

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (CIVIL) NO 1312 OF 2023

ACME Solar Holdings Pvt Ltd & Ors

... Petitioners

Versus

Union of India & Ors

... Respondents

O R D E R

- 1 The three member committee appointed by this Court has submitted its final report dated 11 March 2024.

- 2 By the previous order of this Court dated 22 January 2024, the Committee was requested to evaluate the application submitted by the petitioner afresh after considering in particular the permission which has been granted to PGCIL. The Committee was permitted to determine whether there were any distinguishing features in relation to the route which is proposed by the petitioner as compared to PGCIL.

- 3 The Committee has accordingly submitted its report in which its conclusions appeared in paragraph 6. The Committee has furnished three options for the project of the petitioner. The Committee has permitted the petitioner to opt for any of the three options and to replace the existing line with the recommended mitigated option within six months. The relevant part of the recommendation is, thus :

“Considering the above field situations, distinguishing features from the PGCIL line, important route of GIB movements and the need of a feasible solution(s) that also prioritises the safety of the GIB, the Committee arrived at the following options through detailed deliberations after the site visit. The Committee recommends:

1) Option 1 : Re-route the entire line overhead in such a manner that it avoids the important GIB habitat (green shaded polygon in map 2 attached at Appendix), i.e., the line is to be re-routed from ASHPL plant Gantry westward, avoiding the area demarcated as green shaded polygon in map 1, towards the adjoining solar plant of the other agency and thereafter it is to be aligned southward along and as close as possible (preferably within 50 meters but not beyond 100 meters) to the boundary of the other solar plant till Fatehgarh 1 substation. Final report to the Hon'ble Supreme Court on the matter of W.P.(Civll) No(s).1312/2023

2) Option 2 : Overhead existing line from ASHPL plant Gantry to pylon AP 014, undergrounding the next section (of ~3 km length) within the important GIB habitat (green shaded polygon in map 2 attached at Appendix) till the existing 765 kV line) followed by overhead line along the 765 kV line to Fatehgarh 1 substation. Since the 765 kV line is technically not feasible to be laid underground, aligning the last segment of the ASHPL line with this line may avoid any additional risk/ barrier to the GIB.

3) Option 3 : Total undergrounding of the existing line as it will be the safest solution, ensuring no risk of mortality due to collision with the said line. However, it may be technically challenging, although not impossible.

- 3 Mr Mukul Rohatgi, senior counsel appearing on behalf of the petitioners submits that the petitioner accepts the first of the above options. However, it has been submitted that in the meantime, the petitioner may be permitted to inject power in the infrastructure which has already been set up.
- 4 The request of the petitioner for interjecting power in the existing system which

has been set up has been seriously opposed by the respondents. Mr Shyam Divan, senior counsel submitted that in breach of the judgment of this Court dated 19 April 2021, the petitioner had proceeded to erect pylons and other equipments for the overhead transmission line.

5 By the previous order of this Court, the petitioner was directed to file an affidavit explaining what work had been carried out after the judgment dated 19 April 2021 of this Court.

6 In response, the petitioner has made the following disclosure in its affidavit :

“14 Accordingly, Petitioners also continued with its project activities including installation of metal mounting structure for solar panels, civil foundations for inverters and transformers, construction of switch yard, land levelling, installing pylons and overhead transmission lines. Petitioners erected the pylons from Sep'21 to July'22 and laid its overhead line in July'22 and Aug'22 and also installed bird diverters. This work was carried out with the bonafide belief and on the understanding that :

- a. Existing projects had been granted additional time for undergrounding if feasible; and
- b. Application filed by UoI seeking exemption from undergrounding of transmission lines of 55 kV and above in the potential area was pending before the Hon'ble Supreme Court.
- c. That its entire solar project including transmission lines was an existing Project (not fresh) as it had already acquired entire land of 6000 acres, placed orders, obtained approvals, commenced construction activities etc prior to order dt 19.04.2021. Therefore, it requires to instal bird flight diverters till the time application filed by Union of India is decided by Hon'ble SC.

- d. That its project falls under potential area as per Hon'ble SC order dt 19.04.2021.
- e. Undergrounding of its 400 kv line is technically not feasible and has been admitted by the Ld Committee as well Ld Committee has held undergrounding of all 400 kV lines beyond 8 kms as infeasible in all other cases including PGCIL 400 kV line in July 2022.
- f. Ministry of Power (MoP) issued techno commercial norms on 01.08.2022 wherein it was stated that based on report of Technical Expert Committee, 66 kV and above lines are recommended for laying overhead line in GIB area as it is technically not feasible to underground it. A copy of the MoP's Techno Commercial Norms dated 01.08.2022 are annexed hereto and marked as **ANNEXURE P-34 [Pages 27 to 47]."**

7 In paragraph 11, the contention of the petitioner is that its 1200 MW solar project and transmission line are not fresh and work was planned and effective steps were taken starting from 2018. We permit the petitioner in terms of the recommendations which were made by the Committee to opt for the first option which has been accepted. We are of the considered view that it will not be appropriate to grant the petitioner permission, at this stage, for injecting power into the existing transmission line which is to be re-routed in terms of Option 1 which has been accepted by the petitioner. Allowing the petitioner to do so would amount to altering the order of status quo which we are not inclined to do at the present stage. The petitioner has to re-route the existing transmission line in terms of option 1 which is accepted by the petitioner. the proceedings shall stand disposed of by accepting option 1 in terms of statement made by the petitioner. The petitioner is permitted to carry out all work in pursuance thereof.

- 8 On the request of Mr Mukul Rohatgi, senior counsel, the time of six months which has been fixed by the Committee is extended to a total period of 12 months.
- 9 The Writ Petition is accordingly disposed of.
- 10 Pending applications, if any, stand disposed of.

.....CJI.
[Dr Dhananjaya Y Chandrachud]

.....J.
[J B Pardiwala]

.....J.
[Manoj Misra]

New Delhi;
March 19, 2024
GKA

ITEM NO.10

COURT NO.1

SECTION X

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(s)(Civil) No(s). 1312/2023

ACME SOLAR HOLDINGS PVT. LTD. & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(FOR ADMISSION and IA No.241629/2023-PERMISSION TO FILE APPLICATION FOR DIRECTION IA No. 403/2024 - APPROPRIATE ORDERS/DIRECTIONS IA No. 16562/2024 - DELETING THE NAME OF PETITIONER/RESPONDENT IA No.16557/2024 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES IA No. 923/2024 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES IA No. 241629/2023 - PERMISSION TO FILE APPLICATION FOR DIRECTION)

Date : 19-03-2024 These matters were called on for hearing today.

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE MANOJ MISRA

For Petitioner(s) Mr. Mukul Rohatgi, Sr. Adv.
Mr. Sujit Ghosh, Sr. Adv.
Mr. Vishrov Mukerjee, Adv.
Mr. Pukhrambam Ramesh Kumar, AOR
Mr. Girik Bhalla, Adv.
Mr. Damodar Solanki, Adv.
Mr. Karun Sharma, Adv.
Ms. Anupam Ngangom, Adv.
Ms. Rajkumari Divyasana, Adv.
Mr. R.rajaseelvan, Adv.
Mr. Mannat Waraich, Adv.
Ms. Ananya Goswami, Adv.

For Respondent(s) Mr. K M Nataraj, A.S.G.
Mr. Gurmeet Singh Makker, AOR
Mr. Shailesh Madiyal, Adv.
Ms. Neelakshi Bhadauria, Adv.
Mr. Raman Yadav, Adv.

Mr. Madhav Sinhal, Adv.

Mr. Anuj Tyagi, AOR
Ms. Shikha Orhi, Adv.
Mrs. Maitry Kakade, Adv.
Ms. Akshita Agarwal, Adv.
Mr. Kartik Sharma, Adv.

Mr. Shyam Divan, Sr. Adv.
Mr. Prashanto Chandra Sen, Sr. Adv.
Ms. Sonia Dube, Adv.
Ms. Kanchan Yadav, Adv.
Ms. Anshula L Bakhru, Adv.
Ms. Surbhi Anand, Adv.
Mr. Arpith Jacob Varaprasad, Adv.
Ms. Muskan Nagpal, Adv.
Mr. Tanishq Sharma, Adv.
M/S. Legal Options, AOR

UPON hearing the counsel the Court made the following
O R D E R

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(GULSHAN KUMAR ARORA)
AR-CUM-PS

(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR