeb Ali Sk. of village Bonomalipur, P.O. Bansra, P.S. Jibantala, District – South 24-Parganas was electrocuted. From the said report it appears that on 8th March, 2023 the said Najibar Rahaman Sk. along with other two labours came to the premises no. 108/B, Martinpara, Kolkata for pipeline work at the said G+4 storeyed building. During pipeline work they trimmed a small banyan tree and threw it on roof of the nearby building at 97/B Martinpara, Kolkata. One of the residents of that building told the labours to remove the tree from the roof. On completion of pipeline work at about 15.40 hrs., Najibar Rahaman Sk. climbed at the roof of the premises no. 97/B to remove the said tree where he accidentally got electrocuted by high voltage wire passing over the rooftop.

4. In response to the queries of the Commission dated 24/08/2023, the Chief Electrical Inspector, WBSETCL, West Bengal submitted further report on the present issue vide no. CEI/824 dated 29/08/2023. In response to the query no.(a), the Chief Electrical

Inspector, West Bengal has stated that the provision u/s 68(5) of the Indian Electricity (I.E.) Act 2003, does not contemplate any action to be taken by the Chief Electrical Inspector, Directorate of Electricity, Government of West Bengal. According to him, this provision is related to the Licensee – M/s. WBSETCL authority for the instant case (Electrical Non-fatal Accident of Nazibul Sk. On 08/08/2023 at about 15.39 hrs. the accident which occurred at Puri Gali; Martinpur area, P.S. Anandapur, Kolkata – 700 100), was supposed to take up action on application from them with the Executive Magistrate or authority specified by the appropriate government. In respect of our query no. (b), the Chief Electrical Inspector informed that his office was unable to comment regarding payment of compensation matter.

5. Thereafter on 19th September, 2023 the Commission asked the Officer-in-Charge of Anandapur P.S. to send a copy of P.M. report of the deceased at the earliest.

6. The General Manager (HR&A), Corporate, WBSETCL sent a report dated 01/11/2023 wherefrom it appears that the process for payment of compensation was not initiated for want of post-mortem report of the victim. As such the Commission asked the West Bengal State Electricity Transmission Corporation Ltd. to inform the Commission what steps were taken by them to procure the post-mortem report of the victim.

7. On 7th December, 2023 the Commission asked the General Manager (HR&A), Corporate to submit the status report relating to payment of compensation for the death of Najibar Rahaman Sk.

8. Pursuant to the direction of the Commission dated 7th December, 2023, General Manager (HR&A), Corporate, WBSETCL submitted a status report. From the said status report, it appears that after the incident occurred on 08/08/2023, an enquiry was conducted by the Committee of WBSETCL and the said committee submitted report with the following observations :-

- (a) Lapse on the part of the victim and the service taker of the building;
- (b) No lapse on the part of WBSETCL.

9. After considering the said report, the Commission thought it necessary to ask the WBSETCL to furnish the alleged enquiry report to the Commission along with documents on the basis of which the enquiry report was prepared by 15th March, 2024.

10. Pursuant to the said direction, the General Manager (HR&A), Corporate of West Bengal State Electricity Corporation Ltd. sent the enquiry report along with all the documents on the basis of which enquiry report was prepared. The Commission examined the said enquiry report. The said enquiry report revealed that the transmission line in question is in operation for more than 50 years. Unauthorized

encroachment as well as unauthorized construction of building/shops have been made below the line without observing Indian Electricity Rule (as per I.E. Rule 80, vertical and horizontal clearance should be 4.6m and 2.9m respectively between conductor and building). In the said report, it has been mentioned that unauthorized construction under extra high tension line is quite common in and around Kasba area. From the said enquiry report it also appears that the incident of unauthorized construction/encroachment has been reported to the local police station and local Municipal Councilor on several occasions in the past. From the said enquiry report it appears that the vertical and horizontal distance between conductor and roof-top/building is approximately 5-6 ft. The enquiry was conducted by observing that there was lapse on the part of the victim and the service taker of the victim and no lapse on the part of WBSETCL.

11. After considering the entire report, the Commission expressed the view that it was quite clear that Rules made under the Indian Electricity Act were not complied with by maintaining distance between rooftop and the high voltage conductor wire. The enquiry report is not at all satisfactory and relying on such enquiry report, payment of compensation cannot be denied to the legal heirs of the victim. The Commission decided to examine Chief Engineer (O&M) of WBSETCL to record his statement under the Provision of Section 16(I) of the Protection of Human Rights Act, 1993. Accordingly the statement of Mr. Tapas Chakraborty, the Chief Engineer (O&M-I) was recorded on 24/04/2024 by the Commission on oath.

12. While making his statement before the Commission the Chief Engineer (O&M-I), stated that 132 KV Kasba, Salt Lake-KLC transmission line tripped at around 15:39 hrs. on 08/08/2023. From his statement it came out that the said tripping was due to unauthorized encroachment in the line between tower location nos. 04 & 05 and later he came to know that an accident occurred at that location and a person was injured. According to him the accident occurred due to unauthorized encroachment in the live line by the person injured. The witness deposed that the said injured died at SSKM hospital. In reply to a specific question of Commission, the witness replied that it is seen that a good number of unauthorized constructions have been made near and below the line over the past several decades without maintaining adequate safety clearances. The person injured intruded in the live line over one of such unauthorized constructions without taking any safety measure. From the statement made by the witness before the Commission, it appears that the witness never visited the place of occurrence personally. In reply to a question of Commission the witness stated that he visited the spot several times in past to inspect the line but he could not remember the exact date and time when he last visited there. The witness stated before the Commission that the construction which has been made without maintaining adequate

safety clearances with the existing extra high voltage line are called unauthorized construction. According to him adequate safety clearances which a person is required to maintain while constructing a building as per Indian Electricity Rule 80 is 4.6 m vertical clearance and 2.9 m horizontal clearance should be maintained between the 1.32 KV line and a building. Again in reply to a specific question of the Commission, the Chief Electrical Engineer has stated that he came to the conclusion that the building in question was unauthorizedly constructed without maintaining safety clearance measures by eye estimation and the said eye estimation has been done by the Sub-station In-charge, the Area Manager, the Additional Chief Engineer of transmission zone and other authorities of WBSETCL including the witness himself during their visit at site to inspect the lines in relation to different works. This witness has clarified the matter by stating that they do not possess instruments for the service work. He has admitted that such measurement was not taken in this place before the accident occurred as number of unauthorized construction is huge. When the witness was asked to produce the survey report prepared by the Survey Contractor engaged by them to establish that the safety distance were not maintained so far as the building in question was concerned, the witness has admitted that no survey is done by enquiry committee. While giving reply to a question of the Commission the witness has stated that all the members of the enquiry committee are holding very high position in WBSETCL. It is expected that what they have reported is true. In response to a question, the witness

admitted that at page 2 in the enquiry report under head – G, Sl. No. 3, it is mentioned that such incidences of unauthorized constructions/encroachments have been reported to local P.S. and Municipal Councilor on several occasions, in the past. The witness has stated that such reporting have been done several times in past. The witness has stated that such reporting have been done several times in past whenever tripping occurred in the line due to any outside encroachment. In reply to a specific question the witnesses has admitted that no such reporting was done for this particular building in the past and reports were made only after tripping of the line occurred. The witness has admitted that under the provision of Section 68(5) of Indian Electricity Act, 2003, the Executive Magistrate of the concerned district is the appropriate authority. The witness admitted that in the instant case no such reporting was made to the Executive Magistrate by his department as required ***u/s 65(5) of the Electricity Act, 2003***. While making his statement before the Commission, the Chief Engineer of WBSETCL has admitted that there were lapses on their part in this regard. From his statement it came out that after the incident occurred, the existing position of law regarding the competent authority was discussed and considered at all local levels.

13. The Commission considered the report regarding death enquiry of deceased Najibar Rahaman Sk. conducted by Officer-in-charge of Anandapur P.S. pursuant to the direction of WBHRC, as well as the report submitted by General Manager (HR&A), Corporate, WBSETCL, the statement of Chief Electrical Engineer, WBSETCL

made before the Commission along with the documents furnished by WBSETCL. Post-mortem report of deceased indicates that death was due to the effect of the burn injuries which were ante-mortem in nature. The nature of the injuries had been described in the post-mortem report.

14. From report as submitted before the Commission by General Manager, Corporate, WBSETCL, it is clear that unauthorized infringements as well as unauthorized construction of building/shops have been made below the line without maintaining I.E. Rule between conductor and building and that unauthorized construction under extra high tension line is quite common in and around Kasba. The Commission while analyzing the statement of Shri Tapas Chakraborty, Chief Engineer (O&M-I) of WBSETCL has observed that no proper step was taken by WBSETCL regarding removal of unauthorized construction raised by builders in violation of statutory rules. In fact the Chief Electrical Engineer while making his statement before the Commission himself admitted the lapses on their part. It is also an admitted fact that no reporting was made to the Executive Magistrate who is the appropriate authority for removal of obstruction by WBSETCL as required under law. The entire materials placed on record indicate clear lapses as well as the negligence on the part of the authority concerned to take up the matter with appropriate authority for removal of unauthorized obstruction and observance of requirement of

4.6 m vertical clearance and 2.9 m horizontal clearance between 132 KV line and a building and for the safety of the people. The statement of Chief Electrical Engineer leaves no doubt regarding the negligence on the part of WBSETCL which resulted in death of Najibar Rahaman Sk. The above discussions and findings lead the Commission to hold that the legal heirs of the victim Najibar Rahaman are entitled to get compensation for untimely death of said victim.

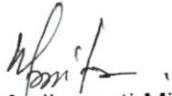
15. In view of above, the Commission makes the following recommendations :-

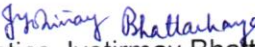
- (i) The legal heirs of victim Najibar Rahaman Sk., son of Tayeb Ali Sk. of village Bonomalipur, P.O. Bansra, P.S. Jibantala, District – South 24-Parganas be paid by The West Bengal State Electricity Transmission Company Ltd., a sum of Rs. 3 (three) lakh only as compensation due to his death by accident. The compensation as recommended by WBHRC would be independent of compensation as admissible under any other law for the time being in force.
- (ii) WBSETCL authority should fix up the responsibility of its employees who were responsible for negligence and failed to take action regarding violation of Electricity law and rules.
- (iii) The OSD & Ex-Officio Secretary & CEO-in-Charge, W.B.H.R.C. is directed to send authenticated copy of the


recommendations to the Chief Secretary, Govt. of West Bengal.

- (iv) 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, WBHRC is directed to upload the recommendations in website.


Justice Madhumati Mitra
Member (J)


Justice Jyotirmay Bhattacharya
Chairman


Basudeb Banerjee
Member(A)

Dated, the 19th November, 2024.