

**IN THE JHARKHAND STATE ELECTRICITY REGULATORY COMMISSION AT
RANCHI**

Suo-Moto Case No. 02 of 2024

The Commission on its own motion

Versus

Jharkhand Bijli Vitran Nigam Limited & Ors. Respondents

**CORAM : HON'BLE MR. MAHENDRA PRASAD, MEMBER (LAW)
HON'BLE MR. ATUL KUMAR, MEMBER (TECHNICAL)**

For the Respondents:

Mr. Mohan Kumar Dubey, S.C.-Jharkhand Bijli Vitran Nigam Limited-
Mr. Mukesh Kumar, Advocate- Jharkhand Urja Sancharan Nigam Limited
Mr. Prem Pujari Roy, Advocate-Forest Deptt., Govt. of Jharkhand
Ms. Swati Shalini, Advocate-Hindustan Copper Limited:

Date – 8th April, 2025

1. The Commission taking cognizance on the death of seven elephants on 1st /04th November, 2023 due to Electrocutation in Chakulia/Musabani area due to loosely hanging transmission/distribution wire of JBVNL, registered a Suo-Moto case and issued notices to the JBVNL, JUSNL through its Executive Director and the Forest Department, Government of Jharkhand through its Secretary to furnish the details of;
 - i) The reason(s) for such incident/accident.
 - ii) The Steps which have been taken after the accident relating to safety/protection of the persons/property from risk and damages.
 - iii) The measures which are proposed to be taken for eliminating or reducing the risk of life and injuries to the persons or damages to the property belonging to a person.

Submission of the Respondent No. 1- JBVNL

2. Learned counsel for the Respondent-JBVNL has submitted that the General Manager, JBVNL through daily newspaper had the knowledge about the incident and after taking the incident seriously, the G.M., Supply area Jamshedpur immediately constituted three-member committee on 03.11.2023.
3. Learned counsel for the Respondent-JBVNL further submitted that after the aforesaid occurrence, the Forest Department had buried the said two dead elephants in the forest area without giving any information/knowledge to any officials of the JBVNL and also the cause of death of those elephants is due to electrocutions was also not established.
4. Learned counsel for the Respondent-JBVNL submitted that the Committee constituted for the inquiry of the said occurrence and to find out the actual reason for the death of the said two elephants, demanded for Post-mortem report which was still awaited from the D.F.O., Jamshedpur Forest Division, Jamshedpur.
5. Learned counsel for the Respondent-JBVNL pointed out that another information was received through newspaper on 21.11.2023 regarding

death of another 5 elephants due to electrocution in Potas forest of Musabani block and submitted that the said transmission line was under the control of M/s Hindustan Copper Ltd. It was also submitted that the G.M.-cum-Chief Engineer, Jamshedpur, JBVNL had communicated to M/s Hindustan Copper Limited, Indian Copper Complex, Ghatshila that the operation and maintenance of 33 KV dedicated feeders in Potas forest of Musabani block should be done by HCL. On the date of occurrence, the said dedicated feeder line (Maou Bhandhar II) was under the control and maintenance of M/s HCL.

6. Learned counsel for the Respondent-JBVNL further pointed out that the reason of death of 5 elephants due to electrocution was due to trench excavated by the Forest Department near the Transmission Line and the excavated soil was accumulated/dumped below the transmission line causing reduction of the ground clearances of the said line by 2 to 3 feet which is the place of occurrence of the incidents. The Electrical Superintending Engineer, Electric Supply Circle, Jamshedpur has constituted committee for the aforesaid facts.
7. Learned counsel for the Respondent-JBVNL further submitted that the M.D., JBVNL took cognizance of the incidents and constituted three-member committee consisting of (1) Concerned Deputy Commissioner of District as Chairman, (2) Concerned DFO of Forest Area as Member, (3) Concerned Electric Executive Engineer, JBVNL of concerned Division as Member Secretary for the protection of Wild Life.
8. Learned counsel for the Respondent-JBVNL submitted that 33KV line passing over the accident location which is constructed to feed 33/11KV PSS. Banalopa & Surat Mines of M/s Hindustan Copper Ltd. and its maintenance is under the jurisdiction of M/s Hindustan Copper Ltd. only.
9. Learned counsel for the Respondent-JBVNL submitted that the trenches were excavated under the above mentioned 33KV lines and the excavated soil was accumulated at the location of the accident which led to the reduction of the ground clearance by about 3 feet. Probably, the death of elephants was caused due to the electrocution on the location because of reduced ground clearance.
10. Learned counsel for the Respondent-JBVNL submitted that monitoring and restricting the elephant's movement towards the residential village areas comes under jurisdiction of forest department.

Submission of the Respondent No. 2- JUSNL

11. Learned counsel for the Respondent-JUSNL has submitted that the reply submitted by learned counsel for the Respondent-JBVNL shall be taken for records as reply by JUSNL in this case.
12. Learned counsel for the Respondent-JUSNL submitted that for the facts and circumstances of the present case, JUSNL has no concern at all.

Submission of Respondent No. 3 – Department of Forest

13. Learned counsel for the Respondent-Department of Forest submitted that the Government of West Bengal had dug a 6.5-kilometre Elephant Proof Trench and had also constructed a 12 Km Solar Fence interrupting the natural movement of the elephants, on account of which the natural movement of the Elephants has been troubled and they are moving erratically and not in the prescribed corridor.
14. Learned counsel for the Respondent-Department of Forest further submitted that for overcoming the aforesaid obstacle the Respondent-Department of Forest has convened several meetings with the neighboring state and on 19th January 2023 in a meeting convened by Government of India, this issue has been raised and the same has also been appreciated by them and several trenches have been filled up, but even then major portion of the trenches are still to be filled up, and so far removing the solar fences are concerned, the same has not been removed till date, which is troubling the elephants in their natural movements.
15. Learned counsel for the Respondent-Department of Forest has further stated that a Regional Action Plan for uninterrupted movement of elephants in the eastern part of the country, particularly in West Bengal, Odisha, Jharkhand, Chhattisgarh, Bihar has also been proposed in a subsequent meeting held on 31st August 2023 and further action in this regard is awaited in terms of the guidelines to be issued by the Government of India.
16. Learned counsel for the Respondent-Department of Forest submitted that under the 'Singhbhum Elephant Reserve', three Dedicated Elephant Corridors, has been identified in Jamshedpur Forest Division, and as per the movement of the Elephants in the Elephant Corridor, 331 sensitive spots had been earmarked, and in those places as per the prescribed norms the electricity wires were required to be uplifted, for which the Chief manager JBVNL Jamshedpur was requested vide letter number 2654 dated 21st November 2023, letter number 2868 dated 29th November 2023, Letter number 2869 dated 30th November 2023 letter number 3092 dated 18th December 2023.
17. Learned counsel for the Respondent-Department of Forest has submitted that it may not be irrelevant as mention here that earlier also an accident occurred on 26th June 2022 in Mauza-Mechua in which elephant has died on account of electrocution, for which an offence report dated 31st December 2022 has been registered against Junior Electrical Engineer JBVNL, Sub Divisional Electrical Officer JBVNL, under section 9, 39, 51 of the Wildlife

Protection Act 1972 which is pending for consideration before the court of Additional Chief Judicial Magistrate, Ghatsila.

18. Learned counsel for the Respondent-Department of Forest has further stated that on 1st November 2023 and on 2nd November 2023 two Elephants died on account of electrocution for which an Offence Report has been registered dated 1st November 2023 and 2nd November 2023 against Electrical Executive Engineer JBVNL, Assistant Electrical Engineer JBVNL, Junior Electrical Engineer JBVNL, under section 9, 39, 51 of the Wildlife Protection Act 1972, which is also pending for consideration before the Additional Chief Judicial Magistrate, Ghatshila.
19. Learned counsel for the Respondent-Department of Forest has also submitted that on 21st November 2023 it has come to the knowledge of the department that 5 Elephants have died due to Electrocution for which once again an Offence report has been reported against Director, Hindustan Copper Limited, Ghatshila, Chief Manager, Vidyut Sancharan Hindustan Copper Limited, Ghatshila Assistant Electrical Engineer, Ghatshila, Junior Electrical Engineer, Musabani, under section 9, 39, 51 of the Wildlife Protection Act 1972, which is also pending consideration before the Additional Chief Judicial Magistrate, Ghatshila.
20. Learned counsel for the Respondent-Department of Forest has submitted that the Department Of Forest Government Of Jharkhand has been taking effective measures time and again promptly, whenever any untoward accidents occurs, moreover there are certain more measures which has been taken for tracking the movement of the elephants, and two Quick Response Team is functioning at present, and constitution of two additional Quick Response Team is in process; Moreover several measures such as WhatsApp group created, several local volunteers/representatives are being involved and they are been provided torch, crackers, lights etc, to guide the Elephants for their movements in safe direction in order to avoid any mis-happenings.
21. Learned counsel for the Respondent-Department of Forest has submitted that for uninterrupted movements of the Elephants in the recommended Corridor several office orders containing necessary guidelines has also been issued being Office order no. 12-16 dated 13.01.2024.
22. Learned counsel for the Respondent-Department of Forest further submitted that the committee has been constituted under the Chairmanship of the Deputy Commissioners of all the Districts, consisting of members of Forest Department who upon proper examination/survey, with an intent to protect the elephants in the national sanctuary/elephant corridor/forest area, for

being protected from the live hanging wire, a DPR is directed to be prepared, and as per the said DPR necessary measures will be taken. Further, a coordination committee under the chairmanship of Deputy Commissioners of all the districts, consisting of the Officials of the Forest Departments, will monitor the height of the electricity wire at least once in a month and will recommend for any correction to the concerned Electrical Engineer, and a report to that effect shall be submitted to the concerned Deputy Commissioner, and the Deputy Commissioner, concerned shall monitor the work periodically, and the Department of Energy shall keep it in its chief agenda the work pertaining to with respect to uplifting the wire all around in the forest area.

23. Learned counsel for the Respondent-Department of Forest has further submitted that in addition to the above and in order to eliminate and eradicate/ lessen the accidents which is being happening in the entire country on account of electrocution by which several forest animals, met with untoward accident, an all over India Workshop was held on 11th to 13th January 2024, convened by the Indian Institute of Wild life, Dehradun, in which representatives from several agency/authority and the officials from Elephant Project, Central Electricity Authority, National Tiger Reserve Authority, Wildlife Crime Control Bureau etc have participated actively and has given their valuable ideas /concepts and effective steps to be taken, and also insisted on several awareness programme, required to be carried out on a periodical basis so that effective measures can be taken continuously in order to avoid any untoward accident on account of electrocution or either way.
24. Learned counsel for the Respondent-Department of Forest has further submitted that the Forest Divisional Officer, Jamshedpur Forest Division, Jamshedpur had also constituted a Committee vide office order no 104 dated 28.11.2023, for enquiring into the root cause which lead to unfortunate demise of Elephants, to be Headed by One Shri Vimad Kumar, Forest Range officer, Ghatshila Forest Range.
25. It was pointed out that aforesaid committee is enquiring into the matter and the same is in the midst, as such the answering Respondents seek leave to produce the outcome of the said enquiry report very soon, with the further undertaking to take proper steps to get the convict prosecuted in the pending cases before the Additional Chief Judicial Magistrate, Ghatshila.
26. It was also submitted that on account of non-cooperation by the officials of JBVNL., and the officials of Hindustan Copper Limited, the proper

implementation of effective measures are not being taking place, as such suitable direction may be given to them, to coordinate in the matter, so that implementation of the safety measures proposed by the Department of Forest, Government Of Jharkhand can be done properly.

Submission of Respondent No. 4 – Hindustan Copper Limited

27. Learned counsel for the Respondent-HCL submitted that 33KV HT Overhead Line from Mosabani-Banalopa 33KV Yard to Moubhandar and Surda Yard was installed far back in the year 1967 i.e. about 50 years back and subsequent to closure of Mosabani Mines, Township of Mosabani was handed over to the State Government vide a resolution dated 7th June, 2005. Thereafter, the said establishment was taken over by the State of Jharkhand and subsequently, the electrical infrastructure of Mosabani-Banalopa 33 KV Yard and Overhead line was handed over to Jharkhand State Electricity Board as is mentioned in the notification duly notified and published in the Jharkhand Gazette dated 15th June, 2005.
28. Learned counsel for the Respondent-HCL submitted that the metering point was shifted from Mosabani to Moubhandar and the contract demand was also reduced from 20 MVA to 8 MVA and after handing over of the Township of Mosabani as well as after shifting of metering point from Mosabani to Moubhandar, the responsibility of maintenance of the HCL remained only from the metering point to various distribution points and the entire overhead line since then had been under the ownership and maintenance of Jharkhand State Electricity Board, now JBVNL and JUSNL (Respondent Nos. 1 and 2 respectively).
29. Learned counsel for the Respondent-HCL submitted that on 16.07.2010, the then Jharkhand State Electricity Board directed Hindustan Copper Limited for maintenance and operations of both the circuits, however, that was not the responsibility of Hindustan Copper Limited. Operation activates at Moubhandar Works has already been suspended and as such, the contract demand has subsequently been reduced from 8 MV to 2.5 MVA vide agreement dated 16.11.2022 and presently, the said demand is only in vogue.
30. Learned counsel for the Respondent-HCL submitted referred Clause 1(C) and Clause 2(a) of the Agreement dated 16.11.2022 which was in force on the alleged date of occurrence which reads as under: -

1(C)- *"The point of supply shall be the outgoing terminal of the Nigam's apparatus in the consumer's premises from which energy is conveyed to the consumer.*

2(a)- *"The Nigam shall, at its own expense and subject to the condition hereinafter contained, provided and erect such switch gear and meters as may be necessary to afford control by the Nigam of the supply and to measure the same. The Nigam's switch gear and incidental apparatus shall be under the sole control of the Nigam and the consumer or his agents, officers or servants shall not at anytime touch or interfere in any way with the Nigam's said switchgears and apparatus."*

31. Learned counsel for the Respondent-HCL submitted that the ownership and maintenance up to the metering point remained with the supplier i.e. JBVNL only and, therefore, the HCL cannot be held responsible for any accident or electrocution which has occurred prior to the metering point.
32. Learned counsel for the Respondent-HCL also referred to Clause Nos. 15 and 65 of the Gazette Notification dated 08.06.2023 issued by the Central Electricity Authority which reads as under: -

"15. Service lines and apparatus on consumer's premises.

(1) The supplier shall ensure that all electric supply lines, wires, fittings and apparatus belonging to him or under his control, up to the point of commencement of supply, which are on a consumer's premises, are in a safe-condition and in all respects fit for supplying electricity and the supplier shall take precautions to avoid danger arising on such premises from such supply lines, wires, fittings and apparatus.

(2) The service lines placed by the supplier on the premises of a consumer which are underground or which are accessible shall be so insulated and protected by the supplier as to be secured under all ordinary conditions against electrical, mechanical, chemical or other injury to the insulation.

(3) The consumer shall, as far as circumstances permit, take precautions for the safe custody of all equipment on his premises belonging to the supplier.

(4) The consumer shall also ensure that the installation of the licensee under his control is kept in a safe condition."

"65. Erection or alteration of buildings, structures, flood banks and elevation of roads;

(1) If at any time subsequent to the erection of an overhead line, whether covered with insulating material or not or underground cable, any person proposes to erect a new building or structure or flood bank or to raise any road level or to carry out any other type of work whether permanent or temporary or to make in or upon any building, or structure or flood bank or road, any permanent or temporary addition or alteration, such person and the contractor whom he employs to carry out the erection, addition or alteration, shall give intimation in writing of his intention to do so, to the supplier or owner and to the Electrical Inspector and shall furnish therewith a scale drawing showing the proposed building, structure, flood bank, road or any addition or alteration and scaffolding thereof required during the construction.

(2) On receipt of such intimation, the supplier or owner shall examine, -

whether the overhead line or underground cable under reference was laid in accordance with the provisions of these regulations and any other law for the time being in force;

(a) whether it is technically feasible;

(b) whether it meets the requirement of right of way; and

(c) whether such person was liable to pay the cost of alteration of the overhead line or underground cable and if so, issue a notice within a period of thirty days to such person together with an estimate of the cost of the expenditure likely to be incurred to alter the overhead line or underground cable and require him to deposit, within thirty days of the receipt of the notice, with the supplier or owner, the amount of the estimated cost.

(3) If such person disputes the cost of alteration of the overhead line or underground cable estimated by the supplier or owner or even the responsibility to pay such cost, the dispute may be referred to the Electrical inspector who shall after hearing both parties decide upon the issue in accordance with sub-regulation (4).

(4) The Electrical Inspector shall estimate the cost of alteration of overhead line or underground cable on the following basis, namely:

(a) the cost of material used for the alteration after accounting for the depreciated cost of the material of the existing line or underground cable;

(b) the wages of labour employed in the alteration; and

(c) the supervision charge to the extent of fifteen per cent of the wages mentioned in clause (b) and charges incurred by the owner or supplier or consumer in complying with the provisions of section 67 of the Act, in respect of alterations.

(5) Any addition or alteration to the building or structure shall be allowed only after the deposit of such estimated cost to the supplier or owner.

(6) No work upon such building, structure, flood bank, road and addition or alteration thereto shall commence or continue until the Electrical Inspector certifies that regulations 60, 62, 63, 66 and regulation 79 have not been contravened either during or after the construction: Provided that the Electrical Inspector may, if he is satisfied that the overhead line or underground cable has been so guarded as to secure the protection of persons or property from injury, certify within fifteen days that the work may be executed prior to the alteration of the overhead line or underground cable or in the case of temporary addition or alteration, without alteration of the overhead line or underground cable.

(7) The supplier or owner shall, on receipt of such deposit, alter the overhead line or underground cable in such a way that it does not contravene the regulations 60, 62, 63 and 79 either during or after such construction within two months from the date of such deposit or within such longer period as the Electrical Inspector may permit for reasons to be recorded in writing."

33. Learned counsel for the Respondent-HCL submitted in accordance with the aforesaid provisions issued by the Central Electricity Authority, the responsibility of maintenance lies with the supplier i.e. M/s. JBVNL in the instant case.

34. Learned counsel for the Respondent-HCL submitted that in its conclusion that the above provisions be considered and M/s. HCL or any Officer of HCL be discharged of any liability or responsibility with respect to the unfortunate incident of death of 05 elephants.

Commission's observation and findings:

35. Under section 53 of the Electricity Act, 2003 and JSERC (Compensation to Victims of Electrical Accidents) Regulations, 2018, the Commission has the responsibility to eliminate or reduce the risks of injury to human beings or animals or property due to electrical accidents. As such the Commission has initiated the instant Suo-Moto Case and issued notices to the

respondents. Accordingly, the respondents appeared and filed their reply shifting onus on each other. Considering the facts and circumstances of the case and arguments, the Commission makes the following Observations:

A. Whether the line in question is under the ownership of JBVNL?

Clause 3.2.5 of the JSERC (Electricity Supply Code) Regulations, 2015 reads as under:-

“3.2.5 The service line /or the dedicated distribution facility, notwithstanding that it has been paid for by the consumer, shall remain the property of the distribution licensee who shall maintain it and who shall have the right to use the same for supply of electricity to any other person provided that such supply should not adversely affect the supply to the consumer who has paid for it.”

From the above clause it is clear that the ownership of 33 KV line lies with JBVNL. So simply writing a letter to M/s HCL does not exempt JBVNL from the responsibility of maintaining the line. M/s HCL is not a distribution licensee and has no expertise in maintaining the 33 KV line. So writing a letter without their consent is only try to shift their responsibility to other party and this submission of JBVNL can't be considered.

Further as per clause 1(c) and clause 2(a) of the agreement dt. 16.11.2022 the apparatus installed at the supply point in the premises of consumer is also under the control of JBVNL which was in force on the alleged date of occurrence.

B. JBVNL as an owner of the line should have been aware of activities being conducted by the Forest department in the vicinity of its assets and therefore should have taken corrective steps or communicated to Forest Department regarding safety violations. The maintenance of safety to humans, animals and property rests with JBVNL for its electric supply line and apparatus. CEA notification dated 8th June 2023, Chapter III, General Safety Requirements states as follows:

14. General safety requirements pertaining to construction, installation, protection, operation and maintenance of electric supply lines and apparatus. –

*(1) **All electric supply lines and apparatus** shall be of sufficient rating for power, insulation and estimated fault current and of*

*sufficient mechanical strength, for the duty cycle which they may be required to perform under the environmental conditions of installation, and **shall be constructed, installed, protected, worked and maintained** in such a manner as **to ensure safety of human beings, animals and property.***

C. It was further observed that the Forest department had dug a trench and the excavated soil was accumulated/dumped below the transmission line causing reduction of the ground clearances of the said line by 2 to 3 feet which is the place of occurrence of the incidents. It is opined that the Forest department should have chosen a location distant from the transmission line for dumping of excavated soil.

36. It also appears from the facts and circumstances of the case that JBVNL and the Forest Department, Jharkhand were not in coordination regarding the trench work being undertaken in the forest area. On account of laxity in communication and non-adherence to following proper safety protocols by JBVNL and Forest Department, a total Nos of Seven (7) elephants have lost their lives for which JBVNL and Forest Department, Govt. of Jharkhand are liable.

ORDER

37. In view of the above observation and findings, the Forest department is directed to remove the accumulated excavated soil near transmission line and maintain proper clearance for elephants passing at every location. Furthermore, Joint coordination is to be continuously maintained between the personnel of Forest Department as well as JBVNL authorities to ensure the smooth and prompt inter department coordination with respect to inspection, surveillance to ensure prompt remedial steps for minimising the re-occurrence of any such incident due to electrocution.
38. In view of the above dereliction of duties by JBVNL and Forest Department, Govt. of Jharkhand as observed in the instant case, a fine of Rs. 5,00,000/- (Five Lakhs) is hereby being imposed to each i.e. JBVNL and Forest Department, Govt. of Jharkhand. The aforesaid amount is required to be deposited by each party in the Chief Minister's Relief Fund, Jharkhand within 30 days of issuance of this order and the said amount may be utilized for conservation of wildlife in the State of Jharkhand.
39. The Suo-Moto case is disposed of with the aforesaid directions.

Sd/-

Member (Tech.)

Sd/-

Member (Law)