

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH.**

W.P (P I L) No.180 of 2017.

Between.

P. Chengal Reddy, Chief Advisor – (CIFA)
Flat No. 209, Vijaya Towers
Shanthi Nagar
Hyderabad – 500028
Phone: 040 -23319643
e-mail: chengal.p@gmail.com

...Petitioner

AND

1. The Chief Secretary
Government of Andhra Pradesh
Velagapudi
Amravati (Post)
Guntur District
Andhra Pradesh.

....Respondents

2. The Chief Secretary
Government of Telangana
Secretariat.
Hyderabad (Post)
Telangana State

3. The Principal Secretary,
Energy Department
Government of Andhra Pradesh
Velagapudi
Amravati
Guntur District
Andhra Pradesh.

4. The Principal Secretary
Department of Energy
Government of Telangana
Secretariat
Hyderabad Post
Telangana State

5. The Collector,
Collect orate
Nellore Post
Nellore District
Andhra Pradesh State

6. The Chairman and Managing Director
APTRANSCO
Vidyut Soudha
Eluru Road , Gundala ,
Vijayawada Post
Krishna District
Andhra Pradesh
7. Chairman and Managing Director
TSTRANSCO
Vidyut Soudha
Khairatabad
Hyderabad Post
Telangana State
8. The Chairman
Andhra Pradesh Electricity Regulatory Commission
4th Floor, Singareni Bhawan
Red hills ,Khiratabad,
Hyderabad - 500 004
9. The Chairman
Telangana Electricity Regulatory Commission
5th Floor, Singareni Bhawan
Red Hills, Khiratabad
Hyderabad- 500 004
Telangana State
10. The Chairman,
Central Electricity Regulatory Commission
3 rd & 4 th Chanderlok Building
36, Janpath Rd,
New Delhi – 110001
Phone: 011 2335 3503.
11. The Chairman,
Appellate tribunal for Electricity
CGO Complex, Pragati Vihar,
New Delhi, Delhi 110003

ADDITIONAL PETITION FILED BY P. CHENGAL REDDY.

1. P. Chengal Reddy s/o Late P. Thimma Reddy Age 76, Resident of Flat. 209, Vijaya Towers, Shantinagar, Hyderabad - 500 028 petitioner herein solemnly affirm and state as follows.
2. I have submitted a representation the Honourable Chief Justice, High Court, dated.25-04-2017. Petition is about non payment for damage to farmers lands due to construction of Transmission Towers and lines. The High Court was kind enough to

accept it as PIL. The case is awaiting hearing. Mean while I am submitting additional details/ evidence/ documents as they will provide more authentication in regard to evading compensation by Transmission Companies of Power Grid Corporation, APTRANSCO and TSTRANSCO .(Herein after called COMPANIES) in both the States from 2003 to 2018

3. I submit a 220 KV, 400 KV and 765 KV High Tension Transmission Towers & Lines (WORKES)constructed on farmers lands by companies will cause immense damage to farmers land /property (Landed property). Each 400 KV Tower weighs 15 MT, requires 1000. Sq Meters land for foundation. Under lines 46 + 5.5 Meters land is required for Right of Way and Minimum clearance (Total 51.5 meters / 154.5. feet) between conductor and trees . The land value underneath needs TO BE CONSIDERED AS SUSBTENTIAL DAMAGE/DEPRIVATION TO PROPERTY. The Honourable Supreme Court of India in Case SCR (1954).674. Dwarka Das vs Sholapur Spinning mills held,

“BY SUBSTANTIAL DEPRIVATION IS MEANT THE SORT OF DEPRIVATION THAT SUBSTENTAILLY ROBS A MAN OF THOSE ATTRIBUTES OF ENJOYMENT WHICH NORMALLY ACCOUMPANY RIGHTS TO OR AN INTREST IN PROPERTY. THE FORM IS UNESSENTIAL. IT IS THE SUBSTENCE THAT ONE MUST SEEK.” Herein the land underneath after construction of Towers and lines will remain in the name of owner farmer. The learned Judges FURTHER **“MADE OBSERVESION OF -- DEPRIVESION –ILLUSIONERY PHONTAM TITLE –LEAVING THE MERE HUSK OF TITLE :** As of 2018 property is declared as HUMAN RIGHT .Herein due to towers and lines a farmers land is MUTILATED. But compensation is denied on various flimsy grounds of **“ LAND WILL REMAIN IN THE NAME OF FARMERS—FARMERS LAND IS NOT ACQUIRED “- It is because most of the farmers are small holders and illiterate, have no economic capacity to pursue the issues legally or through administration For over 15 (2003-2018) years the exploitation by companies is happening unchecked . (Enclosed a, photo of gigantic 400 KV, towers/ Lines visa -vis with farmers underneath (Annexure.1).**

4. I submit it is fact that Towers and Lines are causing DAMAGE TO THE FARMERS PROPERTY But the Transmission companies claim that they are empowered under Telegraph Authority (Act 1885) and that they need not pay compensation. Land owner farmers are perplexed as how to get compensation? Which Act or law will enable them to claim damages? It is not clear under which Act or Laws the damages can be assessed? Who is to assess the damage? How will it assessed? Will the compensation paid before works or after works ? When will it be paid? Who will take responsibility for the above issue? Since passing of Electricity Act 2003 these issues ARE NOT SETTLED/ DECIDED BY APPROPROATE GOVERNMENTS OR BY ADMINSTRATION OR BY HIGH COURTS leading to farmers inability to get compensation.

5. I submit the APPELLATE TRIBUNAL FOR ELECTRICITY has passed judgment in 2011, APPEAL. NO.83 OF 2010, DT.07-09-2011, held that the REGULATORY COMMISSIONS have power to decide compensation.(Para 93). Any dispute arising in regard to compensation would have to be resolved by the STATE COMMISSION. What is not clear is if the Collector issues compensation proceedings under Telegraph Act, 1885, how can a land owner farmers file revision under Electricity Act 2003, Works of Licensee Rules 2006, Rule 3 (3). Herein Companies issued notices under Telegraph Act 1885, the Collector also issued proceedings only under Telegraph Act. The Works of Licensee Rules 2006 are not referred to , in the notice given to land owner farmers by the companies or letters addressed by the companies to Collectors or by the Collectors proceedings ! How can a land owner claim damage to his property? If so by whom? And When?
6. I submit that the Electricity Act 2003 provisions of Regulatory Commissions, Appellate Tribunal for Electricity ,licensing procedures and works of Licensee Rules 2006, procedure for licensee to seek consent from land owners, powers bestowed on District Collectors to give permission in writing and provision for revision of compensation before the Commission are all deliberately violated and misused and misrepresented by invoking Section 164 of Act 2003 . The Gazette Date No 1148 Dated 24-12-2003 reads as follows **(Annexure.2)**Ministry of Power –order New Delhi , the 24th December 2003 “ S.O. 1463(E)—Where as power Grid corporation of India limited, having registered its office at B-9, Qutub Area , New Delhi, herein referred as to (POWER GRID) is a Government Company under Companies Act 1956 and a licensee engaged in the business of inter- state transmission of electricity under electricity –The above authorization is subject to compliance by the Power Grid to the requirements of provision of “ELECTRICITY ACT 2003 AND THE RULES MADE THERE UNDER”.

Herein, Section 164 is defined under Act 2003 for the purpose of “ **EXERCISE OF POWERS OF TELEGRAPH AUTHORITY – “IN CERTAIN CASES”**. The above **GAZZETT ,1148 OF 2003,did not specify the scheme details or reasons or circumstances--** for POWER GRID TO BE GIVEN TELEGEAPH AUTHORITY “While exercise power under Section 164 the Appropriate Government must give reasons as to why **A SCHEME /PROJECT IS GIVEN TELEGRAPH AUTHORITY. The Ministry of Power, GOI , cannot provide special facilities and privileges of evading 2003 Act provisions or 2006 rules and procedure , SO THE POWER GRID Corporation Ltd, a GOVERNMENT OF INDIA COMANEY CAN CONVENIENTLY AVOID PROCEDURE , BYPASS RULES SO THAT IT CAN DECLARE HUGE PRIFITS AND ANNOUNCE DIVEDENTS.** Act 2003 main objective is to develop a healthy competition in all segments of Power sector. The

Gazette 1148 dated 24-12-2003 is illegal and without due authorization and also misinterpretation of Section 164. Therefore has to be cancelled.

7. I submit the Ministry of power issued a proforma (**Annexure.3**) to all transmission companies to get exemption under Rules 2006 and get Telegraph Authority. Since 2003, the day of issue of Telegraph Powers, under section 164 no transmission company paid damages to LOSS OF LAND VALUE TO ANY LAND OWNER FARMERS. In this context The Supreme Court of India in Case. Appeal (Civil) 289 of 2006, Kerala Electricity Board vs Levisha, Judgment, Dt.18-05-2007 held as follows:-

THE SITES OF LAND , THE DISTANCE BETWEEN THE HIGH VOLTAGE ELECTRICITY LINE LAID OVER , THE EXTENT OF LINE THERE ON, AS ALSO THE FACT AS TO WHETHER THE HIGH VOLTAGE LINE PASSES OVER A SMALL TRACK OF LAND OR THROUGH THE MIDDLE OF THE LAND AND OTHER SIMILAR RELEVANT FACTORS IN OUR OPINION WOULD BE THE DETERMINATIVE . THE VALUE OF IT WOULD ALSO BE A RELEVANT FACTOR. THE OWNER OF THE LAND FURTHER MORE , IN A GIVEN SITUATION MAY LOSE HIS SUBSTANTIVE RIGHT TO USE THE PROPERTY FOR THE PURPOSE FOR WHICH THE SAME WAS MEANT TO BE USED “ Based on the above S. C. Judgment The Kerala High Court passed orders directing Transmission companies including Power Grid Corporation to pay DIMINUTION of land value. However, the Power Grid, APTRANSCO, TS TRANSCO and other have not followed the statute issued by the Supreme Court as stated above.

8. I submit, Department of Energy, Govt. of Andhra Pradesh, vide G.O.Ms.No.24 Dated 27-02-2007 issued Works of Licensee Rules, 2007 (**Annexure.4**) as guidelines for APTRANSCO. However the GO. 24 of 2007 was not made available to the Collectors or to the Andhra Pradesh Electricity Regulatory Commission and to public. A copy of the orders issued by the Department of Energy shows that it is kept with APTRANSCO for 9 years. The G.O.MS. No.6 dated 06.03.2017 (**Annexure.5**) was made available to the Collectors by the, Principal Secretary, Energy Department, Govt of A.P. Further vide G.O. RT. No. 83. Dated 20-06-2017 (**Annexure-6**) The Principal Secretary informed the Collectors, to pay compensation for towers and lines and also RoW details. Similar directions are not taken by Government of Telangana till now.
9. I Submit this GO.No.6 of 2017 was issued based on a letter dated 05-11-2017 from the Secretary, AP Electricity Regulatory Commission. (Ref.2 of G.O.6 of 2017). The Principal Secretary, Energy informed the District Collectors, about the existence of his Departments issuing of Works of License Rules on 27-02-2007 and that as of 06-03-2017 ,after careful examination of the matter ,the Collectors are empowered to exercise the powers bestowed on them vide Rules 2007.

10. I Submit later G.O.RT. No.83 Dated 20-06-2017, the Principal Secretary, Energy Govt. of A.P. directed the District Collectors of Andhra Pradesh, informing them about Government of India Guidelines Date.3/7/2015,(**Annexure.7**) fixing compensation for loss of land value under towers and lines . Surprisingly GOI recommended payment of compensation @ 85% of land value under towers, which is increased to 100 % by Govt of AP, and GOI, compensation under lines from 15% to reduced to 10%. The Guide lines by Ministry of Power GOI of 2015 and order of Secretary Energy of AP, indicates that the compensation by Power Grid Corporation of India, a Government of India company and APTRANSCO a Government of Andhra Pradesh company did not pay compensation for loss of land value under Towers and lines from Act 2003 and Rules 2006 /2007. The Electricity Act 2003 claims that Governments have completely distanced from interfering in power/ electricity affairs . But in reality both GOPI and State Government got exemption under Section 164 from following Rules and misused the Power Of Telegraph Authority to cheat and deprive famers of their legally entitled compensation. It is to be noted that Senior government administrators have been working as CEO of Generation, transmission and distribution companies. They have used all their manipulative skills of Act 2003, section 164 provision to avoid compensation to millions of helpless small farmers in the remote villages across the country. Indecently these CEO have been bestowed many honours for their outstanding and successful management of companies.

11. I submit ELECTRICTY ACT 2003 KEY FEATURES (Ref. S.K.Chetterjee, 3rd edition .page 13) are:- The Act 2003 is made to develop competition with regulatory oversight is the frame work around the electricity act 2003. Competition, to encourage efficiency in performance and regulatory oversight, to safe guard consumer’s interest and at the same time ensure recovery of costs for the investor.--**Power is intoxicating. Shedding of power therefore needs courage and conviction. The Government has envisaged these virtues through new law. There is complete distancing of Government from Regulations and commercial activities in the new scenario of the law-----the act distances from all forms of Regulations -----the State Electricity Boards down the decades =====.-----it has bred inefficiency that has CORADED THE SYATEM FROM WITHIN .-----the new law strikes at very root of ---- this malaise by putting an end to the monopoly -----competition is the hall mark of the new legislation-----REGULOTARY COMMISSIONS ARE ENVISAGED AS WATCH DOGS---the provision for Appellate Tribunal for Electricity meets the need for a specialized court to deal only with electricity related cases.**

12. I submit the Parliament considered Electricity Act 2003 is a progressive legislation in true sense”. Act has many specific provision of Section 2. Limiting role of Governments have National Electricity Policy to be reviewed regularly, Sec.4.

national policy for rural area & non-conventional energy, S. 12 to 24 –Licensing procedure S. 67. Works of licensees Rules to provide guidance licensees, S. 76 to 109 constituting of Regulatory Commissions, 110 to 125 powers of Appellate tribunal for Electricity and also. 126 to 130 and 135 to 152 for Investigation, enforcement offences and penalties.

- 13.** I submit the consequence of constructing Transmission towers and line (WORKES) will permanently damage the landed property of a Land owner. It is necessary to evaluate “difference between a 19th century Telegraph Pole/ line and a 21st century High Tension Transmission Towers and lines. A Telegraph Pole Weighs mere, 200 kg and occupies 10 to 15 feet. They are mostly by side of Railway Tracks or adjoining roads and are not harmful to HUMANS OR ANIMALS. In comparison the massive and awesome **Transmission Tower of 400 kv weighs 15 Metric Tons with huge foundations to with stand weight of the towers and wind velocity. Each 400 KV tower occupies 1000 sq. Meters and needs 46 meters (150 feet) Right of Way and another 10 feet margin from lines. For one kilometre of 400 KV transmission line 4/ 5 hectors (15 acres) land will be wasted permanently .** It is dangers for humans and animals to pass under lines, specially during rains. In legal and economics terminology the land is permanently damaged and its value will be eternally diminishes. (process of reduction - New –website). Further electricity Act 1910 prohibits land owners under towers and lines from construction of permanent structure of houses or factories or schools or commercial complexes. Even Tress /crops beyond 10 feet are not allowed underneath transmission lines. The high tension transmission lines have electromagnetic effect. Scientifically and technically constant exposure is likely cause cancer or tumour or genetic disorders to Humans and Animals.
- 14.** I submit Act 2003, Section 164 has a provision “EXERCISE OF POWERS OF TELEGRAPH AUTHORITY” –“ **IN CERTAIN CASES**” ELCTRICITY ACT 2003 was passed on 26-05-2003. The Act has incorporated sections as stated above including Rules for Licensees and Regulatory Commissions. **However on 24-12-2003 , Ministry of Power GOI, under Section 164 , issued a gazette No. 1148 ,S .O, 1463(E) Dt.24-12-2003 “WHARE POWER GRID CORPORATION OF INDIA(PGCIL) -----A GOVERNMENT COMPANY ----- FOR PROPER COORDINATION OF WORKS VESTED FOR EXERCISING POWER OF THE TELEGRAPH ACT –PSRT III OF INDIAN TELEGRAPH ACT 1885-----THE ABOVE AUTHORIZATION IS SUBJECT TO THE REQUIREMENT PROVESIONS OF ELECTRICITY ACT 2003 AND RULES MADE THERE UNDER “**
- 15.** I submit from 24-12-2003 onwards PGCIL issued “NOTICE UNDER INDIAN TELEGRAPH ACT OF 1885. Given during the years 2013,2014, 2015and 2017 in Andhra Pradesh and Telangana States.**(Annexure 8, 9, 10, 11)** The notice informs the land owner

stating that it is a Government Company empowerment under Act 1885, and likely damage to crop/ trees and compensation as per revenue department assessment. The notice did not speak of damage to owners land value under towers and lines. It has not given details of Rules under section 67. The notice did give any offer for loss of land value under towers and lines. Nor it informed the land owner of his rights under works of licensee Rules 2006/2007 to raise objection. The owner is not informed about his right to file objection before the Collector and revision before the Regulatory Commission.

- 16.** I submit under Telegraph Authority under Telegraph Act 1885 enables Telegraph department to construct Telegraph Poles & Lines in any private land without consent of the land owner. Utilizing the provisions of 164, the same thumb rules of Telegraph Act 1885, Section 10 is adopted by PGCIL and others. The land owners are denied compensation on the pretext even after Transmission lines and Towers pass over the lands, the ownership remains in the name of land owner and that the farmers can continue his cultivation. Further PGCIL argues that the famers lands are not acquired therefore need not pay compensation. **The fact that DUE TO HUGE TOWERS AND LINES WITH ELECTROMAGNETIC FIELD entire land value DIMINISHES is not taken into consideration since 2003 by the Transmission companies or District Magistrates and also High Courts.**
- 17.** I submit details of lines drawn between 2003 to 2018. Intra-State Transmission companies Power Grid Corporation of India Ltd (PGCIL) is of licensed by CENTRAL ELECTRICITY REGULATORY COMMISSION (C E R C) and State Transmission companies are licensed by State Regulatory Commissions. **During 2003 to 2018 all the companies/licensees have drawn over 2,50,000 kilo meters lines (ckm lines.(Annexure.12)). The land used for 400 KV, CKM Lines & Towers @ 4/5 Hectors Average –(16/18 Acres). The total land damaged under 2,50,000 CKM is about 2 Million Hectors (4.5 to 5 million Acers).**
- 18.** I submit In India 86 % farmers are small & marginal with less than 2 Hector (5. Acers) (Annexure.13). In additional 20 % to 30% are LAVANI / DKT Pattadars (Temporary ownership).The works have caused damage and losses to over 5 Mllion (Fifty lakh)farmers lands under towers and lines in all parts of the country .The amount of compensation @ Rs. 3 lakhs per acres is estimated Rs. 1,50,000 crores.(One Lakh Fifty Thousand Crores) **After construction of Tower and Lines over small holdings the entire land value will be lost permanently and entire extent has be compensated. After construction land owner are not eligible for bank loans, or hypothecation or mortgage. Nobody will purchase these land. Further these land owner farmers are all Legally and Constitutionally, and under Land Acquisition Act**

2013(Annexure.14) are entitled for full compensation with interest and retrospectively from the year 2003 till 2018.

- 19.** I submit Ministry of Power Government of India, New Delhi, has deliberately conspired and connived with Government Transmission Companies to bypass provisions of Act 2003 and Rules 2006 .It is done due to the fact that Electricity Boards and the Power Grid Corporation of India and State Transmission Companies are managed by administrative services of governments. **The Ministry of Power in order to bypass the Works of Licensee under, Section 67 and also Works of Licensee Rules 2006, GSR. 217 (E) Dated 18-04-2006, Ministry of Power GOI prescribed a COMMON MODEL PRO-FARMA (as given in annexure -3) TO GET EXEMPTION BY ALL TRANSMISSION COMPANIES. The procedure prescribed will enable get exemption from Works Rules by all Transmission companies. The Ministry of Power made working of Government companies comfortable and simple. What the Government Companies needs to do is FILLUP THE PROFARMA - PUBLISH SCHEME 2 NEWS PAPERS – WAIT FOR 2 MONTHS – SEND LETTER AND EXEMPTION UNDER 164 IS GRANTED.**
- 20.** I submit “The Performa issued by Under Secretary, Ministry of Power, G.O.I , to give powers of Telegraph Authority under section 164 to Transmission companies is illegal and Unconstitutional . Act 2003, **Sections 164 is as Follows EXERCISE OF POWERS OF TELEGRAPH AUTHORITY – “IN CERTAIN CASES”.** Act 2003 wording “**IN CERTAIN CASES**” is indicative of special or emergency situations faced by a individual transmission company /licensee, where in the licensee cannot adopt procedure of Act 2003, Section 67, or **WORKES OF LICENSEE RULES 2006.** The WORDS ARE INDICATIVE OF GIVING TELEGRAPH AUTHORITY POWERS ONLY SPARINGLY – **EACH PROJECT, BASED ON SPECIFIC SITUATION. THE APPLICENT MUST GIVE REASONING AND CIRCUMSTENCES to obtain authority.** Instead, Ministry of Power prescribes a common application to be adopted for all transmission companies to claim Telegraph Authority and there by exemption to follow Rules. By providing EXEMPTIOM FROM WORKS OF LICENSEE RULES THE OBJECTIVE OF SPECIAL ACT 2003 is bypassed and invalidated. The reasons for misuse and abuse of Section 164 By Ministry of Power GOI, could be to deny legally entitled compensation to illiterate farmers who are ignorant and incapable of understanding the complication if Act 2003 and Act 1885. Another reason could be declaring huge profits as shown by the PGCIL and State Transmission companies which will directly benefit the administrators of PGCIL, and State Transmission companies.
- 21.** I submit PGCIL or any State Transmission Company do not require exemption under Section 164. Companies have provision for getting licensee from Regulatory Commission. For PGCIL / APTRANSCO/TSTRANSCO, a project proposal and a detailed

feasibility reports including survey route map (Giving details of survey number, village name etc) will be conducted. The project will peg mark location of Towers and lines which enables to assess damage to the land and can prepare estimates of land compensation. It has to get clearances from Environment Ministry and Financial Approvals. As PGCIL/APTRANSCO /TSTRANSCO, lines passes over Railways, National High ways, Irrigation canals. They have to follow Rules 2006 and must get by written permission from these institutions as there is no exemption under Act 2003 (Rule 4 to Rule 12) and Section 164 . The process for PGCIL and for other companies implementing project work through contractor by tendering and agreements will also require time. From the day, the project is envisaged, till completion will take 5/6 years. In these circumstances there is no need for Ministry of Power GOI and State Governments confer Section 164 powers of Telegraph Authority on GOVERNMENT TRANSMISSION COMPANIES. **The EXEMPTION OF RULES, 2006 AND 2007 ARE ONLY FOR FARMERS (PRIVATE) LANDS?** It is assumed that the misuse and abuse of Telegraph Act 1885 provisions are only to avoid paying compensation to Farmers.

22. I submit the POWER GRID and STATE Companies have sufficient time to follow procedure as per Rules 2006/2007. **They have sufficient time to seek consent and initiate negotiation for payment of compensation to land owner depending upon damage , location, land area requirement..** The land owner can be persuaded to get consent by following procedure under Works of Licensee Rules 2006, Rules 3 (1) to give notice to land owners for consent. If the owner refuses PGCIL offer of compensation, PGCIL has provision under Rules 3(2) to get permission in writing from District Collector. Collector proceedings under rules 2006 will enable land owners to file revision for enhanced compensation before the appropriate Commission. But PGCIL from date of passing the Act 2003, has not showed inclination to follow RULES or any PROCEDURE or any STATE in regard to PRIVATE LAND OWNER FARMERS.

23. I submit GOI and State Governments has no provision under Act 2003 to prescribe profarma to Companies / licensees. Special Act 2003 has declared to keep Government away from the sector. Governments in order to use section 164 must declare the conditions for utilising Section 164. Herein only a press notification. 2 months time and a letter, to get exemption under Telegraph Authority. This is a violation of Electricity Act 2003 provisions. In fact it is for this purpose that Rules 2006 are prescribed. The land owners who are mostly small and marginal farmers cannot understand the implication of lines and towers on their land and loss of its value. Since 2003 millions of farmers denied compensation under the false pretext of Telegraph Authority.

- 24.** I submit the District Collector across the country have failed to protect the interest of farmers. The Collectors while passing orders or issuing proceedings under Telegraph Act 1885 have failed to assess the damage to land due to towers and lines. Section 10 (d) of Act 1885 reads as follows :_ “in the exercise of the powers conferred by this section, the Telegraph Authority –“ SHALL DO AS LITTLE DAMAGE AS POSSIBLE ”, and, when it has exercise those powers in respect of any property other than that referred to in clause (c) , “SHALL PAY FULL COMPENSETION TO ALL PERSONS INTRESTED FOR ANY DAMAGE SUSTAINED BY THEM” by reason of the exercise of those. Since 2003 the Collectors were unable to assess the consequence of constructing High Tension Transmission Towers and Lines on a small piece farm land ? Whether the Land owner, be it a farmers or residential land or industrial land will be damaged and that the owner will sustain LOSSESS and that he should be compensated. This ground reality has evaded the attention of PARLIAMENT while passing that act 2003 and Administrators while implementing the Act Provisions, and High Courts while concurring with Telegraph Authority (Act 1885 provisions) Perhaps because the Farm lands are not as valuable as city /urban properties . The word URBAN PROPERTY visa – vis FARMERS LANDS/ PROPERTY was never given equal importance or preference by policy makers since independence.
- 25.** I submit the Act 2003 is made with outstanding features, so as make POWER SECTOR independent and efficient. Rules 2006 makes it obligatory for the licensee transmission company to seek consent Under Rule 3 (1)(a). Legally seeking consent , makes it obligatory on the part of licensee to provide land owner following details :- (1)The purpose (2) Details of damage to the land/ property due to towers and lines(3) Offer of compensation (4) Name & address of the person to be contacted in the company (5) Duration of the offer (6) Payment duration. The works of licensee rules 2006, make the company obligatory to issue offer to every individual land owner separately.
- 26.** I submit if the land owner refuses consent, the licensee has to get written permission from the District Collector. The Collectors has to issue proceedings only under rule 2006 rule 3(2) after hearing the representation. The compensation fixation has to each farmer. The company has to make payment after which the Collector will give permission in writing to the company to implement works. The Collectors proceedings must be under rule 3(2). Under rule 3 (3) every order made by Collector under sub rule (1) shall be subject to revision by the Commission. As per Act 2003, the orders of the Commission can be appealed before the Appellate Tribunal for Electricity. (A.T.E.).
- 27.** I submit Act 2003, has made provision under Section 67 for framing Works of Licensee Rules to be made by APPROPRIATE GOVERNMENTS. “This part deals with

works required to be carried out by licensees (For laying down or placing ELCTRIC SUPPLY LINES ETC), PROCEDURAL REQUIRIMENT FOR PLACING OVERHEAD LINES ETC. THIS PART HAS PRECEDENT IN THE INDIAN ELECTRICITY ACT 1910. (in Section 12 to 19). Section 67 (1) It has provision for opening up of streets, railways etc. Section 67 (1)(a) deals with open and break any street , railway or tramways . 67 (1)(b)sewers , tunnels , pipes Section 67 (c)(d)(e)(f) gives guidelines in dealing with institutions of Governments, roads, railways, municipalities, local boards etc.

Section 67 (2) authorizes APPROPRIATE GOVERNMENTS MAY, BY RULES MADE IN THIS BEHALF. Section 67 (2)(a) THE CASES AND CIRCUSTENCES IN WHICH THE CONSENT IN WRITING OF THE APPROPRIATE GOVERNMENT, LOCAL AUTHORITY, OWNER OR OCCUPIER, AS THE CASE MAY BE , SHALL BE REQUIRED FOR CARRYING OUT WORKES; Section 67 (2)(b) the authority which may grant permission in the circumstances where owner or occupier objects to the carrying out of works; Section 67 (2)(c) nature and period of notice to be given b the licensee; Section 67 (2)(d) prescribes procedure for raising objections 67 (2)(e) DETERMINATION AND PAYMENT OF COMPENSETION OR RENT TO THE AFFECTED PERSONS BY WORKES UNDER THIS SECTION. Section 67 (2) (f) tp Section 67 (2)(p) procedures for various issues to be followed by licensee.

Section 67 (3) A LICENSEE SHALL ,IN EXERCISE OF ANY OF THE POWERS CONFERRED BY OR UNDER THIS SECTION AND THE RULES MADE THERE UNDER, CAUSE AS LITTLE DAMAGE, DETRIMENT AND INCONCENOENCE AS MAY BE, AND SHALL MAKE FULL COMPENSETION FOR ANY DAMAGE , DETRTIMENT OR INCOVINIENCE CAUSD BY HIM OR BY ANY ONE EMPLOYED BY HIM”

28. I submit t he paper publication seeking objection from public to be sent to Chief Engineer of the company is illegal. The Act 2003 and Rules 2006 have conferred power to receive objection only by the District Collector and Regulatory Commissions.”

29. I submit due to illegal usage of section 164 the powers conferred on CENTRAL ELECTRICITY REGULATORY COMMISSION (CERC) and STATE REGEGLATORY COMMISSIONS are curtailed. Act 2003, Section 76, confers vast powers on the REGULATORY COMMISSIONS. The transmission company has to obtain license from Central/ State Regulatory Commissions The Commissions have provided rules for carrying out works by the licensees. The Commissions are given powers of revision of Collectors proceedings /orders. As seen above pars if the Collector orders are under Telegraph Act 1885 the Commissions cannot review the orders of Collectors. Instead District Judge is empowered. Land owners are deprived of REVISION OF COLLECTORS ORDERS. Under District Court FEES HAS TO BE PAID FOR CLAIMING COMPENSETION. The Commissions have decide compensation in a time bound

manner. Whereas there is no time limitation for District Judge to award compensation. The purpose of Special Act 2003 provisions are lost due to misuse of Section 164.

30. I submit provisions of TELEGRAPH ACT 1885, Visa – Vis Electricity Act 2003 are inconsistent and not applicable in democratic India. They violate Indian Constitutional provisions of RULE OF LAW, FOLLOWING PROCEDURE, RIGHT TO PROPERTY – NOE DECLARED AS HUMAN RIGHT -, DEPRIVESION OF PROPERTY RIGHT and SUSTENTIVE AND SUSTENTATIVE RIGHT TO PROPERTY AND OTHER STATUES as directed by Supreme Court of India.
31. The 19th century Telegraph Act 1885 has following illegalities/ irregularities in comparison to Act 2003. (i) The licenses are centralized under Ministry of Telegraph Government of India, which is not functional. Where as in Act 2003 licensing is decentralised and delegated to Commissions which are independent judicial authorities. (ii) Act 1885 has no rules, whereas Act 2003 has Rules with revision provisions. (iii) No procedure to be followed for establishing telegraph lines/poles, where as Towers and lines have specific rules and conditionality. (iv) Act 1885 has no provision to land owners to protest/ obstruct, where as Act 2003 has provided rights to land owners to refuse consent and provision for revision (v) In Telegraph, Act 1885 there is no clarity on authority to fix compensation . In Act 2003 Company can by itself negotiate with land owner or seek Collectors intervention. (vi) Act 1885 has no clarity as who and when and on what basis the compensation is fixed for damages, where as Act 2003 has ample provisions. (vii) Act 1885 do not define damage to property, except compensate for loss of crops and Trees. The fact that Telegraph poles and lines are not dangerous to humans or animals or environment is one of fact and needs no imagination. Where as Electricity Towers and lines are highly dangerous to humans, Animals and also to trees. It is for this reason that conditionality's are imposed by Government's on construction of towers and lines over past 100 years. Shockingly APPROPRIATE GOVERNMENTS HAVE EQUATED TELEPHONE POLES/ LINES WITH THAT OF ELECTRICTY TOWERS AND CONDUCTORS, TO MAKE MOCKERY OF RIGHT TO PROPERTY OF FARMERS (viii) Act 1885 no provision for revision and no scope for appeal. The 1885 Act is out dated and is irrelevant of the people of India. By adopting Act 1885 provisions GOI and State Governments has sabotaged the Act 2003 objectives.
32. I submit Appropriate Governments, GOI and states have DISCRIMINATED in USING SECTION 164 BETWEEN CITIZENS & GOVERNMENT INSTITUTIONS:-The Ministry of Power GOI and State Governments misused and abused Section 164. The provision of Telegraph Act 1885, Section 10 to 19 are invoked in regard Works of License Rules 2006 applicable to private land owners and private OCCVUPIERS OF LAND/BUILDING. Rules 3 (1)(a) 3(1)(b) 3(2) and 3 (3) are applicable to ONLY CITIZENS –(FARMERS) –

PRIVATE LAND OWNERS . Act 1885, Section 10 to 19 are not applicable to Works of licensee Rules 4 (1 to 7) 5, 6(1 to 7) 7 (1 to 7) 8, 9, 10, 11, 12, and 14, where in Governments institutions RAILWAYS – ROADS – CANALS – LOCAL BODIES etc. A reading of Act 2003, (Part VIII) Section 67 works of licensees “WORKES TO BE CARRIED OUT BY LICENSEES “has not made any discrimination between Railway/Roads/ Water ways and private Land holders (CITIZENS). However using Act 2003 Governments have discriminated between PROPERTY OF CITIZENS AND GOVERNMENT PROPERTIES. This is illegal and unconstitutional. Hence Section 164 has to be deleted.

33. I submit Transmission of Electricity is a business. It is done by companies including Government Companies who are registered under Companies Act. They get loans from financial institution including World Bank. Shares are mobilized from private individuals and are traded in stock markets. PGCIL and State Transmission companies declare profits, pay dividends, and pay income tax. Since independence demand for power was increasing due to industrialization, Agriculture, housing and other purposes. Electricity Boards were established in 1960 to improve production and distribution. However the Boards under Governments were unable to meet the increasing demand. After liberalization in 1990's Government of India enacted Electricity Act 2003 to meet the growing needs of the country. Objectives and special features of the Act 2003 was detailed in above pares. Private investments were encouraged, and independent regulatory commission were established as arbitrator and regulator companies.
34. **I submit one area was posing a challenge to Ministry of Power and State energy departments was that of TRANSMISSION LINES. THE LINES AND TOWERS ARE HUGE AND WILL DAMAGE THE LANDS UNDERNEITH PERMANENTLY. THE ACT 2003 HAS PROVIDED GUIDELINES FOR RESOLVING THE PROBLEMS OF GETTING CONSENT OF LAND OWNERS AND FIXING COMPENSETION. LAND OWNERS ARE 86 % SMALL AND MARGINAL FARMERS. A TOWER AND LINE OVER THE LAND MAKES DUMINIHES VALUE OF LAND. AFTER 1990”s large number of farm lands value has appreciated due to infrastructure, industry, housing, urbanization. Herein after enactment of Act 2003, DAMAGING LAND AND PAYMENT OF COMPENSETION is seen as a FINANCIAL LIABILITY BY TRANSMISSION COMPANIES.**
35. I submit the smart policy makers of Ministry of Power, GOI and State officials, who are part administrative services, working in Transmission companies as Chief Executives utilized OBSECURE Section 164—exercise of powers of telegraph authority “IN CERTAIN CASES “ and conveniently issued Gazettes empowering PGCIL AND ALL STATE TRANSMISSION COMPANIES with powers under TELEGRAPH AUTHORITY. Section 164 “IN CERTAIN CASES” IS INDICATIVE OF RARE-AND- EXCETIONAL CIRCUMSTENCES. But the Power Ministry officials in GOI and Energy Department

States have conveniently enabled PGCIL AND STATE TRANSMISSION COMPANIES to avoid Rules 2006/2007 and the condition there off. Telegraph Act 1885 used as excuse to cheat millions gullible land owner farmers of compensation. It is illegal and unconstitutional to give powers under Telegraph Act 1885 empowering and exempting Government Companies to enter into PRIVATE/ CITIZENS lands/ PROPERTIES without following Rules 2006 but not Government properties.

36. I submit, Ministry of Power, GOI enabled Power Grid Corporation of India Ltd. (PGCIL) on 24-12-2003 (within 7 months of passing of act 2003, dated 26th may 2003) was given Telegraph Authority vide, Gazette Extraordinary No.1148 dated 24th December 2003. Under Telegraph Act 1885, section. 10, to place Transmission Towers and Lines without consent of land owners or payment of damage to farmers. For 15 years PGCIL is doing works under Act 1885 provisions so as to avoid Rules 2006.
37. I submit , Section 164 exempting licensees from Rules 2006, is violation of Section 76 to 90 (REGULATORY COMMISSION) and Section 91 to 97 of Act 2003. (APPELLATE TRIBUNAL FOR ELECTRICITY). Therefore it is illegal. During 15 years Power Grid has constructed 1,50,00 C. K. M. Lines affecting over 5 millions of land owners. What is shocking is during the period Central Electricity Regulatory Commission (CERC) constituted by Parliament Act 2003 under section.76 with all paraphernalia has not taken up even(1) one appeal for revision. Works of Rules made under section, 67 did not see the light of the day till date. So also the Appellate Tribunal for Electricity (ATC) constituted under section.110, existence is not known to either land owners or Collectors.
38. I submit PROVISIONS OF SECTION 164, VIOLATES RIGHT TO PROPERTY Article 300. A of INDIAN CONSTITUTION. It is of common knowledge that the lands under towers and lines will get damaged /Forgo value (DIMINUTIONM) due to electromagnetic effects and other reasons. Electricity Act 1910 which prohibits construction all permanent structures underneath towers and lines. Even gardens or plantations over 10 feet are prohibited. Under Act 2003 and also Act 1885 has made it obligatory to do as little damage as possible and PAY FULL COMPENSETION. The towers and lines by PGCIL and other have caused damage to millions of land owner farmers. The companies must pay compensation from day of construction to all farmers.
39. I submit the notices issued by PGCIL and other transmission companies under Telegraph Act 1886 are violation of Rules 2006. They are is illegal and misleading. Since passing of Act 2003 and even after framing of Rules 2006, PGCIL a LICENSEE UNDER ELECTYRICITY ACT 2003, section 12 has been issuing notices for all projects only under Telegraph Act 1885. The contents of notices (as detailed in **Annexure's**, 8,9,10 and 11) are as follows :-

“Power Grid corporation of India Ltd. (A Government of India Enterprise)---- (ADDRESS), NOTICE UNDER INDIAN TELRGRAPH ACT 1885 To,---Dated ----. Dear Sir / Madam INEXERCISE OF POWERS VESTED WITH POWER GRID CORPORAYION OF INDIA LTD.(A GOVERNMERNT IF INDIA ENTERPRISE, MINISTRY OF ENERGEY , DEPWERTMENT OF POWER,) .Under Part III of the INDIAN TWELEGRAPH ACT 1885, section 10 to 19 read with section 68 & 164 of Electricity Act 2003, as amended up to date, notice is hereby given that 400 kv-----line will go through your PROPERTY NOTED UNDER. While due care will be taken to minimize the DAMAGE to standing crops and trees , certain minimum unavoidable damage is likely to take place during construction / erection of the AFORESAID LINE. The trees so felled will be handed over to you .The compensation for the yield of the trees so felled and crops damaged will be paid to you as assessed by the Revenue Department or any other competent Authority as may be decided by the Revenue Department.

40. I submit the notices issued by PGCIL and others accept the fact that it recognizes that LAND is a PROPERTY and that the LINES will cause damage to the property ‘ ---
-LINE WILL GO THROUGH YOUR PROPERTY NOTED UNDER. WHILE DUE CARE WILL TAKEN TO MINIMIZE THE DAMAGE TO THE STANDING TREES AND CROPS, CERATAIN MINIMUM UNAVOIDABLE DAMAGE IS LIKELY TO TAKE PLACE DURING CONSTRUCTION OF THE AFORE SAID LINE . Herein PGCIL accepts the fact that DAMAGE will be caused. But PGCIL a Company doing works in private cannot by itself decide “THE EXTENT OF DAMAGE TO PROPERTY NOR IT CAN DECIDE THE COMPENSETION”. Under Rules 2006 provisions are made for fixing and assessing damage and fixing compensation under Rules 2006, wherein Collectors and Commissions are empowered to settles compensation issues.
41. I submit further that PGCIL cannot issue Notices under Act 1885. PGCIL is licensee under Act 2003 and provided with Rules 2006. The notice must contain provisions of Act 2003, Rules 3.(1)(a) seeking CONSENT OF LAND OWNER. It has to have details of time for reply , Under Rules 3 (1)(b). The Notice must provide the land owner DETAILS OF DAMAGE TO HIS PROPERTY/LAND. THE NOTICE DID NOT GIVE AN OFFER OF COMPENSATION FOR THE DAMAGE TO THE PROPERTY /LAND. The notices are contrary to the provisions under Act 2003 Section 12 and 14 where in only a authorized person is given LICENSE FOR TRANSMISSION OF ELECTRICITY and he has to follow rules.
42. I submit that Ministry Power, G. O.I has constituted a committee dated: 9/10-04-2015, under Special Secretary to analyses the issues related Right of Way for laying of transmission lines across the country and to suggest a uniform methodology for payment of compensation on this count. The committees has provide guidelines on area damaged and fixed compensation of 85 % land value under Towers and 15% under lines (Right of Way). The Report, Dt.15-10-2015(**as detailed in Annexure.7**) is

sent to Chief secretaries of State, CMDs of State Power Utilities. Incidentally the Power Grid Corporation of India is member of the Committee.

43. I submit the report by THE COMMITTEE , Ref. 3/7/2015- Trans – Ministry of Power., GOI, Dated.15th October 2015 giving guidelines to Transmission Licensees **/Companies/ is illegal and contrary to the provisions of Act 2003.** This special Act 2003 as detailed in the OBJECTIVES AND REASONS IS INTENDED TO KEEP GOVERNMENT AWAY FROM ALL THE ACTIVITIES OF POWER SECTOR, except policies . **The fact that after 13 years of passing of Act 2003 and 9 years of making Rules 2006 Ministry of Power, GOI constituted a committee on 09/10 -04-2015 is indicative of deliberate attempt by Ministry of Power, GOI, and State Governments, of their continued control and interfering in the issues of Power Sector.** The issue of Gazette in –2003 giving exemption to PGCIL to evade Rules 2006 and conferring Telegraph Authority (Under Act 1885) is indicative of Governments interference in the Power sector affairs by officials. Therefore constituting Committee, by Ministry of Power for fixing compensation is also illegal, contrary to the objectives of Act 2003. The authorisation under Telegraph Authority in 2003 and giving guidelines for compensation in 2015 are illegal , and violation of Right to property Article 300 A. Therefore needs to cancelled.
44. I submit from 2003 TO 2018, proceedings issued by District Collectors in the State of Andhra Pradesh and Telangana are unauthorized and violation of Rules 2006 and 2007. We request for directions to the Collectors to re-evaluate the damages and issue proceedings as per rules 2006/2007 and also under Land Acquisition Act 2013. The Collectors proceedings under Telegraph Act 1885 will deny the land owners from filing revision of compensation provided Under Rule 2006 Rule 13 (1) and 13 (2) and also Under Rules 2007 Rules 13 (1) and 13 (2.). Therefore the Proceedings issued By Collectors in The States of Andhra Pradesh and Telangana from 2003 be declared as illegal and violation of Works of Licensee Rules 2006 and 2007.
45. I submit **the Andhra Pradesh High Court have passed Judgments upholding right of transmission company to enter into private land and construct Towers and lines without obtaining consent of the landowner.** What Their Lordships failed to perceive is land is a property. It is owned by farmers, who are citizen of India. And that land is a human right. And land can be taken only as per law, procedure and compensation. The contention of companies entering into private land without following procedure – authorization- compensation- is against principals of Natural Justice, Violation of Constitutional Rights, Act 2003, Rules 2006 and is Crime under criminal tress pass. The works of PGCIL and other transmission companies are amply compensated by Regulatory Commissions by way of WHEELING CAHRGES. Each company is declaring huge profits, dividends and taxes. PGCIL is not doing any a charitable work. The employees in companies are not doing free services. Ever one

is paid fat salaries. A sweeper is paid over Rs.50,000/ salary every month apart from bonus. Balance sheets of PGCIL, Audited balance details are enclosed.(Annexure.15)

46. I submit in dealing the issue of Telegraph Authority (Act . 1885) the Honourable High Court did not take into consideration that Electricity Act 2003 is a Special Act. Here in Governments are kept away from interfering in Electricity, GENERATION-TRANSMISSION–DISTRIBUTION. The Act 2003 is made to curtail favouritism by Government companies, corrosion in functioning of boards/PGCIL/State transmission Companies, corruption and inefficiency of State Electricity Boards. Act 2003 provides guidelines to monitor, regulate and discipline transmission companies. Regulatory Commission are also empowered to investigate into irregularities of companies under Section 126 to 130 and, take disciplinary action under Section 135 to 152, including levy fine and also cancel licensees. Under Act 2003 and Rules 2006 a specific procedure is prescribed to be followed by every licensee while constructing towers and lines. Under Rule 2006 Rule 3 (2) the District Collector & Magistrate is alone is empowered to fix compensation Rent or both and give permission in writing to the licensee. The Act 2003 and Rules 2006 have made provision for revision of the Collector &Magistrate orders under Rule 3 (4) by the Commissions. Further this Special Act 2003 has constituted Appellate Tribunal for Electricity to deal with all matters of Electricity Production- Transmission and Distribution as final authority. **But APPROPRIATE GOVERNMENTS BY USING SECTION 164 HAVE RESORED THE GOVERNMENT COMPANIES WITH ARROGANCE TO VIOLATE RULES AND MISUSE THE AUTHORITY SO AS TO DEPRIVE PAYMENT OF COMPENSATION DUE TO DAMAGES CAUSED BY THE TOWERS AND LINES.**
47. I submit PGCIL & STATE companies filed affidavits in High Courts (Annexure. 16) claiming, that they are empowered under Telegraph Act 1885 therefore need not get prior consent from the land owner. Accordingly avoided to issue notices under Rules 2006. Even few notices issued UNDER ACT 1885, are MISLEADINGLY WORDED as if the land owners are entitled for only CROP /TREES COMPENSAETION. **THE DAMAGE UNDER LINES & TOWERS IS TO INDIVIDUAL LAND OWNER FARMERS IS NOT TAKEN INTO COSIDERATIOPN BY THE COURTS.** The contention that under Section 164 vested with Telegraph Authority, Transmission Company can enter into private land without consent is violation of Article 300 A. Telegraph Authority has no provision getting consent and no provision for compensation assessment and payment of Compensation. Herein Appropriate Governments have violated Section 164 provisions by illegal authorisation of companies under Telegraph Authority. Therefore the companies are acting illegally. The decision by the Honourable High Courts are contrary to Act 2003 and Rules 2006 /2007. The decisions are violation of Constitutional Rights.

48. I submit even under Telegraph Act 1885, land owners farmers whose lands are damaged due to towers and lines are eligible for FULL COMPENSETION. (Act 1885 Section10 (d)). The land owner farmers are kept in dark of eligibility of compensation for DAMAGE LAND by the company. The Collectors proceedings are issued only Telegraph Act 1885. There is no provision Under Act 1885, where in the Collectors have TO FIX DAMAGES. It is only in Act 2003, Rule 3(2) Collector is empowered to fix compensation. THAT TOO, IF THE LAND OWNER REFUSES TO GIVE CONSENT. That too, on the APPLICATION BY TRANSMISSION COMPANY FOR PERMISSION TO CARRY OUT WORKS.
49. I submit section 164 of act 2003 was misused and deliberately misinterpreted by transmission licensees. Act 2003 section 67 has made all provisions (part viii) works of licensee. Under section 67. (1) (a) to (d) gave provision to carry out works in railways and streets etc . Under section 67 (2) allowed government to make rules for carrying out works in government and private lands. --Act 2003 ,under section 67 (3) gave directions to licensee about damages and compensation as follows “ a licensee shall , in exercise of any power conferred by or under this section and the rules made there under , cause as little damage, detriment , inconvenience as may be , and shall make full compensation for any damage, detriment or inconvenience caused by him or by any one employed by him “.
50. I submit Act 2003, and under 67 (4) made provision for- compensation :-where any difference or dispute (including amount of compensation under sub -section(3) under this section ,the matter shall be determined by the appropriate commissions. Section 67(5) empowered commission to impose penalty.--Electricity act 2003 a, special act to make power sector efficient by establishing regulatory commissions at central and states. Empowered commissions to grant licenses to transmission – generation – distribution companies. The commission are authorized to fix charges for transmission and generation. Commissions are given quiz –judicial power to fix charges, arbitration among licensees / companies and also cancel licensees. Part x section 76 establishes regulatory commissions of central & state electricity regulatory commission. It has made provision for appellate tribunal for electricity as final authority to deal power sector issues. Under part xvi, section 158 is created to arbitrate in order to hasten settlement of issues.
51. I submit Act 2003 as a precautionary measures under part vii. Under section 164 “other provisions-protective clauses” –section 164 has allowed” EXERCISE OF POWERS OF TELEGRAPH AUTHORITY–IN CERTAIN CASE“. The appropriate governments may by order in writing, for placing electric lines or plants for the transmission of electricity or for the purpose telephonic or telegraphic communications necessary for the proper co-ordination of works, confer upon 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 governments may think for to impose and to the provisions of the Indian telegraph act ,1885 13 of 1885, any of the powers which the telegraph authority possess under that act with respect to the placing of lines and post for the purpose of a telegraph established or maintained , by the government or to be established or maintained. The language used herein is beyond the comprehension of ordinary people, more so, farmers and the advantage if it was successfully utilised by the transmission companies.

52. I submit in regard to Payment of Compensation to damaged property /lands of farmers under Towers and Lines the Power Grid Corporation of India Ltd, has obtained huge loans by fraudulently, providing illegally and false information to World Bank and International finance Corporation. The World Bank conditionality of compulsory rehabilitation of all affected persons of projects, conveniently is misinterpreted and provided false information By Power Grid .The Power Grid in their Project No.31419 Dated. 2nd March 2012 (**Annexure. 17) gave following declaration”.**

(52-1) Page 5. Last Para –TYPICALLY, POWER GRID ACQUIRES ABOUT 15-40 HECTORS OF LAND FOR SUB-STATIONS. The company prefers to acquire of non availability of government land, the company acquires private land (resulting in involuntary settlement) and at times also purchases through willing seller-buyer transaction (i,e without in voluntary resettlement). HOWEVER, **POWER GRID DOES NOT ACQUIRE RIGHT OF WAY (R.o.W), AS IT IS TEMPORARILY REQUIRED ONLY FOR LAYING, OCCASIONALLY FOR OPERATING AND MAINTANENCE OF TRANSMISSION LINES.** RoW REQUIRED ALONG THE ROUTE ALIGHMENT IS 27M, 35M,52, 46/52 AND 64-85 M WIDE STRIP OF LAND FOR 132KV,220KV, 500KV, 400KV,DOUBLE COIRCUT AND 800 KV TRANSMISSION LINES RESPECTIVELY. ===ADD

(52-2) Herein the question arises is which act/law has given powers to power grid to impose usage restriction of farmers land? If it is under Electricity Act 2003 as per Rules 2006, Rule 3 (1)(a), power grid has to get consent from land owner. Or if farmer refuses consent power grid has to get permission in writing from Collector Under Rule 3(2). Assuming that power grid is acting as per Telegraph Act 1885 Under **Section 10 (d) POWER GRID CANNOT CAUSE SUBSTANTIAL DAMAGE TO FARMERS LANDED PROPERTY.** Section 10, MANDATES, **SHALL PAY FULL COMPENSETION TO ALL PERSONS INTRESTED FOR ANY DAMAGE SUSTAINED BY THEM BY REASON OF THE EXERCISE OF THOSE POWERS.**

(52-3) The power grid in the project report 31419 to IFC has provided false, misleading and illegal statement. Obtaining bank loans with false information is a criminal act. As per Constitutional provisions of India and direction by Supreme Court of India, Right of Way (R o W) causes total damage to farmers lands under

RoW. Therefore Power Grid must pay compensation for the damages caused. Power Grid has not provided LIABILITY FOR DAMAGES IN THEIR BOOKS OF ACCOUNTS for payment of compensation to land damage. The liability is not shown in the ANNUAL REPORT. All banks are given false accounts by power grid with inflated profits. This has led to SHARE VALUE INCREASE AND PAY MORE DIVIDEND AND ALSO HIGHER INCOME TAX. This is violation of stock exchange regulations.

(52-4) THE ARROGENCE OF POWER GRID EMPOWEING IT SELF WITH AUTHORITY TO IMPOSE CONDITANALITIES ON FARMERS LANDS WHICH ARE SUBSTENTIALLY DEMAGED SHOULD NOT AND CANNOT BE ALLOWED TO HAPPEN IN DEMOCRATIC INDIAN REPUBLIC, where in RULE OF LAW STILL PREVAILS.

(52-5) "R o W, FOR- T-LINE WHILE OWNERSHIP OF LAND VESTS WITH THE LAND OWNERS, THE LAND OWNER FORGO THE RIGHT TO (a) build permanent structures anywhere within the safety area of RoW (b) plant trees tall trees or undertake plantation activities with in RoW, except if using short height trees and (c) divert land under tower footing from past use. Where the land within R.o.W is used for agriculture ,the land owners may continue to cultivate the land after T-line been strung. However, where the land is used for tree plantation (fruiting or of timber variety), the land owners are required to plant dwarf verity or low height trees within R.o.W. In requiring R.o.W, POWER GRID adheres to the HOST COUNTRY REQUIREMNTS OF PREVALENT INDIAN TELEGRAPH ACT. THE ACT PROVIDES FOR PAYMENT OF TREE LOSS AND CROP LOSS COMPENSETION, WHICH THE COMPANY PROVIDES "

53. I submit due to lack of clarity in Act 2003 and Act 1885 ON THE SUBJECT OF DAMAGES TO LANDED PROPERT UNDERNEITH TOWERS AND LINES millions of farmers are put to huge losses and other problems. The Companies exploited it by denying compensation to land owners by misusing and abusing of Act 2003 Section 164—provesion of " IN CERTAIN CASES". Here in The Honourable Supreme Court of India has a passed important judgments that can taken as permanent guidelines in dealing the issues of "PROPERTY DEPRIVATION OF PROPERTY/ DAMAGE TO PROPERTY / COMPENSETION/ PROPERTY VALUATIOPN PROCEDURE ".

(i) PROPERTY IN LEGAL SENSE-GUARENTEED AND PROTECTED. SC 1994:-Jilu Bhai Nan Bhai vs State of Gujarat, 20-07-1994-S.C.Civil.2111-15-1984

"Property in legal sense means an "AGGREGATE OF RIGHTS WHICH ARE GUARENTEED and PROTECTED BY LAW" it extends to every species of valuable right and interest, more particularly, ownership and exclusive right to a thing, the right to dispose of the thing in every legal way, to possess it, to use it and to exclude everyone else from interfering with it. The dominion or in definite right of use of or

disposition which one way lawfully exercise over particular things or subjects is called property. The exclusive right of possessing, enjoying, and disposing of a thing is property in legal parameters. **“THEREFORE THE WORD PROPERTY CANNOTES EVERY THING WHICH IS SUBJECT OF OWNERSHIP, CORPORAL OR INCORPPOORAL , TANGEBLE OR INTANGEBLE ,VISABLE OR INVISIBLE , REAL OR PERSONAL , EVERY THING THAT HAS AN EXCHANGABLE VALUE OR WHICH GOES TO MAKE UP – WEALTH –ESTATE – STATUS “.**

(ii) RIGHT TO PROPERTY IS A HUMAN RIGHT – SC Judgment – 2011 :-SC.SLP.(Civil) 28034/2011 State of Haryana vs Mukesh Kumar,

“The right to property is now considered to be not only constitutional or statutory right but also a human right. Human rights have already been considered in realm of individual rights such as right to health, right to livelihood, right to shelter and employment etc. But now human rights are gaining a multi-faceted dimension. Right to Property is also considered very much a part of the new dimension. Therefore, even claim of adverse possession has to be read in that context.

(iii) DEMOCRCEY AND RIGHT TO PROPERTY: (Memorial Lecture by Justice Mathew. Dated . 09-12-1975)

“Democracy is not mere mechanism of choosing and running the Government. The egalitarian principle of democracy requires not only one man one vote but also equal effective right of each man LIVE FULL HUMAN LIFE. Democracy must, therefore seen as whole complex of relation between individuals. An individual to live his secular life, as he may wish, would owe duties towards society and fellow citizens. Each must have an opportunity to PROVE, EXERT, DEVELOP, and ENJOY HIS HUMAN FACULTIES. Therefore, each must allow others to have equal effective access to opportunity to develop and lead full HUMAN LIFE. Lack of opportunity to exercise his capacities as means of producing utilities is an impediment, as it described as lack of access to mans liberty. **IF WE TAKE LABOUR IN ITS BRODER SENSE OF HUMAN ENERGY, IT IS PROPERTY “This theory of property assumes importance in a DEMOCRATIC SOCIETY.**

(iv) DEPRIVESION OF PROPERTY RIGHT :-DEFINED – SC Judgment 1953:- State of West Bengal vs Subodh Gopal Bose.17-12-1953-SC.1954.AIR.92.1954, SCR.587.

“ No cut and dried test can be formulated as to whether in a given case the owner is deprived of his property. Each case must be decided as it arises on its own facts”.
“Broadly speaking it may be said an abridgement would be so substantial, as to amount to deprivation within the meaning of article, 31, in effect it with from the possession and enjoyment of the ownership or seriously Impaired use and

enjoyment by him, or materially reduced its value.”. Here in the case of petitioner the deprivation of property is huge which has totally reduced the value.

(v) SUBSTANTIAL AND SUBSTANTIATIVE RIGHT OF PROPERTY SC 1954-SCR. (1954)674.Dwarakadas vs Shoplapur Spinning Mills,

“It was argued as against this that this rule can only apply when there is a total deprivation of property and article 19(1)(f) – **These articles deal with SUBSTANTIAL AND SUBSTANTIATIVE RIGHTS AND NOT ILLUSORY PHANTOM OF TITLE** . When every form of enjoyment which normally accompanies an interest in this kind of property is taken away **‘LEAVING THE MERE HUSK OF TITLE ‘**, article 19 is not attracted. “By substantial deprivation is meant the **‘SORT OF DEPRIVATION THAT SUBSTANTIALLY ROBS A MAN OF THOSE ATTRIBUTES OF ENJOYMENT WHICH NORMALLY ACCOMPANY RIGHTS TO OR AN INTEREST IN PROPERTY. THE FORM IS UNESSENTIAL. IT IS SUBSTANCE THAT ONE MUST SEEK ‘** .

54. I Submit that the Supreme court of India has given guidelines METHODOLOGY TO FIX COMPENSATION BASED ON POTENTIALITY. Ref:- Supreme Court of India in Case No.SC Ref. No. 3148-3157 / 2000 dated 07.1.2007 Atma Singh Vs. State of Haryana.

Para No.5: For ascertaining the market value of the land, the potentiality of the acquired land should also be taken into consideration. Potentiality means capacity or possibility for changing or developing into a state of actuality. **The question whether a land has potential value or not is primarily one of the fact depending upon its condition user to which its put or reasonably capable of being put and proximity to residential, commercial or industrial areas on institutions. The existing amenities like, water, electricity, possibility of their further extension, whether near about town is developing or prospects of development has to be taken into consideration. Additional Ref-Collector Raigarh vs. Hari Singh Thakur AIR 1979 472, Raghuvansh Narayan vs. State of UP AIR 1969, SC 465 and Administrator General West Bengal vs. Collector Varanasi AIR 1988 Sc. 943. It has been held in Kaushalya Devi Vs. LAO Aurangabad, AIR 1984 SC 892 Suresh Kumar Vs. B I Trust AIR 1980 SC 1222 That failing to consider potential value of the acquired land is a violation of principal natural justice.**

55. I submit that the Power Grid and other transmission companies are not following any procedure leading to cheating of farmers by them. IMPORTANCE OF FOLLOWING PROCEDURE IN DEMOCRACY :1) .SC. AIR.1987. SC 2386. Ranjit Thakur vs Union of India. (2)United States. Supreme Court 1942 (318) United State 332.

The observations made therein are to the effect that the due observance of the prescribed procedure is a guarantee against arbitrary exercise of power. **The**

procedural safe guards should be commensurate with the sweep of the powers. The wider the power the greater the need for restraint in its exercise and correspondingly, more liberal the construction of the procedural safeguards envisaged by the statute.

“THE HISTORY OF LIBERTY ” said Frank Further J. the learned judge “**HAS LARGELY BEEN THE HISTORY OF OBSERVANCE OF PROCEDURAL SAFE GUARDS ” (1942) 318 United States 332.**

b)Ref :C.W.J.C. NO. 6993 of 2010 Judgment on 9th February 2011 Patna High Court. Justice Navaneethi Prasad Singh- Between Power Grid Corporation of India Vs. Ram Naresh Singh.

Para 13: - We are mindful of the vital public interest involved in the present matter perhaps with all India ramifications. In view of the doctrine of imminent domain read with rule 3 of the rules the applicant has the power to install transmission towers on the lands of respondent numbers 1 & 2 in public interest, after following the procedure prescribed and payment. We are in this connection reminded of judgment of the Supreme Court in the case of Ranjit Thakur Vs Union of India, AIR 1987 23876 wherein the importance of following prescribed procedure has been emphasized. The observance made their in are to the effect that due observance of the prescribed procedure is guarantee against obituary exercise and correspondently more liberal the construction of the procedural safeguard envisaged by the statue”. This curiously evolved ruled administrative law is now firmly established and if I may add, rightly so he that take the procedural slot. The history of liberty judge has largely being the history of observance of procedural safeguards (1992) 318 US 332. **We are afraid the non-compliance of the mandate of S-130 is an infirmity which goes to the root of the jurisdiction.**

56. I submit getting consent and differentiating between Telegraph poles/lines and Electricity Towers/conductors are essential as observed by the High Court of Gujarat :-

(i) RIGHT TO RESIST OR OBSTRUCT PRIOR INTIMATION IS ESSENTIAL.Case :-Gujarat High Court Case No: Civil/SCA/1834/2011. Dated: 29.08.2013- Dilip singh Chouhan Vs Gujarat Vajra nigam

While exercising the power as that of the Telegraph Authority under the Telegraph Act, on account of the notification under Section 164 of the Act consent of the owner or occupier may not be required, **but some reasonable prior intimation should be given to the owner or occupier, enabling him to exercise his right to resist or obstruct, may be on the ground that the principles of least damage is not followed or may be on the ground that appropriate compensation is not paid or**

otherwise. The moment there is resistance or obstruction by the owner or occupier, the licensee has to stop his work, if any, or to withdraw from the property of the owner or the occupier. Thereafter, the licensee may approach before the District Magistrate for permission to lay down the line and the District Magistrate in exercise of the power may grant permission, but while granting permission, he may be required to examine the observance of the principles of little damage as possible and thereafter the permission may be granted.

(ii) DISTINCTION-- BETWEEN 19th CENTURY TELEGRAPH ACT 1885 and 21st CENTURY ELECTRICITY ACT 2003. Gujarat High Court Civil./SCA/18334/2011, 29-08-2013, Dilip Singh Chouhan vs Gujarat Ujra Nigam.

The aforesaid aspect would lead us to examine the difference and distinction in the mode of exercise of the power under Section 67 of the Act read with the Rules of 2006 and the exercise of power under the Telegraph Act when it is so conferred by the Notification under Section 164 of the Act by the appropriate Government. The distinction can be carved out as under:

If the power is to be exercised under Section 67 of the Act read with the Rules of 2006 at the first instance consent of the owner or the occupier is the requirement for exercise of power, whereas if the Telegraph Authority has to exercise the power the consent of the owner or occupier is not required for exercise of power, but "WITH THE CLARIFICATION THAT THE OWNER OR OCCUPIER OF THE PROPERTY HAS RIGHT TO RESIST OR OBSTRUCT WHEN THE WORK IS UNDERTAKEN BY THE LICENCE "

There is a thin line of distinction between getting consent of the owner or occupier and enabling power of the owner or occupier to resist or obstruct any work. Consent would presuppose an action after meeting of two minds and arriving at an unanimous decision, whereas in a case where the owner or the occupier has right to resist or obstruct would mean that one (licensee) may proceed to undertake the work by intimation to the owner or occupier and if there is no resistance or obstruction, the work may be started or proceeded with until the same is resisted or obstructed. 'THE MOMENT THERE IS RESISTENCE OR OBSTRUCTION BY THE OWNER OR OCCUPIER, THE AUTHORITY OF LICENCE TO UNDERTAKE THE WORK WOULD END.

(iii) ELECTRICITY AND TELEGRAPH- DEVELOPMENT OF SOCIETY AND SCIENCE IN 19TH CENTURY & 21ST CENTURY. Case: Gujarat High Court No:XCIVIL/sca/18334/2011 Dated 29-08-2013

As per section 10(d) there are two mandatory requirements. (1) **Telegraph Authority shall do as little damage as possible;** and (2) **to pay full compensation to all persons**

interested for the damage sustained by them by the reasons of the exercise of those powers. The next aspect is what will be the scope of as little damage as possible and what will be the scope of full compensation. Before we address on the said aspect, it will not be out of place to mention that Indian Telegraph Act came to be enacted in the year 1885, much prior to not only independence of our country, but could rather be said as the law enacted in 19th century. There are far more development not only in the rights of the citizens, but also in the obligation and the way of discharge of duty by the authority and more particularly, after the Constitution has come into force in the Country. Further, there are far more development of science, the method and way of enjoyment of the properties by the citizens and so is for various scientific method developed for laying down the lines. Telegraph lines are by now outdated on the date when we are to pronounce the judgment and they are to be substituted for the electricity lines. Therefore, we need to **particularly Section 164 of the Act are the laws of 21st Century.** At the first brush we may say that by the laws of 21st Century i.e. Electricity Act, the power so conferred by the Act of 19th Century are continued. If the Act read with the Rules 2006 are considered, it does require the consent of the owner and also in absence of the consent, if the Police Commissioner or Magistrate is to grant permission simultaneous assessment of the compensation and the payment thereof subject to **revision power by appropriate Commission,** whereas the mechanism so provided under the Telegraph ACT is different, but while interpreting the provisions of the Telegraph Act for laying down of the lines of electricity **we need to keep in mind the rights and obligations so prevailing in 21st Century and it cannot be as that of 19th Century when the position of the Country, including the development in the society and the science was far behind.**

57. I submit in 1970 the Supreme Court of India has made it clear that a Telegraph Authority cannot be conferred with powers under Electricity Act 2003.

MERE CONFARING OF 1885 ACT POWERS ON A LICENCEE OF ELECTRICTY 2003 CANNOT MAKE HIM A TELEGRAPH AUTHORITY –

SC 1970:11-09-1966- SC.AIR.1970 SC 491 (1970)3 SCC 851.

the State Government conferred upon the Petitioner powers for placing electric supply lines appliances and apparatus for the transmission and distribution of the energy by it within the area of its supply which the telegraph authority possesses under Section 10 to 18 and 19A of the Indian Telegraph Act with respect to placing of telegraph lines and posts Section 51 merely empowers the State Government to confer on the licensee certain powers which can be exercised by a telegraph authority under the Indian Telegraph Act. **It does not by reference incorporate in to the Indian Electricity Act all the provisions of the Indian Telegraph Act. Merely because some of the powers conferred under the Indian Telegraph Act on the**

telegraph authority could be conferred on a licensee under the Indian Telegraph Act, it does not follow that all the rights and liabilities of a licensee under the Indian Electricity Act are governed by the provisions of the Indian Telegraph Act.

58. I humbly request the High Court to kindly expedite the hearing, as the Transmission Companies of POWER GRID, CORPORATION OF INDIAN Ltd, APTRANSCO TETRANSCO in Andhra Pradesh and Telangana States are continuing with their illegal and Unauthorized, illegal and Unconstitutional Authority of Telegraph Authority are continuing construction of towers and lines in private lands without following Rules 200/2007 and payment of compensation to land owner farmers.

59. PRAYER.

- i) It is prayed that all land owner farmers and others in The States of Andhra Pradesh and Telangana be compensated by the Power Grid Corporation of India Ltd, APTRANSCO, TSTRANSCO and other Transmission companies for illegal and unauthorised construction of High Tension Transmission Towers and Lines in their lands and consequent damage to their property, losses for crops and equipment from the date of passing of Electricity Act 2003.
- ii) It is prayed that the compensation be awarded with interest and solarium.
- iii) It is prayed as from today while issuing notices and carrying out works, that all transmission companies in the state of AP and Telangana be directed to follow Rules 2006 issued by Ministry of Power GOI and Rules 2007 issued by Governments of Andhra Pradesh and now Telangana States and various directions issued by the Honourable Supreme Court of India as detailed in the petition.
- iv) It is prayed to direct the transmission companies to compulsorily pay damages either through negotiations or as per Collector's orders the amount of compensation and then only take up the works of construction of towers and lines.
- v) It is prayed that the Honourable High Court to issue directions to the Director General of Police in the above States so as to give directions to Police not to support illegal activities of the transmission companies.
- vi) It is prayed that the Honourable High Court issue directions to the concerned Governments to cancel section 164 of Act 2003, as Section 164 violates PROPERTY RIGHT? HUMAN RIGHT of INDIAN CITIZENS and also is UNCONSTITUTIONAL and violates Act 2003 provisions of various Sections as stated the petition.

vii) It is prayed to direct concerned authorities to enquire as how the Rules 2007 issued by the Government of Andhra Pradesh are not made available to farmers, Collectors and others including State Regulatory Commissions Andhra Pradesh and Talangana states?

viii) It is prayed that the Honourable High Court to pass such other orders as deem fit and proper.

Petitioner

P. Chengal Reddy