

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.5707 of 2019

and

W.M.P.No.6501 of 2019

1. Chellamuthu
2. Perumayi
3. Ponjayiammal
4. Arunachalam
5. Arumugam
6. Athiyappan
7. Palaniyappan
8. Varadharaj

...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 kof the impugned orders in Na.Ka.26839/Kaadachanallur (167/0)/2018/H.2 dated 15.02.2019 pertaining to the 1st and 2nd petitioners, Na.Ka.26840/Aanangur (164/0)/2018/H.2 dated 17.02.2019 pertaining to the 3rd and 4th petitioners, Na.Ka.36695/Chikkanaickenpalayam (172/0)/2018/H.2 dated 09.02.2019 pertaining to the 5th petitioner, Na.Ka.36695/Chikkanaickenpalayam (172/1)/2018/H.2 dated 09.02.2019, pertaining to the 6th petitioner,

Na.Ka.26836/Patlur (176/0)/2018/H.2 dated 09.02.2019 pertaining to the 7th petitioner and Na.Ka.26836/Patlur (176/1)/2018/H.2 dated 09.02.2019 pertaining to the 8th petitioner, of the 1st respondent and quash the same and consequently directing 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 given 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.P.H.Aravind Pandian,
Additional Advocate General,
assisted by
Mr.R.Govindasamy,
Special Government Pleader for R1
Mr.R.Thiyagraran
Senior Counsel for
Mr.Jayesh B.Dolia
and
Mr.Kalyanaraman
for M/s. Aiyar & Dolia for R2.

O R D E R

This writ petition is filed challenging the orders of the 1st respondent dated 15.02.2019, 17.02.2019 & 09.02.2019.

2. The main grievance of the petitioners in this writ petition is that the impugned orders were passed in violation of principles of natural justice since the notice of enquiry issued on them dated 14.01.2019, calling upon them to appear for enquiry on 21.01.2019, was in fact served on them only on 22.01.2019. Therefore, it is contended that the petitioners are reasonably prevented from appearing before the first respondent on the date of enquiry. In support of their contentions, the petitioners relied upon the track consignment issued by the Postal Department.

3. Similar writ petition was filed by the other set of land owners in W.P.No.5444/2019 and this Court disposed of the said writ petition by remitting the matter back to the first respondent to issue fresh notice to the petitioners therein and thereafter to pass orders on merits and in accordance with law within the time stipulated therein.

4. Learned Additional Advocate General appearing for the first respondent in this Writ Petition submitted that though notice of enquiry dated 14.01.2019 was posted on the same day, it was put on hold on four occasions till 21.01.2019 by the Postal Department and it was delivered only on 22.02.2019. Therefore, the learned Additional Advocate General contended that the petitioners are deliberately trying to drag on the proceedings by not receiving the notice in time.

5. I have already pointed out that on similar set of facts, this Court has passed an order in W.P.No.5444/2019 dated 26.02.2019 and remitted the matter back to the first respondent to issue fresh notice and conduct an enquiry and thereafter pass orders in accordance with law. In such view of the matter, the petitioners herein are also entitled to the same relief. Since the learned Additional Advocate General apprehends that the fresh notice to be sent by the first respondent may be delayed to be served on the petitioners deliberately this time also, this Court directs the first respondent to issue fresh notice to the counsel for the petitioners who filed Vakalat before the first respondent through speed post and also send sms to the counsel's mobile number indicating that notice was already sent on such date by speed post.

6. Under the above circumstances, the following order is passed:

The Writ petition is allowed and the impugned orders are set aside. The matter is remitted back to the first respondent to issue fresh notice to the petitioners' counsel who filed Vakalat before the first respondent within a period of two weeks from the date of receipt of a copy of this order. The first respondent shall also send sms to the petitioners' counsel to his mobile number indicating that the notice was sent through speed post as well. On receipt of such notice, the petitioners or their counsel shall participate in the enquiry before the first respondent. On completion of such enquiry, the first respondent shall pass orders on merits and in accordance with law within a period of four weeks thereafter. It is open to the petitioners to seek

for such of those documents which are relevant for conducting such enquiry before the first respondent. It is made clear that 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. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

vsi

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 M/s. Aiyar & Dolia, Advocate SR.No. 18375

+1cc to Mr. M.Guruprasad, Advocate SR.No. 19486
(04/03/2019)

A.SK(27/02/2019)

W.P.No.5707 of 2019

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