

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2019

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.8045 of 2019 and
W.M.P. No.8644 of 2019

M/s.Cetex Petrochemicals Limited
represented by its
Executive Director (Operations),
Mr.S.Gowthaman
Sathangadu Village, Manali,
Chennai-600 068. .. Petitioner

-vs-

1.The Chief Engineer (Transmission/Civil),
Tamil Nadu Transmission
Corporation Limited,
Tamil Nadu Electricity Board,
Anna Salai, Chennai-600 002.

2.The Superintending Engineer,
Operation-1 Chennai,
Tamil Nadu Transmission Corporation Limited,
Tamil Nadu Electricity Board,
Korattur 230 KV SS campus,
Chennai-600 080.

3.The Executive Engineer (Civil/TLC),
Transmission Line Construction,
Tamil Nadu Transmission
Corporation Limited,
Tamil Nadu Electricity Board,
A10, Thiru-Vi-Ka-Industrial Estate,
Guindy, Chennai-32.

.. Respondents

Prayer: Petition filed under Article 226 of the
Constitution of India, praying for the issue of a Writ of
Mandamus, directing the respondents to set up their
proposed construction activity of any tower including Multi
towers beyond the 90 meters of the LPG storage bullets
situated in the petitioner's premises at Sathangadu
Village, Manali, Chennai-600 068 in view of SMPV rules
No.22 of the Petroleum Safety and Explosive Organisation
(PESO) Act.

For Petitioner : Mr.J.Sivanandaraj for
Mr.Adeesh Anto

For respondents : Mr.Abdul Saleem,
Standing Counsel

ORDER

M/s.Cetex Petrochemicals Limited, represented by its Executive Director/the petitioner herein has come to this Court seeking a direction to the respondents to set up the proposed construction activity of any tower including Multi towers, beyond the 90 meters of the LPG storage bullets situated in their premises at Sathangadu Village, Manali, Chennai-600 068 in view of SMPV rules No.22 of the Petroleum Safety and Explosive Organisation (PESO) Act.

2.Learned counsel appearing for the petitioner would submit that the Tamil Nadu Electricity Board (hereinafter referred to as 'TNEB') has proposed to erect 110KV EHT tower lines inside the petitioner's premises in order to provide electricity to another company namely, M/s.Futura Polyesters, which is adjacent to the petitioner's company situated at Sathankadu Village, Ambattur Taluk, Thiruvallur District. After some time, the TNEB also commenced the work inside the petitioner's premises. Since the petitioner is intended to set up 6 LPG bullets for their plant expansion in the course of business, they have intimated the TNEB through representation dated 27.06.2011 and requested the officials of TNEB to shift their proposed structure/ pillar outside the mandatory safety area from the LPG storage bullets of 90 meters as per the SMPV rules. Since the petitioner's sixth bullet is proposed to be installed in 2019-20, the petitioner requested the respondents for realignment of the power lines.

3.According to the learned counsel appearing for the petitioner, when the petitioner's undertook to bear the costs as early in the year 2011 for shifting the towers, as the same would not cause any inconvenience to either of the parties, the TNEB also agreed for the same. When the TNEB had informed the petitioner vide Memo dated 03.08.2013 to deposit Rs.70,54,050/- for the proposed deviation plan outside the premises complying as per rules, the petitioner also paid the said sum vide cheque dated 13.08.2013 to the TNEB towards the shifting of the towers. According to the learned counsel appearing for the petitioner, during 2013-14 when the company namely, M/s.Futura Polyesters have shut their operations in Chennai, TNEB also stopped their activities of re-aligning the tower. In the course of business, in the year 2014, the petitioner had erected and installed 5 LPG bullets in their premises. According to the learned counsel appearing for the petitioner, the raw

materials used by the respondents are highly inflammable and come under the Tamil Nadu Major Accident Hazards Industry Category and as per the regulations, the LPG bullets have to be stored atleast 90 meters away from the boundary of the wall of the petitioner's premises. While so, in October 2018, the personnels of one L&T Company visited the petitioner's company and informed that the TNEB has now proposed to install HT Multi towers comprising of 230 KV/400 KV inside the petitioner's premises and for which they want to survey the land.

4. According to the learned counsel appearing for the petitioner, erecting the proposed tower inside the petitioner's company, as suggested by TNEB, would be in clear violation of rules and this would not only be prejudicial to the petitioner, but also endangering the public safety. He would submit that the petitioner company also obtained No Objection Certificate from the District Revenue Officer, Thiruvallur for installation of LPG bullets and the District Revenue Officer has mandated the licence with certain conditions and one amongst is that any change of alignment of High Tension line by TNEB should be carried out before commissioning installation of bullets as per SMPV rules and PESO Act.

5. At this stage, learned Standing Counsel appearing for the respondents submitted that as per Section 16 of the Indian Telegraphic Act, 1885, both parties should approach the District Collector, if any such disputes arisen.

6. In reply, learned counsel appearing for the petitioner would submit that since the petitioner has already given representation objecting the respondents' interference with the petitioner's premises, it is for the respondents to approach the District Collector.

7. In this regard, both the learned counsel, referring to order dated 23.02.2018 passed in W.P. No.4036 of 2018, would submit that this Court has directed the first respondent therein to consider the objections raised by the petitioner therein, by exercising the power under Section 16 of the Indian Telegraphic Act and directed the respondents 2 and 3 therein to maintain status quo till the order passed by the first respondent.

8. It is pertinent to extract the relevant portion of the order as under:

7. Considering the above stated facts and circumstances, without expressing any view on the merits of the matter, this writ petition is disposed of, by directing the first respondent to consider the objections raised by the petitioner on 20.01.2018 and pass orders on merits and in

accordance with law, by exercising its power under Section 16 of the Indian Telegraphic Act, after giving due opportunity of hearing to the petitioner as well as the respondents 2 and 3. Such exercise shall be done by the first respondent, within a period of four weeks from the date of receipt of a copy of this order. Till an order is passed by the first respondent, status quo as on today is maintained by the respondents 2 and 3. At the time of enquiry, it is open to the respective parties to place supportive materials in respect of the case before the first respondent. No costs. Consequently, connected miscellaneous petition is closed.

9. In the light of the above, this Court hereby directs the District Collector to consider the detailed application or representation to be submitted by the respondents and pass appropriate orders within a period of four weeks thereafter, as per Section 16 of the Indian Telegraphic Act 1885 along with relevant rules by giving notice to the petitioner. Till such time the District Collector passes an order, the respondents are directed to maintain status quo as on today. With the above direction, the writ petition is disposed of. Consequently, W.M.P. is closed. No costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector , chennai.

2. The Chief Engineer (Transmission/Civil),
Tamil Nadu Transmission
Corporation Limited,
Tamil Nadu Electricity Board,
Anna Salai, Chennai-600 002.

3. The Superintending Engineer,
Operation-1 Chennai,
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A10, Thiru-Vi-Ka-Industrial Estate,
Guindy, Chennai-32.

+lcc to Mr. Abdul Saleem,, Advocate SR.No. 26923

W.P.No.8045 of 2019 and

W.M.P. No.8644 of 2019

ssd (CO)

A.SK(08/05/2019)



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