

# Tata Power Delhi Distribution Ltd vs The North Delhi Municipal Corporation & ... on 20 July, 2020

**Author: Najmi Waziri**

**Bench: Najmi Waziri**

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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 5293/2016

TATA POWER DELHI DISTRIBUTION LTD.

.....Petitioner

versus

THE NORTH DELHI MUNICIPAL CORPORATION & ORS

....Respondents

+ W.P.(C) 1113/2017

TATA POWER DELHI DISTRIBUTION LTD.

.....Petitioner

versus

THE NORTH DELHI MUNICIPAL CORPORATION & ORS

....Respondents

Through: Mr. Sandeep Sethi, Senior Advocate with  
Mr. Anupam Varma, Mr. Nikhil Sharma,  
Mr. Aditya Gupta and Ms. Shivali Rawat,  
Advocates for petitioner.  
Ms. Madhu Tewatia, Advocate for  
NDMC/R-1.  
Ms. Pratima K. Gupta and Mr. Rishi  
Bharadwaj, Advocates for DERC.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% 20.07.2020 The hearing was conducted through video conferencing. CM APPL. 15540/2020 (Exemption)

1. Exemption allowed, subject to all just exceptions.

2. The application stands disposed-off.

CM APPL. 15539/2020 in W.P.(C) 5293/2016 & CM APPL. 14944/2020 in W.P.(C) 1113/2017 (by petr. seeking road cutting/digging permission)

3. Issue notice. The learned counsel named above accepts notice on behalf of the non-applicants/respondents.

4. These applications seek permission from the North Delhi Municipal Corporation (NDMC) apropos twenty three applications for laying electricity cables on roads/pathways/lanes and other areas under the control of the respondent Corporation.

5. The learned counsel for North Delhi Municipal Corporation (NDMC) refers to a chart according to which, out of the 23 applications, permission has been granted in one, while permission apropos the others has been deferred till 30.09.2020, by when the rainy season in Delhi will be over. She submits, upon instructions, that the applications could not be processed due to non-payment of Road Restoration charges.

6. Mr. Sandeep Sethi, the learned Senior Advocate for the applicant/petitioner submits that the applications have been pending for months and if that is that the holding back the Corporations decision/permission, then the petitioners shall deposit the requisite RR charges within two days, in terms of Column No. 6 of the aforementioned chart depicting the RR charges against each application. Apropos the application at Sr. No. 3, the petitioner will pursue his remedies with the Public Works Department.

7. According to the applicant/petitioner each of the projects is urgent so as to ensure that there is grid stability in supply of electricity to consumers. It is stated that the requirement of electricity in the domestic areas has increased due to the nationwide lockdown, because the number of residents staying back in residential premises round the clock, has increased the demand. It is argued that electricity being an essential service, its continuous and uninterrupted supply ought to be ensured at all times. Otherwise because of heavy load, the current infrastructure may itself burn out, leading to extensive destruction of property and disruption of supply of electricity for a long period. Therefore, the laying of cables and other improvements are imperative to upgrade the supply grid so as to ensure stability. It is in this regard that the policy for not granting permission till 30.09.2020, seems a little odd.

8. The applicant/petitioner further submits that while it is ready and willing to deposit the cost, it may be worthwhile to permit the applicant/petitioner to restore the road immediately after laying of the cables so as to obviate any inconvenience to road/footpath users. Its work could well be finished within two days after laying cables so to reduce the time for restoration of the paths/roads, for normal use. The said restoration shall obviously be done under the instructions and guidelines of the Corporation and is likely to be faster than if the Corporation were to invite tenders for restoration of the road. In the circumstances, should the Corporation consider the applicant's request for restoration of the road to the Corporation's satisfaction, there would be no requirement of payment of road restoration charges. The Corporation shall take a view in this regard, within ten working days from the date of receipt of a copy of this order and communicate its decision to the applicant/petitioner. If the corporation agrees to the applicant/petitioner restoring the roads after laying of cables, etc. no RR charges will be required to be deposited. However, if the Corporation decides to things its own way of inviting tenders for restoration, etc. the said charges, will be deposited. In any case after the deposit of the RR charges the permission will be granted by the Corporation within four days thereafter .

9. Ms. Tewatia, the learned counsel for the Corporation insists that the Corporation has not given up its claim for Way Leave Charges. However, the same would not hold up the decision on the applications for commencing of work.

10. Issue of Way Leave Charges would be subject to the outcome of the Writ Petition.

11. The applications stand disposed-off in terms of the above. W.P.(C) 5293/2016 & W.P.(C) 1113/2017

12. Despite lapse of more than a year and grant of repeated opportunities to the Corporation its counter affidavit has not been filed. The court is inclined to close the right to file the same. However, the learned counsel for the Corporation seeks and is granted one last opportunity to file the same, subject however to costs by way of donation of 1,000 trees, in three installments of two weeks each from today, to the Deputy Conservator of Forests (South) for plantation in the 'Insaaf Bagh' area of the Central Ridge. Depending on the soil type the DCF may consider planting them in the said area, as has been done under scores of other orders in the past many months. The first installment shall be of 400 trees. They could be sourced from the horticulture department/plant nurseries maintained by the Corporation. They need to be supplied to the DCF on an urgent basis so that the same are planted in this rainy season itself, when the earth is most receptive for implantation and growth of fresh roots. The trees shall be of a) deciduous indigenous variety, b) they shall have a nursery age of three and a half years and c) shall have a minimum height of six feet. The trees shall be of the following variety:

(i) Gular (Cluster Fig) (ii) Kadamba (Burflower Tree)

(iii) Pilkhan (White Fig) (iv) Jaamun (Black Plum)

(v) Bargad (Banyan Tree) (vi) Mango

(vii) Amaltas (Golden Shower) (viii) Mahua (Butter Tree) [Indian Laburnum]

(ix) Putranjiva (x) Badh

(xi) Sagwan (Teak Wood) (xii) Safed Siris (Albizia Procera)

(xiii) Kala Siris (xiv) Anjeer

(xv) Kathal- Jackfruit (xvi) Palash (xvii) Arni (xviii) Bistendu (xix) Rohida (xx) Medshingi (xxi) Palash/Tesu/Dhak (xxii) Hingot (xxiii) Ronjh (xxiv) Khejri

13. First Compliance Report alongwith photographs shall be filed by the applicant and the DCF respectively by 18th August 2020, failing which the case shall be listed for directions on 20th August 2020. Copy of this order be posted by email to the Standing Counsel (Civil), GNCTD for intimation and compliance.

14. List on 20.10.2020.

15. The date of 22.08.2020 in W.P.(C) 5293/2016 stands cancelled.

16. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the counsels through e-mail.

NAJMI WAZIRI, J JULY 20, 2020/RW