

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 05.07.2019

PRONOUNCED ON : 10.07.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Writ Petition No.14551 of 2019 and
W.M.P.Nos.14531, 14533 and 14534 of 2019

1.V.Maganathan
2.T.S.Govindan
3.Janaki
4.Ravi
5.Murugan
6.Krishnan
7.Mahalingam
8.Krishnan
9.Kalaiselvi

... Petitioners

Vs

1.Principal Secretary to Government,
Energy Department,
Secretariat, Fort St. George,
Chennai - 600 009.

2.The Power Grid Corporation of India,
Rep. By its Managing Director,
B-9, Qutab Institutional Area,
Katwaria Sarai,
New Delhi - 110 016.

3.The Power Grid Corporation of India,
Rep. By its Managing Director,
Regional Head Quarter,
Southern Region,
Reg, Yellappa V Road,
Bangalore,
Karnataka - 560 0644.

4.The District Collector,
Vellore,
Vellore District 636 705.

5.The Thasildar,
Natrampalli,
Natrampalli Tk,
Vellore District.

... Respondents

Prayer :- This Writ Petition is filed under Article 226 of the Constitution of India for a writ of Certiorarified mandamus calling for the records to the order passed by the fourth respondent in proceeding Na.Ka.D1/17874/2018 dated 18.03.2019 and quash the same thereby forbear the respondents from laying 800 KV High Power transmission line through the route from Jadankuttai to Old President Circle, Thoppalagunda Village, Vellore District which is crossing over and above the houses of the petitioners situated in the residential area of Thoppalagunda Village, Natrampalli Tk, Vellore consequently, direct the respondents to choose alternative route away from the residential area.

For petitioner :Mr.S.Conscious Ilango

For Respondents 1,4 and 5:Mr.D.Suriyanarayanan,
Additional Government Pleader

For Respondents 2 & 3 :Mr.R.Thiyagarajan, Senior Counsel
for M/s.Aiyar & Dolia

ORDER

The Petitioners nine in numbers are residents of the Thoppalagunda Village. Their grievance is that, the Power Grid Corporation of India, to install transmission tower have surveyed the field and preparing to draw 'electrical line' over their residences unmindful of the health hazardous and danger to their lives. The proposed transmission line over their residences is, contrary to safety regulations which emphasis the following guidelines:- सत्यमेव जयते

"For selection of optimum route, the following points are taken into consideration:

a)The route of the proposed transmission lines does not involve any human rehabilitation.

b)Any monument of cultural or historical importance is not affected by the route of the Transmission line.

c)The proposed route of transmission line does not create any threat to the survival of any community with special reference to Tribal Community.

d)The proposed route of transmission line does not affect any public utility services like playgrounds, schools, other establishments etc.,

e)The line route does not pass through any sanctuaries, National Park, etc.,

f)The line route does not infringe with area of natural resources."

2.The petitioners gave representations to the revenue authorities to alter route to avoid the present residential area. In their request, the revenue authorities, suggested the Power Grid Corporation to carry out transmission line and tower in alternate route. Since, the respondents failed to alter the route, they filed a writ petition in W.P.No.3341 of 2019 before this Court to forbear the respondents from carrying out the project through the residences of the petitioners.

3.This Court, on 07.02.2019, directed the District Collector, Vellore to consider the representations of the petitioners, in the light of the guidelines and on the basis of the report submitted by the Sub-Collector, Thirupathur and pass appropriate orders, within three weeks.

4.In pursuance of the above orders of the High Court in W.P.No.3341 of 2019 dated 07.02.2019, the District Collector, Vellore has passed order on 18.03.2019. In the said order, the District Collector has confirmed the route chosen by the Power Grid Corporation and accepted the justification in selecting the present route and difficulties in altering the route. This order is impugned in this writ petition.

5.In the counter affidavit filed by the District Collector/fourth respondent, it is stated as follows:-

"9.I respectfully submit that the order impugned in the Writ Petition has been passed taking into consideration the objections of the land owners and after affording opportunity of being heard. I state that cogent reason was given while

rejecting the request of the petitioners. As already stated, sufficient safety clearance has been provided by the Power Grid Corporation of India as per the Central Electricity Authority (Measures relating to Safety and Electricity Supply) Regulations, 2010. To ensure further safety of the land owners, Power Grid Corporation of India was directed to increase the height of the towers by six meters. Further all the relevant materials were taken into consideration before passing the order. That apart, the details of the project were explained by the General Manager of the Power Grid Corporation of India during the enquiry.

10.I state that on the basis of the enquiry held, the undertakings given by the 3rd respondent for electrical safety clearances and adhering all safety measures and at the point of conductors the height has been increased upto 39 Mtrs., these were taken into consideration in the order dated 18.03.2019 was passed to remove the obstructions under Section 16(1) of the Indian Telegraph Act, 1885 taking into consideration the project which is of national importance and where the State of Tamil Nadu is a major beneficiary."

6.The 2nd and 3rd respondents in their counter affidavit, have pointed out that they have followed the guidelines enumerated in the safety regulation and the apprehension expressed by the petitioners were taken note and the height of the line has been increased more than what the regulation has prescribed. Particularly, in para 17 of the counter affidavit, the 2nd and 3rd respondents have stated as follows:-

"17.Under Regulation 61 of Central Electricity Authority (Measures relating to Safety and Electrical Supply) Regulations, 2010, an overhead line shall not cross over an existing building as far as possible. But no "building" shall be constructed under an existing overhead line. Hence, there is a clear bar for putting up any construction

underneath the overhead line. The Regulation has been framed in exercise of power under Section 177 of the Electricity Act, 2003. The 4th petitioner is now putting up construction underneath existing proposed corridor. The house tax receipt filed on behalf of the 4th petitioner at Page 20 of the typed set of papers does not contain the date, the door number or the survey number. The tax receipt has been issued for the year 2014-2015. I respectfully submit that the tax receipt filed in respect of the 4th petitioner has been manipulated to show as if a house belonging to him exist. I further submit that the affidavit is silent as to the permission obtained by the 4th petitioner for putting up the construction. It is relevant to note that the expression, "Overhead line" under Section 2(48) of the Electricity Act, 2003 means an electric line. "Electric line" as defined under Section 2(2) of the Electricity Act, 2003 means any line used for carrying electricity and includes any support for any such line, any structure, tower or pole by or from which any such line is, or may be, supported, carried or suspended and any apparatus connected to such line. I submit that in respect of the building under construction put by the petitioner, for maintaining safety clearance in terms of Regulation 61(4) of Central Electricity Authority (Measures relating to Safety and Electrical Supply) Regulations, 2010, minimum vertical clearance of 12.4 meters is required. In this regard, this respondent has proposed to maintain 30 meters of vertical clearance in respect of the structure/building which is under construction. The 4th respondent under the impugned proceedings, has directed this respondent to increase the tower height by 6 meters to maintain furthermore clearance. Thus, it is respectfully submitted that more than the prescribed safety clearance is adhered to by this respondent....."

7.The reason for their inability to alter the route alignment is stated by the respondents 2 and 3 in paragraph

No.18 of the counter affidavit. The same is reads as below:-

"18...the route alignment has been finalized avoiding inhabited site and house settlements. I submit that there are only 4 tower locations viz., 122/0, 122A/0, 122B/0 and 123/0 in this Section with line length of about 800 meters. In this portion, there is a State Highway crossing between Location 122B/0 and 123/0 connecting Tamil Nadu and Andhra Pradesh (Kuppam). In other locations, the erection of tower has been completed and already stated, stringing work is under progress."

8.From the pleadings and the impugned order of the District Collector, this Court finds that the authorities have taken a conscious decision while deciding the route and the petitioners allegation of health hazardous and safety has been duly taken care by increasing the height of the tower and line.

9.In the said circumstnaces, the petitioners plea that during elevated line across their residences is dangerous to their lives, unfound. Hence, the writ petition is liable to be dismissed.

10.In the result, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-VIII)

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Sub Assistant Registrar

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To

1. Principal Secretary to Government,
Energy Department,
Secretariat,
Fort St. George,
Chennai - 600 009.

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2. The Managing Director,
The Power Grid Corporation of India,
B-9, Qutab Institutional Area,
Katwaria Sarai,
New Delhi - 110 016.
3. The Managing Director,
The Power Grid Corporation of India,
Regional Head Quarter,
Southern Region,
Reg, Yellappa V Road,
Bangalore,
Karnataka - 560 0644.
4. The District Collector,
Vellore,
Vellore District 636 705.
5. The Thasildar,
Natrampalli,
Natrampalli Tk,
Vellore District.

+1cc to Mr.S.Conscious Ilango, Advocate SR.No.58497

+1cc to M/s.Aiyar & Dolia, Advocate SR.No.57998

+1cc to Government Pleader SR.No.58611

W.P.No.14551 of 2019

SS (CO)
GMY (07/08/2019)

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