

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.5444 of 2019

and

W.M.P.No.6190 of 2019

1. Periyasamy
2. Sivamani
3. Mayilambal
4. Kuppanna Gounder
5. Mohan
6. Chellappan
7. Thangammal
8. Chandrasekaran
9. Sangeetha

....Petitioners

Vs.

1. The District Collector,
Office of the District Collector,
Namakkal District,
Namakkal.
2. The Deputy General Manager,
Power Grid Corporation of India,
Sankagiri TLC Office,
No.3/3/27-B, Bharathy Nagar,
Salem Main Road,
Sankagiri,
Salem District - 637 301

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the impugned orders in Na.Ka.26840/Aanangur (161/2)/2018/H2 dated 05.02.2019 (pertaining to the 1st petitioner), Na.Ka.26842/Elandhakuttai (161/1)/2018/H2 dated 09.02.2019 (pertaining to the 2nd petitioner), Na.Ka.26834/Emapalli (170/2)/2018/H2 dated 02.02.2019 (pertaining to the 3rd petitioner), Na.Ka.26836/Patlur (178/0)/2018/H2 dated 09.02.2019 (pertaining to the 4th petitioner),

Na.Ka.26836/Patlur (178/2)/2018/H2 dated 09.02.2019 (pertaining to the 5th petitioner), Na.Ka.36695/Chikkanaickenpalayam (174/0)/2018/H2 dated 09.02.2019 (pertaining to the 6th and 7th petitioners), Na.Ka.36695/Chikkanaickenpalayam (172/2)/2018/H2 dated 09.02.2019 (pertaining to the 8th and 9th petitioners) of the 1st respondent and quash the same and consequently direct the 1st respondent to consider these petitioners' objections after furnishing the petitioners with the Route Approval, Check Survey, Re-check Survey List, Angle Deviation, GPS Co-Ordinates, Distances between the Towers, No. of Towers, Nature of Towers, Route Map of the Project with respect to the district of Namakkal, Project Report with respect to the Implementation of the Pugalur to Raigarh 800 KVA Power Transmission Project in the Lands of the petitioners and also giving these petitioners reasonable opportunity within a time frame fixed by this Court.

For Petitioners : Mr.P.Wilson,
Senior Counsel for
Mr.M.Guruprasad

For Respondents : Mr.J.Purushothaman,
Government Advocate for R1
Mr.Jayesh B.Dolia
and Mr.Kalyanaraman
for M/s. Aiyar & Dolia for R2.

O R D E R

Mr.J.Purushothaman, learned Government Advocate takes notice for the first respondent. Mr.Jayesh B.Dolia, learned counsel takes notice of the second respondent. By consent of the parties, the main writ petition itself is taken up for disposal since the issue involved in this case lies in a narrow compass.

2. Heard Mr.P.Wilson, learned senior counsel appearing for the petitioners, Mr.J.Purushothaman, learned Government Advocate appearing for the first respondent and Mr.Jayesh B.Dolia, learned counsel appearing for the second respondent.

3.The petitioners are aggrieved against the individual order passed against each petitioner by the first respondent in disposing their objections filed against the installation of towers by the second respondent for implementing the Pugalur to Raigarh 800 KVA Power Transmission Project in the lands of the petitioners.

4. The main grievance expressed before this Court is that the first respondent has passed the impugned orders without hearing the petitioners and thereby violated the principles of natural justice.

5. Learned senior counsel for the petitioners invited this Court's attention to the notice dated 14.01.2019 issued by the

first respondent furnishing a copy of the common counter filed by the second respondent before him against the objections raised by the petitioners and calling upon the petitioners to file their reply to such counter on 21.01.2019. Learned senior counsel further invited this Court's attention to the track consignment issued by the Postal Department to indicate that the said notice dated 14.01.2019 was served on the petitioners only on 22.01.2019 by which time, the time granted for filing the reply on 21.02.2019 got lapsed. Therefore, the learned senior counsel contended that the petitioners were reasonably prevented from making the reply to the counter and appear for enquiry on 21.01.2019 since the said notice of enquiry itself was served on the petitioners on the very next day i.e., 22.01.2019.

6. The learned counsel appearing for the 2nd respondent contended that perusal of the track consignment would show that though the said notice was served on 22.01.2019, it also indicates that the said notice was put on hold on three occasions prior to 22.01.2019 and therefore, the petitioners are not justified in saying that the 1st respondent has passed an order without hearing the petitioner. The learned Government Advocate submitted that the notice was sent to the petitioners and however, they have not appeared on 21.01.2019.

7. Perusal of the notice dated 14.01.2019 would show that the petitioners were called upon to appear on 21.01.2019 with their reply to the common counter filed by the 2nd respondent. Further, perusal of the track consignment issued by the Postal Department clearly indicate that the said notice dated 14.01.2019 was served on petitioners only on 22.01.2019. Therefore, it is evident that the said notice, stipulating the date of hearing as 21.01.2019, was served on the petitioner only on the next day i.e., 22.01.2019. Therefore, the petitioners are justified in contending that the impugned orders were passed without hearing them and in violation of principles of natural justice. At the same time, this Court is not expressing any view on the rival contentions made by the parties in respect of the merits of the matter, as it is for the 1st respondent to consider and decide. Since, this Court is satisfied that the impugned orders are passed in violation of principles of natural justice as discussed supra, this Writ Petition is allowed and the impugned orders are set aside. Consequently, the matter is remitted back to the 1st respondent for issuing fresh notice to the petitioners by indicating the date of hearing. After receipt of such notice, the petitioners should appear on the said date without fail and co-operate with the enquiry so as to enable the 1st respondent to pass fresh orders on merits and in accordance with law. The 1st respondent shall issue such notice within a period of two weeks from the date of receipt of a copy of this order by indicating the date of hearing. On conducting such enquiry, the first respondent shall pass fresh orders within a period of four weeks thereafter. It is open to the petitioners

to seek for such of those documents which are relevant for considering the objections raised by the petitioners in the enquiry before the first respondent. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1. The District Collector,
Office of the District Collector,
Namakkal District,
Namakkal.
2. The Deputy General Manager,
Power Grid Corporation of India,
Sankagiri TLC Office,
No.3/3/27-B, Bharathy Nagar,
Salem Main Road,
Sankagiri,
Salem District - 637 301

+1cc to Mr.M.Guruprasad, Advocate, S.R.No.17838
+1cc to Mr.Aiyar & Dolia, Advocate, S.R.No.17540
+1cc to the Government Pleader, S.R.No.17540

W.P.No.5444 of 2019

MR(CO)
GSP(27/02/2019)

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