

**GOVERNMENT OF ODISHA
REVENUE AND DISASTER MANAGEMENT DEPARTMENT**

No. GE(GL)-S- 04/2016/ 10956 /R&D.M Dated the 6th April, 2016

From

Dr. Mona Sharma, IAS
Principal Secretary to Government

To

Collectors,
Jharsuguda and Sundargarh

Sub: "Right of User" permission on private land for make-up water and transmission line Corridor for Darlipali STPP, NTPC

Sir,

NTPC Ltd is setting up 2X800 MW Thermal Power Project at Darlipali village of Lephripara Tahasil in Sundargarh District. Government in Water Resources Department has allocated 95 cusec quota of water to NTPC to be drawn from the Hirakud Reservoir, about 40 km away from the project through underground pipeline. Besides, NTPC proposes to construct 02 numbers of 132 kv transmission lines along the water pipeline corridor for meeting the power requirement of the pump house proposed to be constructed near the reservoir.

2. Transmission of electricity is governed under the Electricity Act, 2003 read with the India Telegraph Act, 1885. The Odisha Underground Pipelines, Cable and Duct (Acquisition of Right of User in Land) Bill, 2015 has been passed in the Odisha Legislative Assembly, but has not come into force as it is pending for President's Assent. The NTPC has cited the procedure followed in Karnataka with the difference that NTPC has agreed in writing to pay enhanced compensation at the rate suggested in the aforesaid Bill.

3. Water is a vital input, without which commissioning of the power plant is not possible and the Darlipali project is at a critical stage to be commissioned by the end of this year. Besides, the State Government will have 50% share of the total 1600 MW power to be generated from this project. NTPC has applied to Government of Odisha for considering granting Right of User in private land for the project.

4. Government, after careful consideration, have been pleased to authorize the concerned Collectors (Jharsuguda and Sundargarh) to issue appropriate orders u/s 16(1) of the Indian Telegraph Act, 1885 r/w section 164 of the Electricity Act, 2003 for acquisition of right of user in respect of private property with proper compensation and subject to the following conditions;

- i. The width of the underground pipeline Corridor shall be maximum 50 mtrs and the depth of the pipeline shall be 1.5 mtrs from the ground level.
- ii. No pipeline shall be laid under

- (a) any land which, immediately before the date of the Order was used for residential purposes;
 - (b) any land having potential value for house site,
 - (c) any land on which there stands any permanent structure, which was in existence immediately before the said Order of Collector;
 - (d) any land which is appurtenant to a dwelling house;
- iii. After laying the underground pipeline, the land shall be levelled and restored as good as before, by the Corporation, and the possession of land shall be handed over to the owner or occupier of the land by the competent authority and in this regard, the competent authority shall obtain the possession handing over certificate from the land owner or occupier.
- iv. The owner or occupier of the land, after possession is handed over (restored) under sub-para (iii) above, be entitled to use the land for the purpose for which such land was put to use immediately before the date of the order.

Provided that such owner or occupier shall not, after the order above, --

- (i) construct any building or any other structure;
 - (ii) construct or excavate any tank, well, reservoir or dam; or
 - (iii) plant any tree on that land.
 - (iv) shall not do any act or permit any act to be done which will or is likely to cause any damage in any manner whatsoever to such pipeline,
- v. Where any damage, loss or injury is sustained by any person interested in the land under which the pipeline is proposed to be, or is being, or has been laid, the Corporation shall be liable to pay compensation to such person for such damage, loss or injury the amount of which shall be determined by the Collector. While determining such compensation, he shall have due regard to the damage or loss sustained by reason of, --
- a) the removal of trees or standing crops, if any, on the land,
 - b) the temporary severance of the land under which the pipeline, has been laid from other lands belonging to, or in the occupation of, such person; or
 - c) any injury to any other property, whether movable or immovable, or the earnings of such persons caused in any other manner:

Provided that in determining the compensation, no account shall be taken of any structure or other improvement made in the land after the date of the order.

v. Where the right of user of any land has vested in the Corporation, the Corporation shall, in addition to the compensation for damages as above, if any, be liable to pay to the owner and to any other person whose right of enjoyment in that land has been affected in any manner whatsoever by reason of such vesting, compensation calculated at twenty-five percent of the market value of that land on the date of the Order.

a. The market value of the land on the said date shall be determined by the competent authority. For the purpose of this sub-section, the market value of the land means the Bench Mark Value determined as per the guidelines prescribed under the Odisha Stamp

Rules, 1952. Where the competent authority is of the opinion that the Bench Mark Value is not the correct indicator of market value due to increase in market price, he shall take into consideration the average of last three higher sale transaction to decide the value.

b. The competent authority having determined the compensation impose a "solatium" amount equivalent to one hundred percent of the said compensation amount which shall also be payable by the Corporation to the owner and to any other person whose right of enjoyment in that land has been affected in any manner whatsoever by reason of such vesting.

vi. Compensation for RoU (laying of underground pipelines with transmission lines) shall be uniform and shall be considered for entire width of 50 meters corridor.

vi. The compensation amount so fixed along with solatium shall be paid in full before commencement of the work.

(Copy of the relevant extracts of the Electricity Act and the Telegraphs Act are enclosed for your reference.)

You are requested to take immediate steps to pass appropriate Order for grant of Right of User in private land for Darlipali project of NTPC.

Yours faithfully,

Mane Sharma 1/3

Principal Secretary to Government

Memo No. 10957 /RDM dated 06.04.16

Copy forwarded to Ps to ACS to Chief Minister for kind perusal of Hon'ble CM/ PS to Minister, R&DM for kind perusal of Hon'ble Minister/ OSD to CS for kind perusal of Chief Secretary

Mane Sharma

Principal Secretary to Government.

Memo No. 10958 /RDM dated 06.04.16

Copy forwarded to Principal Secretary to Government, DoWR/ Energy Department for information and necessary action.

Mane Sharma

Principal Secretary to Government

Memo No. 10959 /RDM dated 06.04.16

Copy forwarded to RDC (ND) / CMD, OPTCL/ Group General Manager, Darlipali, STTP, NTPC for information and necessary action.

Mane Sharma

Principal Secretary to Government

Appointment of Chief Electrical Inspector and Electrical Inspector.

162. (1) The Appropriate Government may, by notification, appoint duly qualified persons to be Chief Electrical Inspector or Electrical Inspectors and every such Inspector so appointed shall exercise the powers and perform the functions of a Chief Electrical Inspector or an Electrical Inspector under this Act and exercise such other powers and perform such other functions as may be prescribed within such areas or in respect of such class of works and electric installations and subject to such restrictions as the Appropriate Government may direct.

(2) In the absence of express provision to the contrary in this Act, or any rule made thereunder, an appeal shall lie from the decision of a Chief Electrical Inspector or an Electrical Inspector to the Appropriate Government or if the Appropriate Government, by general or special order so directs, to an Appropriate Commission.

Power for licensee to enter premises and to remove fittings or other apparatus of licensee.

163. (1) A licensee or any person duly authorised by a licence may, at any reasonable time, and on informing the occupier of his intention, enter any premises to which electricity is, or has been, supplied by him, of any premises or land, under, over, along, across, in or upon which the electric supply-lines or other works have been lawfully placed by him for the purpose of -

(a) inspecting, testing, repairing or altering the electric supply lines, meters, fittings, works and apparatus for the supply of electricity belonging to the licensee; or

(b) ascertaining the amount of electricity supplied or the electrical quantity contained in the supply; or

(c) removing where a supply of electricity is no longer required, or where the licensee is authorised to take away and cut off such supply, any electric supply-lines, meters, fittings, works or apparatus belonging to the licensee.

(2) A licensee or any person authorised as aforesaid may also, in pursuance of a special order in this behalf made by an Executive Magistrate and after giving not less than twenty-four hours notice in writing to the occupier, -

(a) enter any premises or land referred to in sub-section (1) for any of the purposes mentioned therein;

(b) enter any premises to which electricity is to be supplied by him, for the purpose of examining and testing the electric wires fittings, works and apparatus for the use of electricity belonging to the consumer.

(3) Where a consumer refuses to allow a licensee or any person authorised as aforesaid to enter his premises or land in pursuance of the provisions of sub-section (1) or, sub-section (2), when such licensee or person has so entered, refuses to allow him to perform any act which he is authorised by those sub-sections to perform, or fails to give reasonable facilities for such entry or performance, the licensee may, after the expiry of twenty-four hours from the service of a notice in writing on the consumer, cut off the supply to the consumer for so long as such refusal or failure continues, but for no longer.

Exercise of powers of Telegraph Authority in certain cases.

164. The Appropriate Government may, by order in writing, for the placing of electric lines or electrical plant for the transmission of electricity or for the purpose of telephonic or telegraphic communications necessary for the proper co-ordination of works, confer upon any public officer, licensee or any other person engaged in the business of supplying electricity under this Act, subject to such conditions and restrictions, if any, as the Appropriate Government may think fit to impose and to the provisions of the Indian Telegraph Act, 1885, any of the powers which the telegraph authority possesses under that Act with respect to the placing of

13 of 1885.

telegraph authority possesses under that Act with respect to the placing of telegraph lines and posts for the purposes of a telegraph established or maintained by the Government or to be so established or maintained.

Amendment of Sections 40 and 41 of Act I of 1894.

165. (1) In section 40, sub-section (1) of clause (b) and section 41, sub-section (5) of the Land Acquisition Act, 1894, the term "work" shall be deemed to include electricity supplied or to be supplied by means of the work to be constructed. 1 of 1894.

(2) The Appropriate Government may, on recommendation of the Appropriate Commission in this behalf, if it thinks fit, on the application of any person, not being a company desirous of obtaining any land for its purposes, direct that he may acquire such land under the provisions of the Land Acquisition Act, 1894 in the same manner and on the same conditions as it might be acquired if the person were a company. 1 of 1894.

PART- XVIII

MISCELLANEOUS

Coordination Forum

166. (1) The Central Government shall constitute a Coordination Forum consisting of the Chairperson of the Central Commission and Members thereof, the Chairperson of the Authority, representatives of generating companies and transmission licensees engaged in inter-State transmission of electricity for smooth and coordinated development of the power system in the country.

(2) The Central Government shall also constitute a forum of regulators consisting of the Chairperson of the Central Commission and Chairpersons of the State Commissions.

(3) The Chairperson of the Central Commission shall be the Chairperson of the Forum of regulators referred to in sub-section (2).

(4) The State Government shall constitute a Coordination Forum consisting of the Chairperson of the State Commission and Members thereof representatives of the generating companies, transmission licensee and distribution licensees engaged in generation, transmission and distribution of electricity in that State for smooth and coordinated development of the power system in the State.

(5) There shall be a committee in each district to be constituted by the Appropriate Government -

(a) to coordinate and review the extension of electrification in each district;

(b) to review the quality of power supply and consumer satisfaction;

(c) to promote energy efficiency and its conservation.

Exemption of electric lines or electrical plants from attachment in certain cases.

167. Where any electric lines or electrical plant, belonging to a licensee are placed in or upon any premises or land not being in the possession of the licensee, such electric lines or electrical plant shall not be liable to be taken in execution under any process of any civil court or in any proceedings in insolvency against the person in whose possession the same may be.

Protection of action taken in good faith.

168. No suit, prosecution or other proceeding shall lie against the Appropriate Government or Appellate Tribunal or the Appropriate Commission or any officer of Appropriate Government, or any Member, Officer or other employees of the Appellate Tribunal or any Members, officer or other employees of the

²⁷[PART IIA]

UNIVERSAL SERVICE OBLIGATION FUND

9A. Establishment of Universal Service Obligation Fund.— (1) On and from the commencement of the Indian Telegraph (Amendment) Act, 2003, there shall be deemed to have been established, for the purposes of this Act, a fund to be called the Universal Service Obligation Fund.

(2) The Fund shall be under the control of the Central Government and there shall be credited thereto —

- (a) any sums of money paid under section 9B;
- (b) any grants and loans made by the Central Government under section 9C.

(3) The balance to the credit of the Fund shall not lapse at the end of the financial year.

9B. Crediting of sums to Consolidated Fund of India.—The sums of money received towards the Universal Service Obligation under section 4 shall first be credited to the Consolidated Fund of India, and the Central Government may, if Parliament by appropriation made by law in this behalf so provides, credit such proceeds to the Fund from time to time for being utilised exclusively for meeting the Universal Service Obligation.

9C. Grants and loans by Central Government.— The Central Government may, after due appropriation made by Parliament by law in this behalf, credit by way of grants and loans such sums of money as that Government may consider necessary in the Fund.

9D. Administration and utilisation of Fund.—(1) The Central Government shall have the power to administer the Fund in such manner as may be prescribed by rules made under this Act.

(2) The Fund shall be utilised exclusively for meeting the Universal Service Obligation.

(3) The Central Government shall be responsible for the co-ordination and ensuring timely utilisation and release of sums in accordance with the criteria as may be prescribed by rules made under the Act.]

PART III

POWER TO PLACE TELEGRAPH LINES AND POSTS

10. Power for telegraph authority to place and maintain telegraph lines and posts.—The telegraph authority may, from time to time, place

²⁷ Inserted by the Indian Telegraph (Amendment) Act, 2003. Act No. 8 of 2004, received the assent of the President on the 9 January, 2004, with retrospective effect from 1.4.2002.

and maintain a telegraph line under, over, along, or across, and posts in or upon any immovable property:

Provided that—

- (a) the telegraph authority shall not exercise the powers conferred by this section except for the purposes of a telegraph established or maintained by the [Central Government], or to be so established or maintained;
- (b) the [Central Government] shall not acquire any right other than that of user only in the property under, over, along, across in or upon which the telegraph authority places any telegraph line or post; and
- (c) except as hereinafter provided, the telegraph authority shall not exercise those powers in respect of any property vested in or under the control or management of any local authority, without the permission of that authority; and
- (d) in the exercise of the powers conferred by this section, the telegraph authority shall do as little damage as possible, and, when it has exercised those powers in respect of any property other than that referred to in clause (c), shall pay full compensation to all persons interested for any damage sustained by them by reason of the exercise of those powers.

11. Power to enter on property in order to repair or remove telegraph lines or posts.—The telegraph authority may, at any time, for the purpose of examining, repairing, altering or removing any telegraph line or post, enter on the property under, over, along, across, in or upon which the line or post has been placed.

PROVISIONS APPLICABLE TO PROPERTY VESTED IN OR UNDER THE CONTROL OR MANAGEMENT OF LOCAL AUTHORITIES

12. Power for local authority to give permission under section 10, clause (c), subject to conditions.—Any permission given by a local authority under section 10, clause (c), may be given subject to such reasonable conditions as that authority thinks fit to impose, as to the payment of any expenses to which the authority will necessarily be put in consequence of the exercise of the powers conferred by that section, or as to the time or mode of execution of any work, or as to any other thing connected with or relative to any work undertaken by the telegraph authority under those powers.

13. Power for local authority to require removal or alteration of telegraph line or post.—When, under the foregoing provisions of this Act, a telegraph line or post has been placed by the telegraph authority under, over, along, across, in or upon any property vested in or under the control or management of a local authority, and the local authority,

having regard to circumstances which have arisen since the telegraph line or post was so placed, considers it expedient that it should be removed or that its position should be altered, the local authority may require the telegraph authority to remove it or alter its position, as the case may be.

14. Power to alter position of gas or water pipes or drains.—The telegraph authority may, for the purpose of exercising the powers conferred upon it by this Act in respect of any property vested in or under the control or management of a local authority, alter the position thereunder of any pipe (not being a main) for the supply of gas or water, or of any drain (not being a main drain):

Provided that—

- (a) when the telegraph authority desires to alter the position of any such pipe or drain it shall give reasonable notice of its intention to do so, specifying the time at which it will begin to do so, to the local authority, and, when the pipe or drain is not under the control of the local authority, to the person under whose control the pipe or drain is;
- (b) a local authority or person receiving notice under clause (a) may send a person to superintend the work, and the telegraph authority shall execute the work to the reasonable satisfaction of the person so sent.

15. Disputes between telegraph authority and local authority.—(1) If any dispute arises between the telegraph authority and a local authority in consequence of the local authority refusing the permission referred to in section 10, clause (c), or prescribing any condition under section 12, or in consequence of the telegraph authority omitting to comply with a requisition made under section 13, or otherwise in respect of the exercise of the powers conferred by this Act, it shall be determined by such officer as the [Central Government] may appoint either generally or specially in this behalf.

(2) An appeal from the determination of the officer so appointed shall lie to the [Central Government]; and the order of the [Central Government] shall be final.

PROVISIONS APPLICABLE TO OTHER PROPERTY

16. Exercise of powers conferred by section 10, and disputes as to compensation, in case of property other than that of a local authority.—(1) If the exercise of the powers mentioned in section 10 in respect of property referred to in clause (d) of that section is resisted or

obstructed, the District Magistrate may, in his discretion, order that the telegraph authority shall be permitted to exercise them.

(2) If, after the making of an order under sub section (1), any person resists the exercise of those powers, or, having control over the property, does not give all facilities for this being exercised, he shall be deemed to have committed an offence under section 188 of the Indian Penal Code (45 of 1860).

(3) If any dispute arises concerning the sufficiency of the compensation to be paid under section 10, clause (d), it shall, on application for that purpose by either of the disputing parties to the District Judge within whose jurisdiction the property is situate, be determined by him.

(4) If any dispute arises as to the persons entitled to receive compensation, or as to the proportions in which the persons interested are entitled to share in it, the telegraph authority may pay into the Court of the District Judge such amount as he deems sufficient or, where all the disputing parties have in writing admitted the amount tendered to be sufficient or the amount has been determined under sub-section (3), that amount; and the District Judge, after giving notice to the parties and hearing such of them as desire to be heard, shall determine the persons entitled to receive the compensation or, as the case may be, the proportions in which the persons interested are entitled to share in it.

(5) Every determination of a dispute by a District Judge under sub-section (3) or sub-section (4) shall be final:

Provided that nothing in this sub-section shall affect the right of any person to recover by suit the whole or any part of any compensation paid by the telegraph authority, from the person who has received the same.

17. Removal or alteration of telegraph line or post on property other than that of a local authority.—(1) When, under the foregoing provisions of this Act, a telegraph line or post has been placed by the telegraph authority under, over, along, across, in or upon any property, not being property vested in or under the control or management of a local authority, and any person entitled to do so desires to deal with that property in such a manner as to render it necessary or convenient that the telegraph line or post should be removed to another part thereof or to a higher or lower level or altered in form, he may require the telegraph authority to remove or alter the line or post accordingly:

Provided that, if compensation has been paid under section 10, clause (d), he shall, when making the requisition, tender to the telegraph authority the amount requisite to defray the expense of the removal or alteration, or half of the amount paid as compensation, whichever may be the smaller sum.

(2) If the telegraph authority omits to comply with the requisition, the person making it may apply to the District Magistrate within whose jurisdiction the property is situated to order the removal or alteration.