

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON 18.07.2018

DELIVERED ON 03.08.2018

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.8164 OF 2018 AND
W.M.P.NO.19083 OF 2018

R.N.Sekar

... Petitioner

Versus

1. The Tamil Nadu Generation and Distribution Corporation Ltd.,
Rep by its Managing Director,
Anna Salai, Chennai - 600 002.
 2. The Commissioner of Customs,
60, Rajaji Salai,
Chennai - 600 001.
 3. IL & FS Tamil Nadu Power Company Limited
4th Floor, KPR Tower,
Old No.21, New No.2,
First Street, Subba Rao Avenue,
College Road, Chennai - 600 006.
- ... Respondents

Prayer:-

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents herein to take appropriate action against the third respondent therein to ensure that it continues to function as a Mega Power Project supplying energy generated from its power plant at Cuddalore upto at least 85% of its generation capacity to State Distribution Licensees/State Utilities at the tariff fixed by the Tamil Nadu Electricity Regulatory Commissions or any other Electricity Regulatory Commissions.

For Petitioner : Mr.ARL.Sundaresan, Senior Counsel
for Mr.AR.Karthiklakshmanan

For Respondents

For R1 : Mr.C.Manishankar,
Additional Advocate General
Assisted by Mr.S.K.Rameshwar
Standing Counsel

For R2 : Mr.S.R.Sundar

For R3 : Mr.N.L.Rajah, Senior Counsel
assisted by Mr.Arun Anbumani

ORDER

G.K.ILANTHIRAIYAN, J.

The present writ petition is filed as a Public Interest Litigation by the petitioner resident of 148/4-1D, Pullalakottai Road, Virudhunagar. He is a retired Chief Engineer of the Tamil Nadu Generation and Distribution Corporation Ltd., (herein after referred to as TANGEDCO). He is well aware of the working of the power plants and its various policies of the Government of India and the State Government with regard to functioning and setting up of power plants in terms of the Electricity Act. He being a retired Chief Engineer aggrieved by the in-action of the first and third respondents on his representation and thereby failed to take appropriate action against the third respondent to ensure that it continues to function as a Mega Power Project supplying energy generated from its power plant upto atleast 85% of its generation capacity to State Distribution Licensees/State Utilities at the tariff fixed by the Tamil Nadu Regulatory Commission or any other Electricity Regulatory Commissions.

2. He averred that the third respondent entered into a long term Power Purchase Agreements (PPA's) with TANGEDCO for supply of 540MW power at the tariff determined by the Tamil Nadu Electricity Regulatory Commission. The third respondent set up a 2X600 MW plant in Cuddalore District. In terms of the policy guidelines, the benefits such as non-levy of customs duty on import of capital equipment for such projects, tax concessions, concession on excise duty etc., are being given by the Government of India for such mega power plant projects. In terms of the office memorandum dated 14.12.2009, the mega power projects would be required to tie up power supply (of upto 85% of its capacity) to the distribution companies/utilities through long terms Power Purchase Agreements (PPA's) in accordance with the National Electricity Policy 2005 and Tariff Policy, 2006 of

the Government of India as amended from time to time.

2.1. The Government of India issued office memorandum dated 17.08.2011 added certain clauses in the Mega Power Plant Policy guidelines which enabled the projects to acquire the status of provisional mega power projects by obtaining necessary certificate. By the office memorandum dated 12.04.2017, the Ministry of Power, Government of India has extended the time period for submitting the final mega power project certificate to the tax authorities to 120 months. If the power project agreement has not signed with the State Distribution companies, then the fixed deposit and the bank guarantee would be encashed by the Department of Revenue. The third respondent availed the benefits under the Mega Power Plant Policy to the tune of few hundred crores of rupees.

2.2. Further he averred that the third respondent entered into a long term Power Purchase Agreement with the first respondent on 12.12.2013, for supply of 540MW power at tariff determined by the Tamil Nadu Electricity Regulatory Commission and started commercial operations during 2016. But the third respondent has not yet entered into any Power Purchase Agreement for remaining 540 MW of power and has not achieved the 85% of power as laid down by the Mega Power Plant Policy and without doing so, the third respondent sought permission from the first respondent to convert its plant into the Captive Power Plant and entered into term sheets with the private parties for supplying power on captive consumption basis. It cannot be converted into the Captive Power Plant without obtaining any permission from the Ministry of Power and the Ministry of Finance and the Department of Revenue or any other competitive authority.

2.3. It is further averred that any supply of power to any party would require interstate open access for such supply, which is governed by the regulations of the Central Electricity Regulatory Commission (CERC). Therefore, the third respondent having been availed the benefits of Mega Power Plant Policy amount to several crores of rupees by categorising itself as a mega power project; and if it is converted into a captive power plant, the third respondent would not be entitled to the benefits of Customs duty and Excise duty etc. Therefore, the petitioner submitted a representation to the first and second respondents on 28.03.2018 and even after receipt of the same, they did not take action against the third respondent. Hence filed the present writ petition.

3. The first respondent by its counter raised its preliminary objection with regard to maintainability of the writ petition for non-joinder of the parties namely Ministry of Power, Government of India, who framed the guidelines for mega

power plant project. The third respondent participated in the tender process and entered into a power project agreement and the third respondent has been supplying the power accordingly. Further the first respondent stoutly denied that the request of providing open access as captive power cannot be considered at this juncture on the ground that as per Section 2(8) of the Electricity Act, 2003. It defines the captive generative plant as below :-

"2(8). Captive generating plant means a power plant set up by any person to generate electricity primarily for his own use and includes a power plant set up by any co-operative society or association of person for generating electricity primarily for use of members of such cooperative society or association."

Therefore, the first respondent cannot take any decision to issue no objection certificate without prior approval of the Ministry of Power, Government of India to convert the Mega Power Project Plant into Captive Power Plant. It is further averred that the petitioner submitted his representation dated nil and it was received on 28.03.2018 and without even waiting for some time and within two working days, the present writ petition has been filed on 03.04.2018 and hence it is pre-mature and liable to be dismissed.

4. The second respondent stated in his counter affidavit that the third respondent had registered two contracts in respect of 2X600MW Thermal Power Plant at Cuddalore and submitted its Provisional Mega Power Status Certificate dated 18.01.2012 to avail the benefits of Customs duty exemptions as per notification No.12/2012 Customs Dated 17.03.2012. Accordingly, the third respondent executed the Fixed Deposit Receipts/Bank Guarantees for applicable amount. The apprehension of the petitioner that the third respondent violated the obligations to supply the power to the tune of 85% of the generation capacity to the State distribution companies and utilities, by selling the same to the third parties as captive users, after availing the Customs duty and Excise duty concession for its plant in the capacity of Provisional Mega Power Project is not correct. The limitation period for submission of the Final Mega Power Certificate is amended to 120 months, vide Notification No. 50 of 2017 Customs dated 30.06.2017. If the third respondent fails to furnish the same within the stipulated time as per the notification, the said security shall be appropriated towards duty of customs payable of the such imports.

4.1. It is also averred that the Ministry of Power, Government of India vide Certificate No.C-13/2010-IPC dated 13.03.2018, issued a Mega Power Certificate (Proportional) to the third respondent certifying that the project has become eligible for Mega Power Project benefits to the extend of 56.17%. The said project registered in the year 2012 and the third respondent is having ample time till 2022 to submit the Mega Power Certificate. Therefore, the question of appropriation of bank guarantee is pre-mature and prayed for passing of appropriate orders.

5. The third respondent filed its counter and averred that the writ petition itself is not maintainable and deserves dismissal, since the petitioner has not approached this Court with clean hands and the writ petition filed with false and incorrect claims and misleading statements. The petitioner without addressing his grievance to appropriate authority i.e., the Ministry of Power, Government of India had approached this Court. The third respondent also took a stand that the writ petition is filed as a Public Interest Litigation by the petitioner with an oblique motive and the entire allegations are made on the basis of assumption and presumption and not on any definite allegation.

5.1. The third respondent also averred that it had set up a 3180 MW thermal power plant in which the Phase-I of the project is for 1200 MW comprising two units. The first unit started and commenced the commercial operations on 29.09.2015 and the second unit on 30.04.2016. It entered into a long term Power Purchase Agreement with the first respondent as per the guidelines of the Mega Power Plant Policy. It is supplying the power of 540 MW to the first respondent. Though the second unit commenced power project, the third respondent is not in a position to enter into any long term Power Purchase Agreements. The concerned Ministry taking note of the difficulties faced once again amended the Mega Power Plant Policy and extended the time period of 120 months instead of 60 months, for furnishing the Final Mega Certificate to the tax authorities. As per the Mega Power Plant Policy, in order to get the Final Mega Certificate, the project has to tie up 85% long term Power Purchase Agreements on or before its due date as extended from time to time, i.e., January, 2022 and till such time, the short term sale is not prohibited. The third respondent tried its level best to enter into Power Purchase Agreements with States Power Generating Utilities and so far, efforts are unsuccessful and that apart, it never violated any obligations or terms and conditions and not abused any revenue benefits given by the Government of India and prayed for dismissal of the writ petition with costs.

6. The petitioner by way of his reply affidavit to the counter affidavit of the third respondent, averred that after availing customs duty benefit under the Mega Power Plant Policy, the third respondent is not entitled to sale the power to the consumer on it's own. It is bound to supply atleast 85% of generation capacity to the State distribution companies at the rate to be fixed by the Electricity Regulatory Commission. The petitioner's interest is only to ensure that the third respondent who have availed the customs benefit to the tune of rupees hundred crores, can not allow to violate the conditions and abuse the concessions.

7. The third respondent filed it's response to the reply affidavit of the petitioner and took a stand that it expressed wiliness to sell its entire generated power to the extent of 85% to the first respondent through long term Power Purchase Agreements; however the first respondent has not shown interest to purchase the power. It is also averred that in order to get Final Mega Certificate, the proponent has to tie up not less than 85% with the distribution companies, whose tariff is to be confirmed by the Regulatory Commission, on or before the period specified in the Mega Power Policy as extended from time to time, till January 2022 and till such time, the sale of power through any other mode is neither prohibited in Mega Power Policy nor any of the policies in the Government of India or the States.

8. Heard the arguments advanced by Mr.ARL.Sundaresan learned Senior counsel appearing for the petitioner and Mr. Mr.C.Manishankar, learned Additional Advocate General appearing for the first respondent and Mr.S.R.Sundar, learned counsel appearing for the second respondent and Mr.N.L.Rajah, learned Senior Counsel appearing for the third respondent and perused the materials placed before this Court.

9. The contention of the petitioner is that as per the guideline issued by the Government of India, time to time, in respect of mega power project, requirement is to tie up power supply upto 85% of its capacity to the distribution companies/utilities through long term Power Purchase Agreement. The third respondent having been identified as provisional mega power project, has availed the benefits under the Mega Power Plant Policy, such as non-levy of Customs duty on imports of capital equipment, tax concession, concession on Excise duty etc., are being given by the Government of India for such mega power projects to the tune of crores of rupees. The third respondent in addition to the above benefits, availed fiscal benefits under the Mega Power Policy and the benefits under the Coal Linkage Policy of the Government of India by citing its status as a Mega Power Project and the primordial allegation is

that without fulfilling the conditions as per the mega power project policy, the third respondent sought to convert it's plant into Captive Power Plant.

10. It is seen from the counter filed by the first respondent, it cannot take a decision to issue No Objection Certificate without prior approval of the Ministry of Power, Government of India to convert the Mega Power Plant Project into Captive Power Plant. The third respondent categorically submitted that it has not approached the first respondent seeking any permission to convert its plant as a Captive Power Plant. It requested the first respondent to permit users to wheel power under Section 42 of Electricity Act 2003.

11. The another contention of the petitioner is that the third respondent entered into long term Power Purchase Agreement on 12.02.20013 for supply of 540 MW power and thereafter, it has not entered into any Power Purchase Agreement for remaining 540 MW of power and it is not achieved 85% of power as per the condition laid down by the Mega Power Plant Project. As per the Power Purchase Agreement for 540 MW, the third respondent supplying the power as per the policy, there is a mandate to the third respondent to supply electricity power to the extend of 85%. As per revised terms of policy by virtue of office memorandum in F.No.A-3/2015-IPC dated 12.04.2017 read as follows :-

"i. The time period for the provisional Mega projects (25 Projects) for furnishing the final Mega certificates to the Tax authorities to be extended to 120 months instead of 60 months from the date of import. Developers would be required to keep their Fixed Deposit Receipt(FDR) or Bank Guarantee (in lieu of the duty exemption claimed) alive.

ii. The 25 Provisional mega certified project may be considered for Mega Policy benefits in proportion to the long term PPA tied up, as permitted under the Mega Power Policy, once the specified threshold capacity of the project, gets commissioned. However, the money realized by the developer, if any, as a result of release of proportionate Bank Guarantee would first be utilized toward the repayment of the Bank dues by the developer. A suitable mechanism may be worked in consultation with Department of Revenue for operationalization of the release of proportionate Bank Guarantee."

The time for furnishing the final mega power certificate to the Tax authority be extended to 120 months instead of 60 months. Therefore, the third respondent has adequate time to supply power to the extent of 85% to the first respondent till January, 2022. Therefore, it cannot be said that the third respondent has violated the terms of policy issued by the Government of India.

12. The next contention of the petitioner is that the third respondent having been availed benefits such as non-levy of Customs duty on imports of capital equipment for project, Tax concession, concession on Excise duty etc., to the tune of crores of rupees can't violate the conditions and by converting as a Captive Power Plant. It is seen from the counter of first respondent that in order to provide for Provisional Mega Power Status Certificate, the bank guarantee/fixed deposit should be furnished for the amount equal to the customs duty payable, which will be reimbursed on production of Final Mega Power Status Certificate, and the third respondent furnished the bank guarantee to the tune of benefits availed from the tax department. The second respondent has also stated that the third respondent executed the fixed deposit receipt/bank guarantee for the applicable amount in respect of the contract of 2X600 MW Thermal power plant under the Project Imports Regulations 1986, and submitted the Provisional Mega Power Status Certificate dated 18.01.2012 issued by the Joint Secretary, Ministry of Power to avail the benefits of Customs duty exemption as per Notification No. 12/2012 Customs dated 17.03.2012 under the Customs Tariff Head 9801. Therefore, it is clear from the above records that the third respondent's fixed deposit receipts/bank guarantee are very much available with the second respondent and whenever violation committed by the third respondent in respect of the Mega Power Plant Policy conditions, the second respondent can very well encash the fixed deposit receipts and invoke bank guarantee created and executed by the third respondent.

13. The learned counsel appearing for the third respondent vehemently contended that the writ petition itself is not maintainable as a Public Interest Litigation. The petitioner did not approach this Court with clean hands and deliberately and consciously made false claims and misleading statements in the affidavit. In this regard, he relied upon the judgement reported in "(2004) 3 SCC 363 - Dr.B.Singh Vs. Union of India & others" . The Hon'ble Supreme Court of India held as follows:-

"11.It is depressing to note that on account of such trumpery proceedings initiated before the Courts, innumerable days are wasted, which time otherwise could have been spent for the disposal of cases of the genuine litigants.

Though we spare no efforts in fostering and developing the laudable concept of PIL and extending our long arm of sympathy to the poor, the ignorant, the oppressed and the needy whose fundamental rights are infringed and violated and whose grievance go unnoticed, unrepresented and unheard; yet we cannot avoid but express our opinion that while genuine litigants with legitimate grievances relating to civil matters involving properties worth hundreds of millions of rupees and substantial rights and criminal cases in which persons sentenced to death facing gallows under untold agony and persons sentenced to life imprisonment and kept in incarceration for long years, persons suffering from undue delay in service matters - government or private, persons awaiting the disposal of tax cases wherein huge amounts of public revenue or unauthorized collection of tax amounts are locked up, detenu expecting their release from the detention orders etc. etc. are all standing in a long serpentine queue for years with the fond hope of getting into the Courts and having their grievances redressed, the busy bodies, meddlesome interlopers, wayfarers or officious interveners having absolutely no real public interest except for personal gain or private profit either of themselves or as a proxy of others or for any other extraneous motivation or for glare of publicity break the queue muffing their faces by wearing the mask of public interest litigation and get into the Courts by filing vexatious and frivolous petitions of luxury litigants who have nothing to loose but trying to gain for nothing and thus criminally waste the valuable time of the Courts and as a result of which the queue standing outside the doors of the court never moves, which piquant situation creates frustration in the minds of the genuine litigants.

12. Public interest litigation is a weapon which has to be used with great care and circumspection and the judiciary has to be extremely careful to see that behind the beautiful veil of public interest an ugly private malice, vested interest and/or publicity seeking is not lurking. It is to be

used as an effective weapon in the armory of law for delivering social justice to the citizens. The attractive brand name of public interest litigation should not be allowed to be used for suspicious products of mischief. It should be aimed at redressal of genuine public wrong or public injury and not publicity oriented or founded on personal vendetta. As indicated above, Court must be careful to see that a body of persons or member of public, who approaches the court is acting bona fide and not for personal gain or private motive or political motivation or other oblique consideration. The Court must not allow its process to be abused for oblique considerations by masked phantoms who monitor at times from behind. Some persons with vested interest indulge in the pastime of meddling with judicial process either by force of habit or from improper motives and try to bargain for a good deal as well to enrich themselves. Often they are actuated by a desire to win notoriety or cheap popularity. The petitions of such busy bodies deserve to be thrown out by rejection at the threshold, and in appropriate cases with exemplary costs.

13. The Council for Public Interest Law set up by the Ford Foundation in USA defined the "public interest litigation" in its report of Public Interest Law, USA, 1976 as follows:

"Public Interest Law is the name that has recently been given to efforts provide legal representation to previously unrepresented groups and interests. Such efforts have been undertaken in the recognition that ordinary market place for legal services fails to provide such services to significant segments of the population and to significant interests. Such groups and interests include the proper environmentalists, consumers, racial and ethnic minorities and others."

14. The Court has to be satisfied about (a) the credentials of the applicant; (b) the prima facie correctness or nature of information given by him; (c) the information being not vague and indefinite. The information

should show gravity and seriousness involved. Court has to strike balance between two conflicting interests; (i) nobody should be allowed to indulge in wild and reckless allegations besmirching the character of others; and (ii) avoidance of public mischief and to avoid mischievous petitions seeking to assail, for oblique motives, justifiable executive actions. In such case, however, the Court cannot afford to be liberal. It has to be extremely careful to see that under the guise of redressing a public grievance, it does not encroach upon the sphere reserved by the Constitution to the Executive and the Legislature. The Court has to act ruthlessly while dealing with imposters and busy bodies or meddlesome interlopers impersonating as public-spirited holy men. They masquerade as crusaders of justice. They pretend to act in the name of Pro Bono Publico, though they have no interest of the public or even of their own to protect."

14. The learned counsel appearing for the third respondent also relied upon the judgment reported in "(2008) 12 SCC 481 K.D.Sharma Vs. Steel Authority of India and others". The Hon'ble Supreme Court of India held as follows:-

"34. The jurisdiction of the Supreme Court under Article 32 and of the High Court under Article 226 of the Constitution is extraordinary, equitable and discretionary. Prerogative writs mentioned therein are issued for doing substantial justice. It is, therefore, of utmost necessity that the petitioner approaching the Writ Court must come with clean hands, put forward all the facts before the Court without concealing or suppressing anything and seek an appropriate relief. If there is no candid disclosure of relevant and material facts or the petitioner is guilty of misleading the Court, his petition may be dismissed at the threshold without considering the merits of the claim.

35. The underlying object has been succinctly stated by Scrutton, L.J., in the leading case of R. v. Kensington Income Tax Commissioners, (1917) 1 KB 486 : 86 LJ KB 257 : 116 LT 136 in the following words:

"[I]t has been for many years the rule of the Court, and one which it is of the greatest

importance to maintain, that when an applicant comes to the Court to obtain relief on an ex parte statement he should make a full and fair disclosure of all the material facts- it says facts, not law. He must not misstate the law if he can help it; the Court is supposed to know the law. But it knows nothing about the facts, and the applicant must state fully and fairly the facts; and the penalty by which the Court enforces that obligation is that if it finds out that the facts have not been fully and fairly stated to it the Court will set aside any action which it has taken on the faith of the imperfect statement". (emphasis supplied)

36. A prerogative remedy is not a matter of course. While exercising extraordinary power a Writ Court would certainly bear in mind the conduct of the party who invokes the jurisdiction of the Court. If the applicant makes a false statement or suppresses material fact or attempts to mislead the Court, the Court may dismiss the action on that ground alone and may refuse to enter into the merits of the case by stating "We will not listen to your application because of what you have done". The rule has been evolved in larger public interest to deter unscrupulous litigants from abusing the process of Court by deceiving it.

37. In *Kensington Income Tax Commissioner*, Viscount Reading, C.J. observed:

"Where an ex parte application has been made to this Court for a rule nisi or other process, if the Court comes to the conclusion that the affidavit in support of the applicant was not candid and did not fairly state the facts, the Court ought, for its own protection and to prevent an abuse of its process, to refuse to proceed any further with the examination of the merits. This is a power inherent in the Court, but one which should only be used in cases which bring conviction to the mind of the Court that it has been deceived. Before coming to this conclusion a careful examination will be made of the facts as they are and as they have been stated in the applicant's affidavit, and everything will

be heard that can be urged to influence the view of the Court when it reads the affidavit and knows the true facts. But if the result of this examination and hearing is to leave no doubt that this Court has been deceived, then it will refuse to hear anything further from the applicant in a proceeding which has only been set in motion by means of a misleading affidavit". (emphasis supplied)

38. The above principles have been accepted in our legal system also. As per settled law, the party who invokes the extraordinary jurisdiction of this Court under Article 32 or of a High Court under Article 226 of the Constitution is supposed to be truthful, frank and open. He must disclose all material facts without any reservation even if they are against him. He cannot be allowed to play 'hide and seek' or to 'pick and choose' the facts he likes to disclose and to suppress (keep back) or not to disclose (conceal) other facts. The very basis of the writ jurisdiction rests in disclosure of true and complete (correct) facts. If material facts are suppressed or distorted, the very functioning of Writ Courts and exercise would become impossible. The petitioner must disclose all the facts having a bearing on the relief sought without any qualification. This is because, "the Court knows law but not facts".

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52. In the case on hand, the appellant has not come forward with all the facts. He has chosen to state facts in the manner suited to him by giving an impression to the Writ Court that an instrumentality of State (SAIL) has not followed doctrine of natural justice and fundamental principles of fair procedure. This is not proper. Hence, on that ground alone, the appellant cannot claim equitable relief. But we have also considered the merits of the case and even on merits, we are convinced that no case has been made out by him to interfere with the action of SAIL, or the order passed by the High Court. "

15. The learned counsel appearing for the third respondent would further contend that the petitioner is also guilty of criminal contempt and relied upon the judgment reported in "(2011) 7 SCC 639 - State of Madhya Pradesh Ve. Narmada Bachao Andolan and others" as follows :-

"160. The constitutional courts have time and again reiterated that abuse of the noble concept of PIL is increasing day-by-day and to curb this abuse there should be explicit and broad guidelines for entertaining petitions as PILs. This Court in State of Uttaranchal v. Balwant Singh Chaufal and Ors., (2010) 3 SCC 402, has given a set of illustrative guidelines, inter alia:

(i) The court should be prima facie satisfied regarding the correctness of the contents of the petition before entertaining a PIL.

(ii) The court should also ensure that there is no oblique motive behind filing the public interest litigation etc. etc. Therefore, while dealing with the PIL, the Court has to be vigilant and it must ensure that the forum of the Court be neither abused nor used to achieve an oblique purpose.

MISLEADING STATEMENT AMOUNTS TO CRIMINAL CONTEMPT

161. A person seeking relief in public interest should approach the Court of Equity, not only with clean hands but also with a clean mind, clean heart and clean objective. Thus, he who seeks equity must do equity. The legal maxim "Jure Naturae Aequum Est Neminem cum Alterius Detrimeto Et Injuria Fieri Locupletiolem", means that it is a law of nature that one should not be enriched by the loss or injury to another. The judicial process should never become an instrument of oppression or abuse or means to subvert justice.

162. "The interest of justice and public interest coalesce. They are very often one and the same". Therefore, the Courts have to weigh the public interest vis-à-vis the private interest. A petition containing misleading and

inaccurate statement(s), if filed, to achieve an ulterior purpose, amounts to an abuse of the process of the Court and such a litigant is not required to be dealt with lightly. Thus, a litigant is bound to make "full and true disclosure of facts". The Court is not a forum to achieve an oblique purpose. "

16. The writ petitioner is a retired Chief Engineer of TANGEDCO and he is well aware of the policies and guidelines relating to the power plants of Government of India and his endeavour to take appropriate action against the third respondent to ensure that it continues to function as a "Mega Power Project". There is some element of public interest and in the absence of any material that he is espousing the cause of rival competitors, it can't be said that he can't maintain the Public Interest Litigation.

17. The writ petitioner submitted his representation before the first respondent and it was received on 28.03.2018. It is seen from the counter of the first respondent that within a period of two working days, from the date of receipt of the representation, the present writ petition has been filed on 02.04.2018. It is also to be noted that the said representation is not even sent to the Ministry of Power, Government of India, the Central Electricity Regulatory Commission and the Tamil Nadu Electricity Regulatory Commission for the redressal of his alleged grievances and as such this writ petition is pre-mature and thereby deserves dismissal apart from the reasons cited above.

18. In the result, this writ petition is dismissed. Consequently, the petition in W.M.P.No.19083 of 2018, to implead the proposed respondent is also dismissed. The connected miscellaneous petition, if any, is also closed. No costs.

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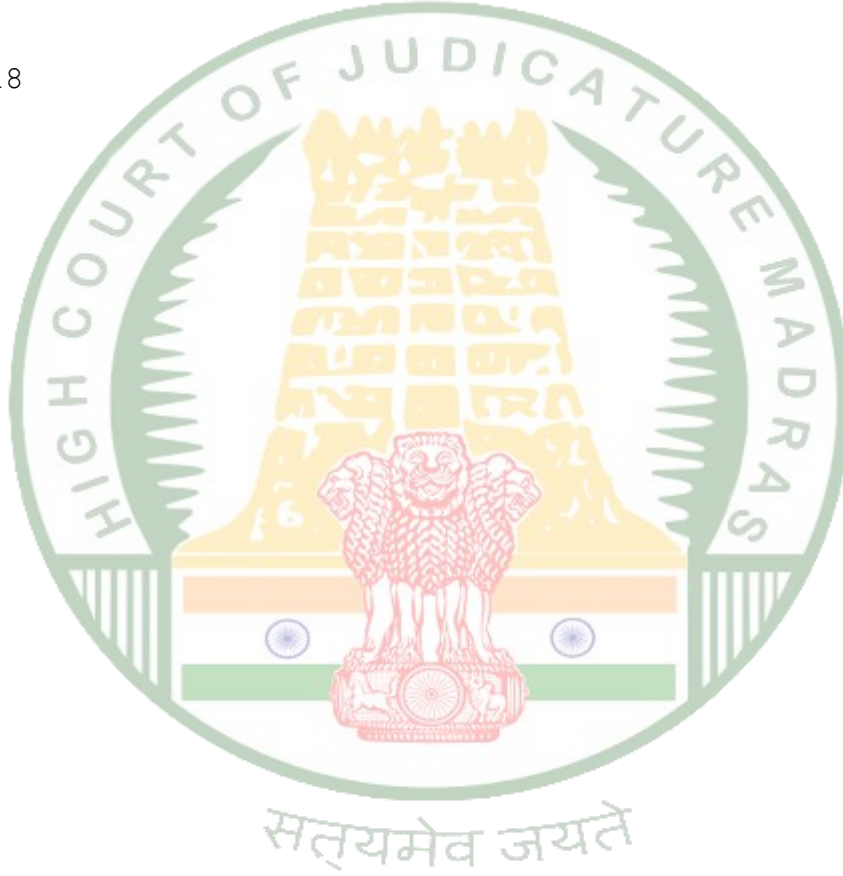
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1. The Commissioner of Customs,
60, Rajaji Salai,
Chennai - 600 001.

+1cc to Mr.S.K.Rameshwar, Advocate, S.R.No.53321
+1cc to Mr.A.L.Gandhimathi, Advocate, S.R.No.53750
+1cc to Mr.S.R.Sundar, Advocate, S.R.No.53400

W.P.No.8164 of 2018 and
W.M.P.No.19083 of 2018

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