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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 03/04/2023

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The Hon'ble Mr.Justice **G.ILANGO VAN**

WP (MD) No. 6327 of 2023

M/s.JSW Renew Energy Two Limited,
Rep. by its Manager.

S.Sathish Kumar

: Petitioner

Vs.

- 1.The District Collector,
Thoothukudi,
Thoothukudi District.
- 2.The Superintendent of Police,
Thoothukudi,
Thoothukudi District.
- 3.The Deputy Superintendent of Police,
Vilathikulam,
Thoothukudi District.
- 4.The Thasildar,
Vilathikulam,
Thoothukudi District.
- 5.The Block Development Officer,
Vilathikulam Block,
Vilathikulam,
Thoothukudi District.
- 6.The Inspector of Police,
Etayapuram Police Station,
Etayapuram,
Thoothukudi District.



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7.The Sub Inspector of Police,
Eppothumvendran Police Station,
Eppothumvendran,
Thoothukudi District.

8.The Village Administrative Officer,
K.Kumarareddiyapuram Village,
Thoothukudi District.

9.The President,
K.Kumarareddiyapuram Village,
Thoothukudi District.

10.A.Shanmugaraj
R10 impleaded as per the order,
Dated 31/03/2023 made in
WMP(MD)No.6763 of 2023) : Respondents

PRAYER:- This Writ Petition has been filed under Article 226 of the Constitution of India, to issue a writ of Mandamus or any other appropriate writ or order or direction in the nature of writ directing the respondents to provide adequate police protection to the petitioner's company staff for the erection of Electric Poles and stringing of transmission lines in K.Kumarareddiyapuram village, Vilathikulam Taluk, Thoothukudi District, by considering the complaint/representation, dated 09/03/2023 preferred by the petitioner within the period that may be stipulated by this court and pass such further or other orders.

For Petitioner : Mr.M.Ajmal Khan
for M/s.Ajmal Associates

For R1 to R9 : Mr.B.Nambiselvan
Additional Public Prosecutor

For 10th Respondent : Mr.D.Sivaraman

**ORDER**

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This writ petition has been filed seeking for direction to the respondents to provide adequate police protection to the petitioner's company staff for the erection of Electric Poles and stringing of transmission lines in K.Kumarareddiyapuram village, Vilathikulam Taluk, Thoothukudi District, by considering the complaint/representation, dated 09/03/2023 preferred by the petitioner.

2.The facts in brief:-

The petitioner is engaged in several construction works. They entered into an agreement with the Solar Energy Corporation of India Limited, for constructing 1st Phase of 27 MV Wind Power Energy. A Memorandum of Understanding was also entered, on 20/07/2021 with the Government of Tamil Nadu. They started installation of 350 Wind Turbine Generators in and around Thoothukudi, Thirunelveli and Tenkasi Districts. They have to connect the Wind Turbine Generators to the Sub Division at Arunkulam village, Thoothukudi District. So they approached the villagers of K.Kumarareddiyarpuram for space for the erection of electric poles. But it was not



successful. The land owners demanded huge amount. So they made an application, on 09/02/2023 to the Block Development Officer, Vilathikulam, seeking permission to use the roadside in that village for erection of electric poles. They also made application to the Panchayat President of K.Kumarareddiyapuram Village. Based upon the application, the 9th respondent passed resolution granting permission for using the village road. The 5th respondent has also granted permission, on 18/02/2023 for erection of electric poles. They were directed to pay a sum of Rs. 69,000/- in favour of the Village Panchayat. That amount was also paid. They also spent three crores for the welfare of the schools, disabled persons, renovation of Community Hall, etc. On the basis of the above said permission, they completed 80% of the work. Some anti-social elements demanded huge ransom. The project must be completed in the month of March 2023. They have to complete the work as agreed.

3. Seeking protection for the staff of the company, for erection of electric poles and stringing of the transmission lines, he made representation, dated 09/03/2022. That was not considered. So, this writ petition.



4. One Shanmugaraj filed intervening petition and that was also allowed, on 31/03/2023. He was also heard along with the petitioner and the learned Additional Public Prosecutor.

5. Without going into the petitioner's case, now let us go to the objection, that has been made by the intervenor. According to him, he is the Village Headman of K. Kumareddiapuram village. Without his knowledge, the above said poles are going to be erected. The width of the road is only 18 feet including 12 feet tar portion. The poles have been erected in the 3 feet mud portion of the northern side road. The road runs east-west. In that place, low tension electric line belongs to the Tamil Nadu Electricity Board is running on the southern side of the road. So because of the erection of the pole on the southern side, the ways become useless, the villagers may also be not in a position to do agricultural works by taking heavy vehicles. So on the basis of the objection made by him and others, the Revenue Divisional Officer conducted inspection and found that there is every likelihood of danger to the life. So, a writ petition was filed directing to change the line. But the writ



petitioner rejected the advise stating that the 6th respondent has already granted permission. Over that issue, a Peace Committee meeting was also arranged, on 08/03/2023 by the 5th respondent. But the writ petitioner did not participate in the Peace Committee Meeting. The lands, in which the poles were erected are classified as poramboke land/road. Neither the 6th respondent, nor the 10th respondent are competent to grant permission. The poles have been erected in Re-Survey Nos.62, 65, 66, 85/2, 98/11, 99 and 102/7 in K.Kumareddiapuram Village and in Re-survey No.266/7 in Arungulam Village.

6.Challenging the above said order passed by the 6th respondent, the intervenor filed writ petition before this court stating that the order of the 6th respondent does not indicate the survey numbers, classification as well as the route-map. The petitioner has also violated the Safety and Electric Supply Regulations, 2010, which prescribes the vertical and horizontal clearance. This is the objection made by the intervenor.

7.In the light of the above said objection, now let us go to the case of the petitioner.



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8.No doubt that they are the licensees for erecting, transmitting the wind power energy to the Sub Station and also entered into an agreement with the TANGEDCO, Government of Tamil Nadu, etc. There is no quarrel on that position of the petitioner. Now the issue is only with regard to the place, where the above said poles have been erected, and whether this petitioner got sufficient permission from the authorities concerned. The next point is whether they have complied all the safety norms prescribed under the relevant Rules, Act, etc.

9.When the matter was heard, I asked the petitioner to produce the inspection report, that was undertaken by the TANGEDCO officials to know whether the above said norms, safety measures and others things have been duly complied by the petitioner. In response to the above said direction, they filed the additional typed set of papers, on 31/03/2023.

10.The Central Electricity Authority, Ministry of Power, Government of India, approved the electrical installation, by letter, dated 22/12/2022. The following paragraph is relevant:-



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"With reference to the above, approval is hereby granted for energizing the electrical installation as given above. This approval is strictly subject to your full compliance with the relevant provisions of the CEA (Measures relating to Safety and Electric Supply) Regulations, 2010 (as amended till date) in every respect. The statement of energization particulars may please be forwarded to this office immediately after energization of the installation.

The next inspection of these equipment under regulation 30 shall be due after two years from the date of this approval."

So this itself makes the position very clear. It is a temporary approval granted subject to the compliance of the provisions and measures relating to the Safety and Electric Supply Regulations, 2010. Along with the above said approval, the location details were also enclosed. Wherein, we find that item Nos.17 and 20 relating to the present village, survey numbers mentioned are 130/2, 131/1(P), 157/1B(P), 157/3(P), 157/2 and 157/4. The



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Director/Generation, TANGEDCO, Chennai, by letter, dated 28/12/2022 issued the location clearance that was approved for the lands comprised in SF Nos. 157/1B(P), 157/3(P), 157/2 and 157/4 of K.Kumarereddiyarapuram Village. The above said clearance has been made subject to certain conditions, as detailed in the letter. One of the conditions is that the issue with regard to solving way leave issues for erection of poles, lies with the company and if any legal dispute arises, the company is liable and TANGEDCO will not take the responsibility. Here comes the issues. So because of the above said, the petitioner has to necessarily undertake the process of negotiation with the private land owners for using the lands for erection and transmission.

11. According to the petitioner, they approached the concerned land owners of the subject village, but they demanded huge amount. So they have approached the Block Development Officer, Vilathikulam and the Panchayat President of that Village; They have granted permission to use the lands for erecting the poles. So they have erected the poles in that place.



12. In the letter, dated 09/01/2023, the Superintending Engineer, Non-Conventional Energy Sources, Tirunelveli has sent a letter to the Solar Energy Corporation of India stating that in pursuance of the above said, the Company has erected six number of poles in the subject village. This is with reference to the survey numbers mentioned in the letter, dated 22/12/2022.

13. In this connection, the objection that has been made by the intervenor is relevant. As mentioned by him, in the approval issued by the 6th respondent, on the basis of the resolution passed by the 9th respondent, absolutely, we find no reference to the survey numbers in which, the above said poles are going to be erected.

14. In the resolution, dated 25/02/2023, it has been stated that permission was granted to the petitioner's company to instal the poles on the road side, canals and poramboke without hindrance to the water flow. Some conditions have also been imposed. The Block Development Officer, Vilathikulam, by letter, dated 18/02/2023 has also approved the permission granted by the Village Panchayat. Again no survey numbers are



mentioned. So also the classification of the lands were also not mentioned. Even though, the hidden idea behind the objection made by the intervenor was some other thing, other than the safety measures. We can ignore the same for the simple reason that larger public interest is involved.

15.By pointing out this, the writ petition that was filed by the intervenor was dismissed by the Coordinate Bench of this court, which challenged the resolution and the order passed by the Block Development Officer, Vilathikulam.

16.When the matter was heard, this court was very specific with regard to the compliance of the Rules and Regulations, safety measures, etc. The reason being that the installation of the overhead high tension electric lines may cause the injury, accidental fire, endangering the life and property. So this court wanted to ascertain from the petitioner as to whether, they complied all the conditions as noted above. It is not a simple case of granting police protection to the company staff for erecting poles and transmitting the energy. It involves larger issue as noted above.



17.As pointed out by the intervenor, no survey numbers are mentioned in the order. The petitioner ought to have made proper application mentioning the survey numbers, classification, etc. for the approval. The site, approval must be made, as noted above, by the competent authority. Only after the site approval is made, they can erect the poles.

18.Here, as pointed out by the intervenor, the poramboke lands are not vested with the Panchayat. It is vested with the Government. Only the Panchayat road is vested with the Panchayat. So mere obtaining permission from the Village Panchayat, as approved by the Block Development Officer, is not sufficient enough to satisfy the requirement of the procedure. So they ought to have approached the Government for proper permission. Only the Government is the competent authority to grant permission for erecting the poles in the poramboke lands, water canals, etc, region. So on the basis of the approval or the permission granted by the Block Development Officer and the Village Panchayat, no work can be undertaken, unless the above said rules and safety measures are complied. So the question of granting police



protection may not or will not arise at this stage. Only after satisfying all the Rules, the petitioner can approach the competent authority seeking police protection.

19. It is also clarified that the intervenor can object only the safety measures. With regard to the technical aspects, the concerned Department namely TANGEDCO will take care of the technical compliance. So the intervenor cannot raise any objection with regard to the technical compliance. As stated above, they are permitted only with regard to the limited extent of seeing whether all the safety measures are complied and if got any grievance, he can approach the concerned authority for redressing their grievance, except that they cannot interfere in the work of the petitioner's company.

20. In the result, this writ petition is **disposed of** with the following directions:-

(1)The petitioner is directed to comply the statutory formalities with regard to the safety measures and technical points;



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(2) The petitioner is directed to get proper approval for laying the pole in the property vested with the Government, Panchayat, etc. from the competent authorities. Further, the location clearance approval must be obtained by the petitioner from the Director/Generation, TANEDCO, Chennai. After getting clearance from the competent authority, if the petitioner experiences any disturbance or trouble, either at the hands of the private respondents or any other persons, shall make representation to the competent authority namely the 6th respondent herein.

(3) The 6th respondent is directed to consider the representation by calling the officials from the petitioner/objector as well as the official from the TANEDCO, namely the Superintending Engineer, Non-Conventional energy Sources. After satisfying that the requirement of law and rules have been duly complied by the petitioner in making the installation, may grant police protection, by assessing ground situation as to the necessity; and



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15

(4) If any trouble arises to the petitioner in future in executing the orders, he may revive the application by impleading all the parties concerned.

19. With these directions this writ petition stands disposed of. No costs.

03/04/2023

Index: Yes/No
Internet: Yes/No

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WEB COPY

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G.ILANGOVAN, J

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