

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 07.03.2019

CORAM
THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.6417 of 2019

1. Suresh Kumar
S/o Chinnusamy
 2. Raj
S/o Muthusamy
 3. Chitra
W/o Subramani
 4. Palanisamy
S/o Palani Gounder
 5. Sengottuvelu
S/o.Kandasamy Gounder.
 6. Ravi
S/o Sengottuvelu
 7. Appavu
S/o Marappa Gounder
- ..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

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, to call for the records of the impugned orders in Na.Ka.26836/Patlur (178/0)/2018/H.2 dated 09.02.2019, Na.Ka.26836/Patlur (177/0)/2018/H.2 dated 12.02.2019, Na.Ka.36695/Chikkanaickenpalayam (173/0)/2018/H.2 dated 09.02.2019, Na.Ka.36695/Chikkanaickenpalayam (171/4)/2018/H.2 dated 09.02.2019, Na.Ka.26837/Padaveedu (152/0)/2018/H.2 dated 11.02.2019, Na.Ka.26840/Aanangur (163/2)/2018/H.2 dated 17.02.2019, pertaining to the respective petitioners, of the first respondent and quash the same and consequently directing the first 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 :: Ms.R.Shase

For Respondents :: Mr.K.Ravikumar
Additional Government Pleader
for R1
Mr.Jayesh B.Dolia for
M/s.Aiyar & Dolia for R2

ORDER

Seven petitioners have jointly filed this writ petition assailing the impugned orders dated 09.02.2019, 11.02.2019, 12.02.2019 and 17.02.2019 passed by the District Collector, Namakkal on the common ground that when the District Collector had issued the notices on 14.1.2019 inviting the land owners/petitioners herein to come for enquiry fixed on 21.1.2019 at the office of the District Collectorate, learned counsel for the petitioners submitted that the said notices dated 14.1.2019 were received by them only on 22.1.2019. Without holding any enquiry, the District Collector has passed the impugned orders without application of mind.

2. The learned counsel for the second respondent fairly submitted that in similar circumstances, this Court, taking note of the non-application of mind committed by the District Collector for not holding enquiry on the specified date, but holding enquiry and passing orders subsequently without hearing the land owners, set aside the orders directing the District Collector to hold a fresh enquiry.

3. The learned Additional Government Pleader for the first respondent also joining hands with the learned counsel for the second respondent submitted that paragraphs 3 & 4 of the order passed by this Court in W.P.No.4629 of 2019 dated 1.3.2019 can be followed in this case also.

4. The joint request made by the learned counsel for the petitioners, the learned Additional Government Pleader for the first respondent and the learned counsel for the second respondent is placed on record. Paragraphs 3 & 4 of the order dated 1.3.2019 passed in W.P.No.4629 of 2019 read as follows:-

"3. Placing on record the above order,
Mr.R.Thiagarajan, learned senior counsel
appearing for the second respondent also

acceded to pass the same order. It is relevant to extract para 6 as under:

'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 though 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 first respondent to consider and decide. No costs. Consequently, connected miscellaneous petition is closed.'

4. In the light of the above, the writ petition is allowed in the above terms and the impugned orders are set aside. Consequently, the matter is remitted back to the first respondent to issue fresh notice. 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 also open to the petitioners to ask to such of those documents which are relevant for conducting such enquiry. Consequently, connected W.M.P. is closed. No costs."

5. In the light of the above, as the petitioners were not heard before passing the impugned orders, for the reason that they received the notices of enquiry only on 22.1.2019, one day after the date of enquiry fixed by the District Collector, the impugned orders are set aside and the matter is remitted back to the first respondent to issue fresh notice. 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 also open to the petitioners to ask for such of those documents which are relevant for conducting such enquiry. The writ petition stands allowed. Consequently, W.M.P.No.7231 of 2019 is closed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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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 and Dolia, Advocate, S.R.No.21946
+1cc to Mr.M.Guruprasad, Advocate, S.R.No.22695 (13/03/2019)

W.P.No.6417 of 2019

VSNIIC(CO)

rrs 08/03/2019

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