



National Electric Power Regulatory Authority
Islamic Republic of Pakistan

Registrar

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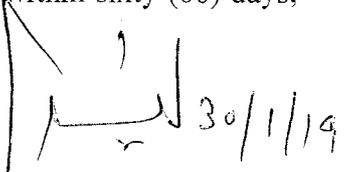
January 30, 2019

Chairman
Water & Power Development Authority (WAPDA),
WAPDA House, Shakra-e-Quaid-e-Azam,
Lahore.

Subject: **ORDER IN THE MATTER OF WRIT PETITION NO. 405/2017: FAZLI RABBI VS FEDERATION OF PAKISTAN AND OTHERS REFERRED TO NEPRA BY THE ISLAMABAD HIGH COURT, ISLAMABAD VIDE ORDER DATED 5TH DECEMBER 2017**
WAPDA-01/2016

Enclosed find herewith the Order of Member (Consumer Affairs) dated 28.01.2019 (Pages 13) regarding the subject matter for necessary action and compliance within sixty (60) days, please.

Encl: As above


(Iftikhar Ali Khan)
Director
Registrar Office

Copy to:

- i. Assistant Registrar (Writ),
Islamabad High Court, Islamabad. (for information w.r.t. orders dated
05.12.2017 in W.P. No. 405/2017.)
- ii. General Manager (Projects) North,
Water & Power Development Authority (WAPDA),
WAPDA House, SakhiChashmaShami Road,
Peshawar.
- iii. Project Director, Office of the C.E./PD,
GolenGol Hydro Power Project,
Water & Power Development Authority (WAPDA),
KoghuziChitral.
- iv. Mr. Fazli Rabbi
House No. 273, Street No. 17,
Sector F-10/2,
Islamabad.



BEFORE THE
NATIONAL ELECTRIC POWER REGULATORY AUTHORITY
(NERPA)
Complaint No. WAPDA-01/2016

Eng. Fazli Rabbi Petitioner
House No. 273, Street 17,
Section F-10/2, Islamabad

Versus

Water and Power Development Authority (WAPDA)..... Respondent
WAPDA House, Lahore

Date of Hearing: 7th February 2018

Date of Decision: January 28, 2019

On behalf of:

Petitioner: 1) Engr. Fazli Rabbi
2) Mr. Aziz Nishtar, Advocate

Respondent: 1) Mr. Taseer Iqbal, Chief Engineer
2) Mr. S. Irfan H. Rizvi, DGF (Power)
3) Mr. M. Javed Afridi, PD Golen Gol Chitral
4) Mr. Nasruminallah, Director (E&M)
5) Mr. M. Babar, Deputy Director (Legal)

Subject: ORDER IN THE MATTER OF W.P. 405/2017 ENGR. FAZLI RABBI VS
FEDERATION OF PAKISTAN AND OTHERS REFERRED TO NEPRA BY THE
ISLAMABAD HIGH COURT, ISLAMABAD VIDE ORDER DATED 05.12.2017

ORDER

1. This Order shall dispose of the complaint filed by Engr. Fazli Rabbi (the "Complainant" or "Petitioner") against WAPDA (the "Respondent") referred to the Authority (the "National Electric Power Regulatory Authority" or "NEPRA") by the Islamabad

High Court for disposal through an Order dated 05-12-2017 in WP. No. 405 of 2017 titled as "Fazli Rabbi v/s FoP".

2. Brief facts of the case are that NEPRA received a complaint from the Complainant on 25-11-2016 under Section 39 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (XL of 1997) (hereinafter referred as the "NEPRA Act"), wherein it was stated that he had established a training centre at Village Nir Deth in District Chitral which was being detrimentally affected by overhead power-supply lines. The construction of the ground floor of his building had been completed while civil works on the first floor were in progress, during which the Petitioner learnt that a 132 kV electric transmission line was being built by the Respondent and that the said line would traverse through his property and training centre. Having learnt of such, the Petitioner approached the Project Director of the Golen Gol Hydropower Project and requested for realignment of the transmission line to a nearby uninhabited barren land. This request was denied. It was the Petitioner's contention that no opportunity of hearing was granted to him on the matter, nor was there any public consultation or notice issued to the stakeholders/affectees relating to the impugned construction. Moreover, no permission was sought from the Petitioner prior to the commencement of construction of the transmission line over his property. Based on these facts, the complainant prayed that WAPDA be refrained from constructing the impugned transmission line over his training center and the same be relocated to an uninhabited piece of land of the Petitioner free of charge for the purposes of this relocation.

3. The case was accordingly taken up with WAPDA for submission of a report. During this time, WAPDA succeeded in erecting a tower for the transmission line on the Petitioner's property. Later on, the Petitioner was informed by NEPRA that the matter lies beyond NEPRA's jurisdiction and therefore the Authority cannot intercede.

4. Subsequently, the Petitioner filed the aforesaid Writ Petition before the Honorable Islamabad High Court, with the following submissions:

"

- i. *It came to the notice of the Petitioner that a transmission line emanating from Golen Gol Power House, to be linked to 132 kV Grid Station in Dir, will pass over his property where he is setting up a training center for micro hydropower projects which is under development since the year 2015*



- ii. *The Petitioner approached Chief Engineer/PD WAPDA, Golen Gol Project and Natracon Technologies (the "Contractor") in this regard. Due to no response from any party, the Petitioner submitted his grievances in writing to C.E/PD Golen Gol Project. In response, it was informed that foundation of the impugned transmission tower was already laid and its relocation would not be feasible, and the same would affect the project's design and cost. The Petitioner proceeded to offer an alternate space for relocation of the impugned tower, which was also dismissed.*

- iii. *The Petitioner filed a complaint with NEPRA on 25th November 2016 under Section 39 of the NEPRA Act and requested to restrain WAPDA and the Contractor from erecting the impugned tower over his property, which would lead to irreparable losses. No order was passed by NEPRA on the issue. Another application was submitted to NEPRA, on 20th December 2016, requesting a restraining order against WAPDA. Concurrently, the Petitioner also approached the office of the Electric Inspector, Khyber Pakhtunkhwa vide complaint dated 29th November 2016.*

- iv. *Meanwhile, WAPDA and the Contractor commenced construction of the impugned tower on the Petitioner's property. Further, on 27th December 2016, WAPDA approached the area police for putting a halt to the Petitioner's construction on his building. The relevant police officers inspected the impugned area and filed a report, dated 2nd January 2017, wherein it was stated that the Petitioner's building was under construction since the year 2015 and a two-storey structure had already been constructed approximately 8-10 feet from the proposed site of the impugned tower and that the foundation of the tower was (at the time of report) completed. This report of the executive authorities prove that WAPDA's tower had not been erected prior to construction of the Petitioner's building.*

- v. *The above facts constitute violations of the provisions of the NEPRA Act on part of WAPDA, Project Director (PD) and the Contractor. WAPDA does not possess a Transmission License that would allow it to construct or get constructed for it a transmission line. As per Section 16 of the*



NEPRA Act, "no person shall, except under the authority of a license issued by the Authority under this Act and subject to the conditions of specified in this Act and as may be imposed by the Authority, engage in the transmission of electric power". Construction of the transmission line was within the exclusive domain of NTDC, and WAPDA had acted beyond the functions allowed under its license.

vi. *In order to resolve the matter, the Petitioner also filed an application with Assistant Commissioner, Chitral on 2nd January 2017. The Assistant Commissioner referred the application to Deputy Commissioner and the matter remained unresolved.*

vii. *The Petitioner prayed that:*

(a) *WAPDA be directed to remove the impugned tower illegally erected on his property.*

(b) *WAPDA be restrained from crossing/passing the transmission line over or close to his property.*

(c) *WAPDA be directed to make minor change(s) in the plan and erect the tower in and cross the transmission line over the adjacent land offered by him free of cost in the national interest."*

5. The Honorable High Court, vide Order dated 05-12-2017, disposed of the aforesaid Writ Petition and directed NEPRA to decide the complaint by passing a reasoned order addressing the question raised in the writ petition, i.e. whether WAPDA violated the terms of its generation license granted by NEPRA, after affording an opportunity of hearing to the Petitioner and WAPDA. The operative part of the order is reproduced below:

"4. Respondent No. 2 (NEPRA) in the said letter dated 25.01.2017 has not adverted to the question whether its license (W.A.P.D.A.) had violated any provision of its license. Since a complaint was filed alleging violation of the terms of the license issued to W.A.P.D.A. by Respondent No. 2 (NEPRA), I am inclined to dispose of this petition with the direction to Respondent No. 2 (NEPRA) to decide the said question raised in the Petitioner's complaint through a reasoned order after affording an opportunity of hearing to the



Petitioner as well as to W.A.P.D.A. It is expected that the said exercise would be completed expeditiously. Disposed of in the above terms with the consent of the learned counsel for the contesting parties."

6. In pursuance of the Order of the honorable Court, a hearing was scheduled for 24th January 2018 at NEPRA Head Office, Islamabad, but was adjourned at the request of Chief Engineer/PD WAPDA, Golen Gol Project. A hearing was finally held on 7th February 2018, where representatives and legal counsels for both parties were in attendance and submitted their arguments. Written submissions were sought from the parties, vide letter dated 14th February 2018. In addition, WAPDA was directed to submit further information on specific issues framed by the NEPRA pertinent to the impugned matter. WAPDA submitted a comprehensive response to the issues, vide letter dated 21st March 2018, which was forwarded to the Petitioner for comments. The Petitioner has also submitted a rejoinder thereupon, vide letter dated 11th April 2018.

7. The main thrust of the Petitioner's arguments is that WAPDA has initiated construction of the impugned transmission lines without lawful authority since it is a licensed activity. Transmission lines may only be constructed by a transmission licensee as per Section 16 of the NEPRA Act and in this context WAPDA has not obtained any such license or authorization. Even for the sake of argument if WAPDA is empowered to install transmission lines, an explicit consent is to be obtained from the owner of the premises over which the transmission lines are to traverse, as per the provisions of the Electricity Act, 1910 (the "**Electricity Act**"). No such consent has been obtained from the Petitioner.

8. The Respondent has argued that in 2016, when civil works on the impugned transmission lines were initiated, there was no building present on site. The Petitioner purchased the impugned land afterwards and started construction of his building. As such, the Petitioner had malafidely instituted proceedings against WAPDA and the latter is under no obligation to seek permission from the former for construction of transmission lines initiated prior to the existence of any building on the concerned land. In addition, the Respondent has submitted that during the design finalization of the impugned transmission line, verbal permission was obtained from the then owner, namely Mr. Sarfaraz Khan. No compensation was required to be paid to the then owner since no trees or crops were present on the concerned piece of land. Furthermore, part of the impugned transmission tower (two legs of the tower) is situated in another person's land, namely Mr. Karamatullah, who has been paid a sum of Rs. 80,960/- as compensation for affected crops and trees, and no complaint was lodged from him till date. The same compensatory protocols were also



applied to the Petitioner's case and after obtaining verbal approvals from the owner (at that time), works on the impugned transmission line were initiated. Therefore, WAPDA has conclusively discharged the applicable legal requirements in the instant matter.

9. On the subject of its legal competence to undertake transmission line works, WAPDA has submitted that such authority has been granted by NEPRA itself by way of a modification in their original licence, i.e. Modification-IV granted on 9th January 2015. The modification has incorporated the Golen Gol hydropower project in WAPDA's original licence, granted on 3rd November 2004, and authorized the same to undertake civil works relating to the project, including necessary works on transmission networks. Furthermore, WAPDA is a statutory body and Section 14(1) of its parent statute, i.e. the Pakistan Water and Power Development Authority Act, 1958 (West Pakistan Act No. XXXI of 1958) (the "**WAPDA Act**"), empowers WAPDA to erect and construct necessary transmission supply-lines. Furthermore, the subject of erecting transmission lines by WAPDA, and any related disputes, is covered under the provisions of the Electricity Act and therefore, NEPRA does not maintain jurisdiction in matters pertaining to the said statute.

10. The case has been examined in detail in light of the relevant documents, arguments advanced by the parties and the applicable law. The pertinent issues to be adjudged in the instant case may be framed as follows:

- i. Whether WAPDA maintains lawful authority to undertake the impugned activity of erecting transmission lines;
- ii. If so, whether any breach of law, on part of WAPDA in exercise of its lawful authority, can be made out from the relevant facts and applicable law; and
- iii. In case of a violation of law, whether NEPRA maintains jurisdiction to adjudge the matter under the relevant law.

11. The fundamental question in the instant dispute is whether WAPDA had lawful authority to erect the impugned transmission lines and whether a violation of law can be made out on part of WAPDA. In this regard, it is necessary to examine the laws and instruments under which WAPDA presently performs its functions.



12. The principal authorization maintained by WAPDA is that of its generation license granted by NEPRA, bearing license number GL/(Hydel)/05/2004 dated 3rd November 2004, which has subsequently been modified four times in 2008, 2011, 2014 and 2015. WAPDA has argued that this license, read with the latest 2015 modification, explicitly empowers it to erect the impugned transmission lines. However, it is observed that WAPDA's base license, granted in 2004, has been granted in terms of Section 14B (previously Section 15) of the NEPRA Act and subsequent amendments thereto have been granted under Section 26 of the NEPRA Act. Section 14B (previously 15) provides for the grant of 'generation' licenses for the construction, ownership and operation of a generation facility. Section 2(xi) of the NEPRA Act defines generation as 'ownership, operation, management or control of generation facilities (emphasis added) for delivery or sale of electric power' (relevant excerpts of statute reproduced below).

"xi. generation" means the ownership, operation, management or control of generation facilities for delivery or sale of electric power and not solely for consumption by the person owning, operating, managing, and controlling those facilities;"

14B. Generation.- (1) *Subject to sub-section (5), no person shall, except under the authority of a licence issued by the Authority under this Act and subject to the conditions specified in this Act and as may be imposed by the Authority, construct, own or operate a generation facility."*

Reading Section 14B with 2(xi) makes it abundantly clear that 'generation' does not include facilities for the movement, distribution or transmission of electric power, which are subject matters of 'distribution' (Section 20) and 'transmission' (Section 16 and 19) licenses. A license granted under Section 14B of the NEPRA Act is restricted to generation facilities and does not authorize a licensee to undertake activities relating to transmission or distribution of electric power. Therefore, the generation license currently held by WAPDA, in terms of Section 14B, does not authorize it to undertake construction of transmission lines which is only authorized under a transmission license.

13. On the subject to WAPDA's modification dated 9th January 2015, WAPDA has submitted that the same grants it the authority to construct transmission lines for the relevant power project. WAPDA has misconceived the 2015 modification in its license as there is no express provision in the determination of said modification that authorizes WAPDA for construction of transmission lines. The Schedule-I only provides for the interconnection



arrangement of 132 KV transmission lines of 198 km, which cannot be construed as authorizing construction of the said line on part of WAPDA. It is the domain of either PESCO or NTDC for construction of said transmission line, who hold the necessary licences.

14. Further, modifications of license are granted in terms of Section 26 of the NEPRA Act (reproduced below), which simply provides for modification of existing licenses, including revisions to terms and conditions. The statutory provision does not contemplate grant of authorizations/rights other than, or beyond those, already found in the license being amended. Moreover, the modification of license framework cannot be used as a substitute or replacement to other license-granting provisions of the NEPRA Act. Therefore, the modification to WAPDA's license under Section 26 has not granted it an authorization to undertake functions beyond those falling within the scope of its original generation license.

***“26. Modifications. —** If the Authority is of the opinion that it is in the public interest, it may, with the consent of the licensee, amend or vary the conditions of any licence issued under this Act and in the absence of licensee's consent, the Authority shall conduct a public hearing on whether the proposed amendment or variance is in the public interest and shall make a determination consistent with the outcome to this hearing.”*

15. In view of the foregoing, the Authority is of the view that the license currently held by WAPDA under the NEPRA Act, including all subsequent amendments thereto, does not authorize the same to undertake the impugned activity of transmission/distribution of electric power.

16. The other instrument by which WAPDA draws legal authority is the WAPDA Act. The Respondent has argued that being a statutory body, it maintains powers granted to it by the provisions of its parent statute, specifically Section 14(1) thereof. Further, WAPDA is empowered under Section 12(1) of the Electricity Act (read with Section 12 of the WAPDA Act that deems it as a licensee under the Electricity Act) to erect transmission lines and energize the same.

17. It has been observed that the principal controversy in the instant proceedings pertains to the interaction between provisions of the NEPRA Act and those of the Electricity Act that deal with common subject matters, specifically, the subject of grant and operation of licence to undertake transmission of electric power. Under Section 16 of the NEPRA Act, the Authority is empowered to grant licences for engaging in transmission of electric power. It is

worth noting that Section 16(1) has been framed as a prohibitory clause (“no person shall engage in the transmission of electric power without obtaining a licence from the Authority”), meaning that it would be unlawful to undertake the concerned activity without first obtaining the relevant license under the NEPRA Act. Concurrently, there exists the Electricity Act that remains in force in the absence of any legislative activity that may affect repeal of statute. Under Section 3 of the Electricity Act, the Provincial Government is empowered to grant licences to any person to “supply ... and to lay down or place electric supply-lines for the conveyance and transmission of energy”. Section 12 to 19 of the Electricity Act thereafter outline the scope of works (and conditions attached thereto) that licensees may undertake. Bare perusal of these provisions highlights an explicit overlap of subject matters, namely the grant of license to undertake the transmission of electric power, by NEPRA under the NEPRA Act and by a Provincial Government under the Electricity Act. This overlap is not limited to statutory authority (power to grant of licenses) but further extends to the fundamental subject matter itself (authorization to undertake transmission of electric power). This leads to a direct confrontation between the two statutes and produces contradictory and inconsistent results under the law (as may be inferred from the foregoing deliberations in the instant proceedings).

16. Transmission licence. — (1) *Subject to the conditions laid down under this Act, no person shall engage in the transmission of electric power without obtaining a licence issued by the Authority.*

3. Grant of licenses. (1) *The Provincial Government may, on application made in the prescribed form and on payment of the prescribed fee (if any), grant to any person a license to supply energy in any specified area, and also to lay down or place electric supply-lines for the conveyance and transmission of energy ...*

18. Having said that, Section 45 of the NEPRA Act provides that the provisions of the NEPRA Act, rules and regulations and licenses issued thereunder shall have effect notwithstanding anything to the contrary contained in any other law, rule or regulation, for the time being in force and any such law, rule or regulation shall, to the extent of any inconsistency, cease to have any effect from the date of promulgation of the NEPRA Act. In the perspective of the aforesaid legal position, the provisions of the WAPDA Act and the Electricity Act, to the extent of authorizing transmission activities including erecting electricity poles and supply lines for transmission of electricity, etc., are superseded by the provisions of the NEPRA Act. Therefore, any transmission activity of electric power is to be dealt with



under a transmission license granted by the Authority under Section 16 of the NEPRA Act and not by the provisions of the WAPDA Act or the Electricity Act.

45. Relationship to other laws. — *The provisions of this Act, rules and regulations made and licences issued thereunder shall have effect notwithstanding anything to the contrary contained in any other law, rule or regulation, for the time being in force and any such law, rule or regulation shall, to the extent of any inconsistency, cease to have any effect from the date this Act comes into force and the Authority shall, subject to the provisions of this Act, be exclusively empowered to determine rates, charges and other terms and conditions for electric power services:*

19. The above principle applied in this case would result in the provisions relating to grant of license for transmission of electric power in the Electricity Act being rendered inoperative in law and replaced with the analogous provisions found in the NEPRA Act, both being special laws and with the latter being enacted more recently. It is a well settled principle of law that in case of any inconsistency or conflict between two statutes, the later law abrogates the earlier law by way of implied repeal to the extent of the inconsistency or conflict as laid down in the judgments cited as 2017 PTD 1485; PLD 2006 SC 249; PLD 1996 SC 77; 2013 PTD 2125; PLD 2009 Lah 657 and 1992 SCMR 602.

20. However, it has been observed in numerous cases that where the respective host DISCO or NTDC has shown no intention to construct a transmission line (for one reason or another), the sponsor of the power plant constructs the interconnection line emanating from its power plant to the nearest grid station. The ownership of the line upon construction is transferred to the NTDC or the DISCO as the case may be.

21. The second issue to be determined is whether any violation of law has occurred during installing of transmission lines. Firstly, WAPDA has submitted that the Petitioner had mala-fidely erected his building after the impugned transmission line had been constructed. However, from the documents on record, specifically the report of the SHO Chitral No. 915APSC1 dated 02.01.2017, it is observed that the Petitioner had commenced construction of his building in 2015 and that at the time of the said police report, two storeys had been completed and a third storey was under construction. WAPDA has itself submitted that construction of their transmission tower was initiated in 2016. Therefore, the record suggests that the Petitioner's building was under construction prior to construction of the impugned

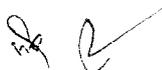


transmission line. As such, WAPDA's contentions in this regard are contrary to the facts on record and are hereby rejected.

22. Reverting to the applicable law in the matter, namely the Electricity Act, Section 12(2) explicitly provides that a licensee may not lay down or place any electric supply-line without the consent of the local authority or of the owner/occupier of the concerned land. In addition, Section 19 provides that licensees shall make full compensation for any damage, detriment or inconvenience caused in the exercise of powers conferred under the Electricity Act. From the cited provisions, it is explicitly clear that the exercise of power by a licensee under the Electricity Act is subject to consent from (and appropriate compensation to) affected persons. The Petitioner has urged that no consent has been given by him to WAPDA regarding the impugned electric supply-lines and neither has compensation been paid to him. WAPDA has submitted documentation relating to compensation paid to a Mr. Karamatullah (owner of the adjoining land) and further submitted that verbal consent had been obtained from Mr. Sarfaraz Khan (a previous owner of the impugned land). However, no documentary evidence has been placed on record that shows consent was obtained from the Petitioner, being the present owner of the property, at any stage of the electric supply line construction. Furthermore, no evidence is available that shows any compensation paid to the Petitioner in lieu of detriment/inconvenience faced by him due to overhead power supply lines.

23. Therefore, the facts establish that WAPDA has undertaken the impugned activity in non-conformity with the applicable provisions of the Electricity Act that require consent to be obtained from, and compensation to be paid to, affected parties.

24. With the foregoing violations of law established, the penultimate issue to be addressed is whether NEPRA maintains jurisdiction to adjudicate matters relating to the Electricity Act. On the subject, it is pertinent to highlight that NEPRA has in the past asserted jurisdiction in matters relating to the Electricity Act. Similar to the instant controversy, in the case of 'Complaint filed by Mr. Usama Tariq Khan regarding removal of electricity wires crossing over private property' NEPRA entertained a complaint filed against IESCO by a person who was aggrieved by unconsented electric distribution lines crossing over his private property. NEPRA, vide Order dated 31st August 2006, found IESCO in violation of Section 12 of the Electricity Act and ordered the impugned lines to be shifted from the petitioner's property. The Order of the Authority was challenged by IESCO before the Islamabad High Court in W.P 563 of 2007 titled as "IESCO v/s NEPRA & another", where



the Honorable Court upheld the decision of NEPRA and exercise of jurisdiction in the matter, vide Order dated 25.06.2009 (relevant excerpts reproduced below). The order was further upheld by the Divisional Bench of Islamabad High Court at the appeal stage in I.C.A No. 100/2009.

"8. The above quoted provision of law i.e. subsection 2 of Section 12 (of the Electricity Act 1910) clearly places an embargo to lay down electricity wires etc without the permission of the owner, but admittedly, the petitioner has not got any permission from the owner before installing the electricity wires and thus violated the mandatory provision of law..."

10. Now adverting to the point as to whether the respondent No. 1 (NEPRA) was authorized to pass the impugned order. In this regard I would like to refer to Section 39 of Regulation of Generation, Transmission and Distribution of Electric Power 1997, which reads as under:-

39. Complaints. — (1) *Any interested person, including a Provincial Government, may file a written complaint with the Authority against a licensee for contravention of any provision of this Act or any order, rule, regulation, licence or instruction made or issued thereunder.*

(2) The Authority shall, on receipt of a complaint, before taking any action thereon, give notice to the licensee or any other person against whom such complaint has been made to show cause and provide such licensee or such other person an opportunity of being heard.

11. From Section 39 ibid it is crystal clear that respondent No. 1 (NEPRA) had the power to entertain the complaint submitted by respondent No. 2."

25. Further, the Honorable Lahore High Court has recently established NEPRA's general jurisdiction in matters falling under the Electricity Act, specifically that the dispute resolution mechanism provided under the Electricity Act has been displaced by the NEPRA Act, which is a law later in time and also much wider in scope, and that appeals against orders of Electric Inspectors/Provincial Offices of Inspection passed under the Electricity Act shall lie before NEPRA as cited in *PLD 2018 Lah 399*. Moreover, the instant matter has been

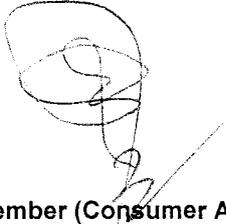
referred to NEPRA in terms of an order of the Honorable Islamabad High Court to resolve a specific dispute. In view of the foregoing judicial precepts, the Authority is of the view that there exists sufficient and authoritative precedent for it to exercise jurisdiction in matters relating to the Electricity Act and therefore maintains competent jurisdiction to adjudge the instant matter.

26. The Complainant has submitted detailed evidence regarding numerous occasions where towers have been relocated after energizing of the transmission line. From perusal of the evidence, such relocations have occurred as late as in 2017/18. This leads to a conclusion that relocation of tower on account of any reason is *per se* established practice.

27. In light of the foregoing, it is established that the impugned tower was erected without following the process of law or obtaining requisite approvals. The Petitioner raised his observations at various forums prior to erection of tower / transmission line. Moreover, the Petitioner's building existed prior to erection of impugned transmission line/tower, therefore WAPDA is directed to relocate the line / conductors passing over the Petitioner's building by erecting another tower between the tower No. 64 and 65 or by some other arrangement as deemed appropriate. The Petitioner may cooperate for relocation of line / conductors including right of way.

28. Compliance report be submitted within sixty (60) days.

Islamabad, January 28, 2019


Member (Consumer Affairs)