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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 03.07.2019

DATED: 16.07.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI

AND

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

W.A.Nos. 2032, 2044, 2052, 889, 894, 908, 909, 910, 911, 915,
918, 1923, 1931, 1932, 1934, 1936, 1939, 1947, 1949, 1955 & 1968
of 2019

And

C.M.P.Nos.13696,13752,13767, 6879, 6843, 6884,6892, 6887, 6921,
6893, 6951, 13128, 13143, 13145, 13154, 13156, 13161, 13185,
13194, 13249 & 13325 of 2019

S.SELVARAJ

..APPELLANT IN WA.NO.2032/2019

R.UMA MAGESWARAN

..APPELLANT IN WA.NO.2044/2019

1 M.SAMIYAPPA GOUNDER

2 S.DURAI SAMY

3 P.S.PONNUSAMY

4 G.SHANTHA

..APPELLANT IN WA.NO.2052/2019

K.K.BALUSAMY

..APPELLANT IN WA.NO.889/2019

P.ARAVINTH SRIRAM

..APPELLANT IN WA.NO.894/2019

1 K.N.DEVARAJ

2 R.MUTHUSAMY GOUNDER

3 P.SOUNDARRAJ

4 K.K. DURAI SAMY

5 P.DEIVASIGAMANI

6 M.SUBRAMANIAM

7 M.M.PALANISAMY

8 S.KRISHNAVENI

9 N.RANGASAMY

10 C.NALLASAMY GOUNDER

11 M.ARUNACHALAM

12 C.SIDHEESWARAN

13 R.NACHIMUTHU

14 N.VENKATESAN

15 A.V.ARJUNAN

..APPELLANTS IN WA.NO.908/2019

R.JAYANTHI

..APPELLANT IN WA.NO.909/2019

R.RAVICHANDRAN

..APPELLANT IN WA.NO.910/2019

1 T.VELUMANI

2 M.KANDASAMY



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3 CHENNIYAPPA GOUNDER
4 V.S.BALASUBRAMANIAM
5 T.VENKATACHALAM
6 T.R.VARANASI
7 SHANMUGAVADIVEL
8 P.VENKATARAMAN
9 RANGASAMY
10 N.SHANMUGHAM
11 S.SAKTHIVEL
12 R.SAKTHIVEL
13 A.KARUPANNAN

..APPELLANTS IN WA.NO.911/2019

K.KANDASAMY GOUNDER

..APPELLANT IN WA.NO.915/2019

R.SURESHKUMAR

..APPELLANT IN WA.NO.918/2019

A.S.PALANISAMY

..APPELLANT IN WA.NO.1923/2019

M.SIVAGAMI

..APPELLANT IN WA.NO.1931/2019

G.RAMASAMY

..APPELLANT IN WA.NO.1932/2019

S.MANIASAMY

..APPELLANT IN WA.NO.1934/2019

P.CHIDAMBARAM

..APPELLANT IN WA.NO.1936/2019

K.P.MAYILSAMY

..APPELLANT IN WA.NO.1939/2019

A.MUTHUSAMY

..APPELLANT IN WA.NO.1947/2019

S.EASWARAMOORTHY GOUNDER

..APPELLANT IN WA.NO.1949/2019

K.PALANISAMY GOUNDER

..APPELLANT IN WA.NO.1955/2019

V.EASWARA PERIYASAMY

..APPELLANT IN WA.NO.1968/2019

VS.

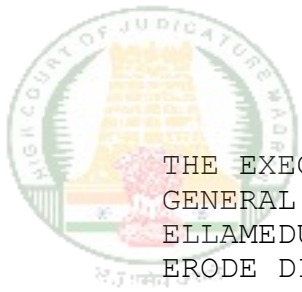
THE DISTRICT COLLECTOR,
ERODE DISTRICT,
ERODE - 638 011.

..1st RESPONDENT IN WA.NOS.2032,
2044, 889, 894, 908 TO 911, 915
AND 918/2019

THE DISTRICT COLLECTOR,
TIRUPPUR DISTRICT, TIRUPPUR.

..1st RESPONDENT IN WA.NOS.2052,
1931, 1932, 1934, 1936, 1939, 1947,
1955, 1923, 1949 AND 1968/2019

THE SUPERINTENDENT ENGINEER,
GENERAL CONSTRUCTION CIRCLE TANTRANSCO
DR.SUBBARAYAN ROAD TATABAD COIMBATORE 12



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THE EXECUTIVE ENGINEER
GENERAL CONSTRUCTION CIRCLE TANTRANSCO
ELLAMEDU INGUR PERUNDURAI TALUK
ERODE DISTRICT.

..2nd & 3rd RESPONDENTS IN WA.NO.2044,
889, 894, 909, 910, 915, 918, 1931,
1932, 1934, 1936, 1939, 1940, 1955 and 2052/2019

3rd & 4th RESPONDENTS IN WA.NO.2032,
908, 911, 1923, 1949 AND 1968/2019

TANTRANSCO
REP BY ITS CHAIRMAN,
10TH FLOOR NPKRR MAALIGAI
144 ANNA SALAI, CHENNAI-2.

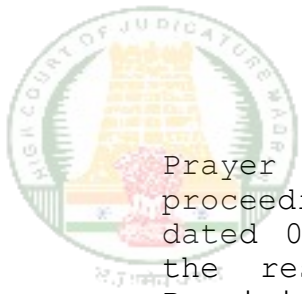
..2nd RESPONDENT IN WA.NO.2032,
908, 911, 1923, 1949 AND 1968/2019

THE ASSISTANT EXECUTIVE ENGINEER,
TANTRANSCO, TLC WING, ERODE. ..5th RESPONDENT IN WA.NO.2032/2019

WA.Nos.2032, 2044, 2052, 889, 894, 908, 909, 910, 911, 915, 918, 1923, 1931, 1932, 1934, 1936, 1939, 1947, 1949, 1955 & 1968 of 2019: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 30.01.2019 against WP.Nos.34227 of 2016, 28808 of 2018, 31046 of 2018, 13171 of 2018, 6257 of 2017, 27466 of 2017, 7610 of 2017, 7609 of 2017, 21163 of 2018, 6258 of 2017, 13172 of 2018, 5877 of 2017, 6260 of 2017, 6256 of 2017, 6636 of 2017, 6259 of 2017, 6632 of 2017, 6631 of 2017, 5875 of 2017, 6637 of 2017 and 5876 of 2017 respectively.

Prayer in WP.NO.34227/2016 : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order made in Na. Ka. No. 15546/ 2016/ K4 dated 14.09.2016 passed by the 1st respondent quash the same consequently forbear the respondents 3 to 5 from taking steps to erect Tower lines over petitioner lands bearing R.S. No. 60/1 Puthur Pudupalayam Village Erode Taluk Erode District till the strict compliance of the procedure established under Sections 10 and 16 (1) of the Indian Telegraph Act 1885 r/w Sections 67 and 68 of the Indian Electricity Act 2003.

Prayer in WP.No.28808/2018 : To call for the records of the impugned order dated 3.10.2018 in Na.Ka.No.16013/2016/C1 of the 1st Respondent and quash the same and consequently forbearing the Respondents from proceedings with the Implementation of the project in the Lands of the petitioners without acquiring the Right of user on the lands of the petitioners mentioned in the Impugned order dated 3.10.2018 in Na.Ka.No.16013/2016/C1.



Prayer in WP.No.31046/2018 : To call for the records of the proceedings of the 1st respondent in Na.Ka.No. 4914/ 2017/ C1 dated 05.10.2018 and quash the same and consequently directing the respondents to adopt implement and adhere with the Provisions of Section 68 of the Electricity Act 2003 and the Works of Licensees Rules 2006

Prayer in WP.No.13171/2018 : To Call for the records of the impugned order dated 19.03.2018 in Na.Ka.No. 262/2017/ K4 of the 1st respondent and quash the same and consequently forbear the respondents 2 & 3 from taking steps to erect the HT Tower & Lines over the petitioners lands in S.F. No: 84/2 of Thottani Village Erode Taluk Erode District without acquiring the \"Right of way \" of the petitioners right under Article 300A of the constitution of india by following the procedure established by law i.e. the strict compliance of the procedure established under section 68(1) of the Indian Electricity Act 2003.

Prayer in WP.No.6257/2017 : To call for the records of the impugned order dated 23.02.2017 in Na.Ka.No.27016/2016/K4 of the 1st respondent and quash the same and consequently forbear the respondents 3 & 4 from taking steps to erect the HT Tower & Lines over the petitioners Lands measuring Acres 7.30Cents bearing S.F.Nos: 237 of Ayyampalayam Village Perunthurai Taluk Erode District till the strict compliance of the procedure established under sections 10 and 16(1) of the Indian Telegraph Act. 1885 read with section 68(1) of the Indian Electricity Act 2003.

Prayer in WP.No.27466/2017 : To call for the Records of the impugned order dated 05.10.2017 in Pa.Mu. No. 16404/2017/K4 of the 1st Respondent and quash the same and consequently forbearing the Respondents from proceeding with the Implementation of the Project in the Lands of the Petitioners without acquiring the Right of User on the Lands of the Petitioners mentioned in the impugned order dated 05.10.2017 in Pa.Mu.No.16404/2017/K4

Prayer in WP.No.7610/2017 : To call for the records of the Impugned order dt 16.3.2017 in Na. Ka. No.26667/2016/K4 of the 1st respondent and quash the same and consequently forbear the respondents 2 and 3 from taking steps to erect the HT Tower and Lines over the petitioners Lands bearing S.F. No. 694/2 and 694/4 of Periyapuliur Village Perunthurai Taluk Erode District till the strict compliance of the procedure established under Sections 10 and 16 (1) of the Indian Telegraph Act 1885 read with Section 68 (1) of the Indian Electricity Act 2003.



Prayer in WP.No.7609/2017 : To call for the records of the Impugned order dt 16.3.2017 in Na. Ka. No.26667/2016/K4 of the 1st respondent and quash the same and consequently forbear the respondents 2 and 3 from taking steps to erect the HT Tower and Lines over the petitioners Lands bearing S.F. No. 686/8 of Periyapuliyur Village Perunthurai Taluk Erode District till the strict compliance of the procedure established under Sections 10 and 16 (1) of the Indian Telegraph Act 1885 read with Section 68 (1) of the Indian Electricity Act 2003.

Prayer in WP.No.21163/2018 : To call for the Records of the Impugned order dated 06.08.2018 in Na.Ka.No.7517/2018 / K4 of the 1st Respondent and quash the same and consequently forbearing the Respondents from proceedings with the Implementation of the Project in the Lands of the Petitioners without acquiring the Right of User on the Lands of the petitioners mentioned in the Impugned order dated 06.08.2018 in Na.Ka.No.7517/2018/K4.

Prayer in WP.No.6258/2017 : To call for the records of the impugned order dated 23.02.2017 in Na.Ka.No.27016/2016/K4 of the 1st respondent and quash the same and consequently forbear the respondents 3 & 4 from taking steps to erect the HT Tower & Lines over the petitioners Lands measuring Acres 6.18 Cents bearing S.F.Nos: 238/2 239/3 246/3 & 246/5 of Pudahupalayam Village Perunthurai Taluk Erode District till the strict compliance of the procedure established under sections 10 and 16(1) of the Indian Telegraph Act. 1885 read with section 68(1) of the Indian Electricity Act 2003.

Prayer in WP.No.13172/2018 : To call for the records of the impugned order dated 23.02.2018 in Na.Ka.No. 27259/ 2017/ K4 of the 1st respondent and quash the same and consequently forbear the respondents 2 & 3 from taking steps to erect the HT Tower & Lines over the petitioners lands bearing S.F. Nos: 366/1 & 367/1 of Ingur Village sengulam Perunthurai Taluk Erode District without acquiring the \"Right of way \" of the petitioners right under Article 300A of the constitution of india by following the procedure established by law i.e. the strict compliance of the procedure established under section 68(1) of the indian electricity act 2003.

Prayer in WP.No.5877/2017 : To call for the records of the impugned order dated 21.2.2017 in Na.Ka. No.6233/ 2016/U4 of the 1st respondent and quash the same and consequently forbear the respondents 3 and 4 from taking steps to erect the HT Tower & Lines over the petitioner lands measuring Acres 4 bearing S.F.No.227/3A of Kanakkampalayam Village Tiruppur North Taluk Tiruppur District and S.F.No.258/2 & 259/2 of Perumanallur village Avinashi Taluk Tiruppur District till the strict



compliance of the procedure established under Sections 10 and 16(1) of the Indian Telegraph Act 1885 read with Section 68(1) of the Indian Electricity Act 2003.

Prayer in WP.No.6260/2017 : To call for the records of the impugned order dated 21.02.2017 in Na.Ka.No.13187/2016/U4 of the 1st respondent and quash the same and consequently forbear the respondents 3 & 4 from taking steps to erect the HT Tower & Lines over the petitioners Lands measuring Acres 1 bearing S.F.Nos: 166/1 165/2 & 167/1 of Pongupalayam village Tiruppur North Taluk Tiruppur District till the strict compliance of the procedure established under sections 10 and 16(1) of the Indian Telegraph Act. 1885 read with section 68(1) of the Indian Electricity Act 2003

Prayer in WP.No.6256/2017 : To call for the records of the impugned order dated 13.02.2017 in Na.Ka.No.12041/2016/U4 of the 1st respondent and quash the same and consequently forbear the respondents 3 & 4 from taking steps to erect the HT Tower & Lines over the petitioners Lands measuring Acres 6 bearing S.F.Nos: 34/1 34/2 34/3 34/5 34/6 & 34/7 of Kanakkampalayam Village Tiruppur North Taluk Tiruppur District till the strict compliance of the procedure established under sections 10 and 16(1) of the Indian Telegraph Act. 1885 read with section 68(1) of the Indian Electricity Act 2003

Prayer in WP.No.6636/2017 : To call for the records of the impugned order dt 21.2.2017 in Na. Ka. No.6233/2016/U4 of the 1st respondent and quash the same and consequently restrain the respondents 2 and 3 from taking steps to erect the HT Tower and Lines over the petitioners lands measuring Acre 1.40 cents bearing S.F. Nos.254/2 and 255/3 of Perumanallur Village Avinashi taluk Tiruppur District till the strict compliance of the procedure established under Sections 10 and 16 (1) of the Indian Telegraph Act 1885 read with Section 68 (1) of the Indian Electricity Act 2003.

Prayer in WP.No.6259/2017 : To call for the records of the impugned order dated 21.02.2017 in Na.Ka.No.6233/2016/U4 of the 1st respondent and quash the same and consequently forbear the respondents 2 & 3 from taking steps to erect the HT Tower & Lines over the petitioners Lands measuring Acres 2.10cents bearing S.F.Nos: 139/2A & 140/2 of Pongupalayam village Tiruppur North Taluk Tiruppur District till the strict compliance of the procedure established under sections 10 and 16(1) of the Indian Telegraph Act. 1885 read with section 68(1) of the Indian Electricity Act 2003



Prayer in WP.No.6632/2017 : to call for the records of the impugned order dt 4.10.2016 in Na. Ka. No. 6233/2016/U4 of the 1st respondent and quash the same and consequently restrain the respondents 2 and 3 from taking steps to erect the HT Tower and Lines over the petitioners lands measuring Acres 4.10 cents bearing S.F. Nos.113/2 114/1A1 115/2A and 118/2 of Pongupalayam Village Tiruppur North Taluk Tiruppur District till the strict compliance of the procedure established under Sections 10 and 16 (1) of the Indian Telegraph Act 1885 read with Section 68 (1) of the Indian Electricity Act 2003.

Prayer in WP.No.6631/2017 : To call for the records of the impugned order dt 21.2.2017 in Na. Ka. No. 13187/2016/U4 of the 1st respondent and quash the same and consequently restrain the respondents 2 and 3 from taking steps to erect the HT Tower and Lines over the petitioners lands measuring Acres 9.99 cents bearing S.F. No. 32/1 of Kanakkampalayam Village Tiruppur North Taluk Tiruppur District till the strict compliance of the procedure established under Sections 10 and 16 (1) of the Indian Telegraph Act 1885 read with Section 68 (1) of the Indian Electricity Act 2003.

Prayer in WP.No.5875/2017 : To call for the records of the impugned order dated 21.2.2017 in Na.Ka. No.13187/ 2016/U4 of the 1st respondent and quash the same and consequently forbear the respondents 3 and 4 from taking steps to erect the HT Tower & Lines over the petitioner lands measuring Acres 10 bearing S.F.No.199/1 of Kanakkampalayam Village Tiruppur North Taluk Tiruppur District till the strict compliance of the procedure established under Sections 10 and 16(1) of the Indian Telegraph Act 1885 read with Section 68(1) of the Indian Electricity Act 2003.

Prayer in WP.No.6637/2017 : To call for the records of the impugned order dt 21.2.2017 in Na. Ka. No. 6233/2016/U4 of the 1st respondent and quash the same and consequently restrain the respondents 2 and 3 from taking steps to erect the HT Tower and Lines over the petitioners lands measuring Acres 4.84 cents bearing S.F. No. 152/2 of Pongupalayam Village Tiruppur North Taluk Tiruppur District till the strict compliance of the procedure established under Sections 10 and 16 (1) of the Indian Telegraph Act 1885 read with Section 68 (1) of the Indian Electricity Act 2003.

Prayer in WP.No.5876/2017 : To call for the records of the impugned order dated 21.2.2017 in Na.Ka. No.6233/ 2016/U4 of the 1st respondent and quash the same and consequently forbear the respondents 3 and 4 from taking steps to erect the HT Tower & Lines over the petitioner lands measuring Acres 23 bearing S.F.No.290 & 291 of Chettipalayam Village Tiruppur North Taluk



Tiruppur District till the strict compliance of the procedure established under Sections 10 and 16(1) of the Indian Telegraph Act 1885 read with Section 68(1) of the Indian Electricity Act 2003

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For Appellant in
all W.As.

: Mr. V. Lakshminarayanan
for Mr.M.Easan

For Electricity
Board in all W.As.

: Mr.S.K.Raameshwar
Standing Counsel

For State Government

: Mr.N.Srinivasan,
Additional Government Pleader

COMMON JUDGMENT
(Delivered by C.V.KARTHIKEYAN, J)

The Writ Appeals have been filed under Clause 15 of the Letters Patent questioning the common Order passed in W.P.No. 27466 of 2018 batch dated 30.01.2019 whereby the learned Single Judge had dismissed the Writ Petitions.

2. The Writ Petitions have been filed calling for the records of the impugned order of the first respondent, District Collector, Erode District, Erode, whereby the District Collector had granted **Enter Upon Permission** to Electricity Board Officials and more particularly to the Tamil Nadu Transmission Corporation (TANTRANSCO) to **erect Towers and string Transmission Lines** over the lands belonging to the writ petitioners. This order was issued in furtherance of execution of the project relating to **establishment of 400KV DC Line with Quad Moose ACSR from Rasipalayam 400 KV SS to Dharmapuri (Palavadi) 400 KV SS and erection of 230 KV SC Line on DC Towers from Arasur 400 KV SS (PGCIL) to Ingur 230 KV SS (Line D).**

3. The learned Single Judge by relying upon **(2017) 5 SCC 143 [Power Grid Corporation of India Limited Vs. Century Textiles and Industries Limited and others]** and also on an earlier Judgment of a learned Single Judge of this Court in **W.P.No. 30124 of 2018 dated 07.12.2018** had held as follows:-

"11. In view of the legal principles adjudicated in the cases cited supra, this Court is of an opinion that the public welfare projects must be allowed to be implemented in its spirit. However, the



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Competent Authorities are bound to follow the procedures contemplated in the statutes and settle the full compensation to the persons who all are affected on account of the implementation of such projects.

12. Electricity being an essential one for all the citizens of our great Nation, the National level projects for transmission of electricity is unavoidable and which all are necessary for the purpose of providing infrastructures and for developmental activities across the Country. Thus, stalling of the entire project of erecting High Tension Electricity Towers in the localities are not desirable. However, the Authorities Competent must follow the procedure of assessing the less damage to the owners of the agricultural land. While preparing the project report, the experts are also to keep in mind that the project must be prepared by causing lesser damage to the agriculturists, who all are affected on account of such erection of High Tension Electricity Towers in their respective agricultural land.

13. This Court is of an opinion that the project of erecting High Tension Electricity Towers are carried out for the purpose of providing electricity to various villages and for the other developmental activities and for industrial developments. Thus, stalling the project will affect the developmental activities of our great Nation. Under these circumstances, the respondents are directed to settle full compensation in the event of no objection from the land owners and if there is an objections, then the Collector has to conduct an enquiry and pass orders. Once the permission is granted by the District Collector concerned, then the licensee is empowered to erect the High Tension Electricity Towers in accordance with the project.



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14. In any event payment of the compensation to the affected person cannot be delayed as the same is mandatory under the provisions of the Electricity Act. Even in case of objections, and an order is passed by the District Collector, the admissible compensation shall be settled in favour of the land owners immediately and if any dispute arising on account of the payment of compensation, the aggrieved person is at liberty to approach the District Judge concerned for the purpose of ascertaining the just compensation in accordance with law.

15. With these observations, all these writ petitions stands dismissed. No Costs. Consequently, connected miscellaneous petitions are closed."

4. Mr.V.Lakshminarayanan, learned counsel for the appellants had questioned the rationale of the learned Single Judge and based his arguments on the premise that TANTRANSCO had been conferred with permission for execution of transmission lines only under **Section 68 of the Electricity Act 2003** and therefore vehemently argued that TRANTRANSCO had not been conferred with the powers which a telegraph authority should possess under the provisions of the **Indian Telegraph Act, 1885** and which should have been conferred under **Section 164 of the Electricity Act 2013** by the State of Tamil Nadu. The learned counsel also pointed out that TANTRANSCO had violated the stipulations in **Sections 68 & 69 of the Electricity Act 2003** as well as **Rules 3 and 10 of the Works of Licensees Rules, 2006** in laying down the overhead lines and stated that therefore, the learned Single Judge had erred in law by permitting the same.

5. On the other hand, Mr.Abdul Saleem, learned standing counsel for the Electricity Board/TANTRANSCO was emphatic in his submissions that the authorised Licensees had been conferred with the requisite powers both under **Section 68 and under Section 164 of the Electricity Act 2003** by the Government of Tamil Nadu. The learned counsel urged that the order under challenge requires no interference.

6. The arguments advanced shall be later discussed in detail. A brief outlay of the facts reveal that a singular project had been approved by the Government of Tamil Nadu to



establish a **Green Energy Corridor**. The projects involved establishment of **400KV DC Line with Quad Moose ACSR from Rasipalayam 400 KV SS to Dharmapuri (Palavadi) 400 KV SS and erection of 230 KV SC Line on DC Towers from Arasur 400 KV SS (PGCIL) to Ingur 230 KV SS (Line D)**. Both the projects had been approved by the Government of Tamil Nadu vide **G.OMs.No. 74 Energy (A1) Department dated 26.11.2015**. The details of the project with the status are given below for better appreciation:-

ESTABLISHMENT OF 400 KV DC LINE WITH QUAD MOOSE ACSR FROM RASIPURAM 400 KV SS TO DHARMAPURI (PALAVADI) 400 KV SS

Scheme approved by
Government of Tamilnadu vide : G.O.Ms.No. 74 Energy (A1)
Department dated : 26.11.2015.

Tamil nadu electricity Board
proceeding No. : (Per.) CH TANTRANSCO
Proceedings No:190 dated
08.10.2014.

Date of commencement of Work : 21.12.2015

Scheduled date of completion : 18 months (20.12.2017)

Delay of the project : 18 months

Total cost of the project : 7,30 crore

Expenditure so far : 460 Crore

Percentage of work completed : 75%

Progress of work
Route length of the line : 190 Km

Total No of towers : 564 Nos.

Foundation completed : 527 Nos.

Erection completed : 465 Nos.

Stringing completed : 47.44 Nos.

Funding agencies : 40% Grant under National Clean
Energy Fund (NCEF) from MNRE
of Government of India and 40%
soft loan from M/s. KfW, German
Funding Agency.



**ERECTION OF 230 KV SC LINE ON District Collector TOWERS FROM
ARASUR 400 KV SS (PGCIL) TO INGUR 230 KV SS (LINE-D)**

Scheme approved by

Government of Tamilnadu vide : G.O.Ms.No. 74 Energy (A1)
Department dated : 26.11.2015.

Tamil nadu electricity Board
proceeding No.

: (Per.) CH TANTRANSCO
Proceedings No:49 dated
21.05.2015.

Date of commencement of Work : 30.06.2015

Scheduled date of completion : 15 months (29.09.2016)

Delay of the project : 32 months

Total cost of the project : 40.00 crore

Expenditure so far : 29.00 Crore

Percentage of work completed : 70%

Progress of work

Route length of the line : 54 Km

Total No of towers : 229 Nos.

Foundation completed : 186 Nos.

Erection completed : 166 Nos.

Stringing completed : 27.714 Nos.

Funding agencies : 40% Grant under National Clean
Energy Fund (NCEF) from MNRE
of Government of India and 40%
soft loan from M/s. KfW, German
Funding Agency.

7. The appellants are land owners of agricultural / semi urban lands over which the overhead electric transmission lines have to be drawn by erection of towers on the lands. The appellants have protested both erection of towers on their lands and drawing of overhead electric lines over and above their lands. The project as aforesaid had been funded with **40% grant**

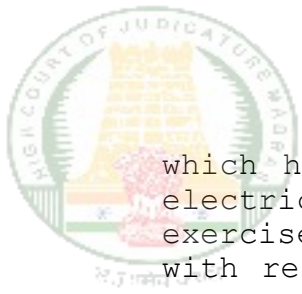


under the National Clean Energy Fund from the Government of India and with obtaining 40% soft loan from M/s. KfW German Funding Agency. Naturally time is of essence in execution and completion of the projects. The said project is for the benefit of the larger interest of the public. However, individual interests have surfaced and have questioned the execution of the projects. During the course of arguments, it had been stated with some anguish by the learned counsel for the respondents / TANTRANSCO that the entire project has been caught in a web of Court litigation and had not been completed even though the schedule date of completion as seen from the data provided above had long since passed.

8. The source and scope of the authority or power of the respondents to take up the work of the implementation of the scheme of laying of transmission line has to be considered. **The permission granted by the State Government in pursuance of the power under Section 164 of the Electricity Act, 2003 constitutes the source of the authority, TANTRANSCO.** It would be only appropriate to examine **Section 164 of the Electricity Act, 2003.** Section 164 of the Electricity Act, 2003, reads as under:

"164. Exercise of powers of Telegraph Authority in certain cases.- The Appropriate Government may, by order in writing, for the placing of electric lines or electrical plant for the transmission of electricity or for the purpose of telephonic or telegraphic communications necessary for the proper co-ordination of works, **confer upon** any public officer, **licensee** or any other person engaged in the business of supplying electricity under this Act, **subject to such conditions and restrictions,** if any, as the Appropriate Government may think fit to impose and to the provisions of the **Indian Telegraph Act, 1885 (13 of 1885), any of the powers which the telegraph authority possesses** under that Act with respect to the placing of telegraph lines and posts **for the purposes of a telegraph established or maintained, by the Government or to be so established or maintained."**

9. A reading of the above Section makes it evident that it is the Government of Tamil Nadu, the Appropriate Government,



which has the power to authorise, for the purpose of stringing electric transmission lines to a licensee, TANTRANSCO to exercise any of the powers which a telegraph authority possesses with respect to the placing of telegraph line and posts for the purposes of a telegraph established or maintained by the Government. There is no provision to afford any hearing. It is only an enabling section. At the time of conferring of authorisation to a TANTRANSCO, **no project had been envisaged and it had never been determined as to whose lands the electric lines or towers are likely to be placed. No cause for legal injury had arisen at this stage. There is also no injured or affected person.** Hence, it can be safely concluded that **there was no question of any person being affected by authorisation under Section 164 of the Electricity Act, 2003. Thus it does not violate the principles of natural justice or fairness or even any fundamental right and freedom to carry on any occupation, business etc. under Articles 14, 21 and 19(1)(g) of the Constitution of India.**

10. In exercise of the said enabling power, the State of Tamil Nadu had passed the following Government Order:-

"Energy (C.3) Department

G.O. (Ms.) No. 16

dated 23.02.2012

From the Chairman, Tamil Nadu Transmission Corporation Limited letter No. CH/TR/DIR/TP/SE/TR-1/EW/A.1/F.G/D.145/2011 dated 29.04.2011.

ORDER:

In the letter read above the Chairman, Tamil Nadu Transmission Corporation Limited has requested that a Notification may be caused to be issued by the Government empowering the Tamil Nadu Transmission Corporation Limited has requested that a Notification may be caused to be issued by the Government empowering the Tamil Nadu Transmission Corporation Limited and Tamil Nadu Generation and Distribution Corporation Limited to exercise such powers for placing of electric supply lines that a telegraph authority possess under the provisions of Indian Telegraph Act, 1885 under Section 164 of Electricity Act, 2003.

2. The Government after careful examination



have decided to issue a notification in this regard. Accordingly, the following Notification will be published in the next issue of the Tamil Nadu Government Gazette:-

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NOTIFICATION:

In exercise of the powers conferred under Section 164 of the Electricity Act 2003 (Central Act 36 of 2003), the Governor of Tamil Nadu for the placing of electric lines for the transmission of electricity, hereby confers upon the Tamil Nadu Transmission Corporation Limited and Tamil Nadu Generation and Distribution Corporation Limited, the powers which the telegraph authority possesses under the provisions of the Indian Telegraph Act, 1885 (Central Act 13 of 1885).

[BY ORDER OF THE GOVERNOR]

RAMESH KUMAR KHANNA

Principal Secretary to
Government"

11. It is clear from the notification that it is general in nature. It had granted authorisation only for the work of placing of electric lines for the transmission of electricity to TANTRANSO with the same powers as that granted to a Telegraph Authority.

12. The powers of a Telegraph Authority for the purpose of establishing or maintaining a telegraph line are delineated in Part III of the Telegraph Act 1885. Sections 10 to 17 contained in Part-III deal with powers of the telegraph authority in respect of placing, establishing and maintaining of the telegraph lines and posts. We are concerned here particularly with the powers under Sections 10, 16 and 17 of the Telegraph Act, 1885. These sections define the powers of the telegraph authority and which powers had been conferred on TANTRANSO. These sections are reproduced as under:

"10. Power for telegraph authority to place and maintain telegraph lines and posts.--The telegraph authority may, from time to time, place and maintain a telegraph line under, over, along, or across, and posts in or upon any immovable property:



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Provided that— (a) the telegraph authority **shall not exercise the powers conferred by this section except for the purposes of a telegraph established or maintained by the [Central Government], or to be so established or maintained;** (b) the [Central Government] shall not acquire any right other than that of user only in the property under, over, along, across in or upon which the telegraph authority places any telegraph line or post; and (c) except as hereinafter provided, the telegraph authority shall not exercise those powers in respect of any property vested in or under the control or management of any local authority, without the permission of that authority; and (d) **in the exercise of the powers conferred by this section, the telegraph authority shall do as little damage as possible, and, when it has exercised those powers in respect of any property other than that referred to in clause (c), shall pay full compensation to all persons interested for any damage sustained by them by reason of the exercise of those powers.**

16. Exercise of powers conferred by section 10, and disputes as to compensation, in case of property other than that of a local authority.—(1) If the exercise of the powers mentioned in section 10 in respect of property referred to in clause (d) of that section is resisted or 45 obstructed, the District Magistrate may, in his discretion, order that the telegraph authority shall be permitted to exercise them. (2) If, after the making of an order under sub section (1), any person resists the exercise of those powers, or, having control over the property, does not give all facilities for this being exercised, he shall be deemed to have committed an offence under section 188 of the Indian Penal Code (45 of 1860). (3) If any dispute arises concerning the sufficiency of the compensation to be paid



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under section 10, clause (d), it shall, on application for that purpose by either of the disputing parties to the District Judge within whose jurisdiction the property is situate, be determined by him.

(4) If any dispute arises as to the persons entitled to receive compensation, or as to the proportions in which the persons interested are entitled to share in it, the telegraph authority may pay into the Court of the District Judge such amount as he deems sufficient or, where all the disputing parties have in writing admitted the amount tendered to be sufficient or the amount has been determined under sub-section (3), that amount; and **the District Judge, after giving notice to the parties and hearing such of them as desire to be heard, shall determine the persons entitled to receive the compensation or, as the case may be, the proportions in which the persons interested are entitled to share in it.**

(5) **Every determination of a dispute by a District Judge under subsection (3) or sub-section (4) shall be final:** Provided that nothing in this sub-section shall affect the **right of any person to recover by suit** the whole or any part of any compensation paid by the telegraph authority, from the person who has received the same.

17. Removal or alteration of telegraph line or post on property other than that of a local authority.—(1) When, under the foregoing provisions of this Act, a telegraph line or post has been placed by the telegraph authority under, over, along, across, in or upon any property, not being property vested in or under the control or management of a local authority, and any person entitled to do so **desires** to deal with that property in such a manner as **to render it necessary** or convenient that **the telegraph line or post should be removed to another part thereof or to a higher or lower level or altered**



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in form, he may require the telegraph authority to remove or alter the line or post accordingly: Provided that, if compensation has been paid under section 10, clause (d), he shall, when making the requisition, tender to the telegraph authority the amount requisite to defray the expense of the removal or alteration, or half of the amount paid as compensation, whichever may be the smaller sum. (2) If the telegraph authority omits to comply with the requisition, the person making it may apply to the District Magistrate within whose jurisdiction the property is situated to order the removal or alteration. 46 (3) A District Magistrate receiving an application under sub-section (2) may, in his discretion reject the same or make an order, absolutely or subject to conditions, for the removal of the telegraph line or post to any other part of the property or to higher or lower level or for the alteration of its form; and the order so made shall be final."

13. Section 10 that grants authority only for the limited purpose of establishing or maintaining a telegraph. It does not provide any other right to the telegraph authority. It is only a user in respect of the property over, which a telegraph line passes. By exercising such power, the authority does not become owner of the property and all that it gets is right of user of the property. The Section does not contemplate any notice or hearing before exercising such power to draw a telegraph line, although it envisages payment of compensation. However, it would not make exercise of power under Section 10, arbitrary or violative of the principles of Natural Justice as contemplated under Articles 14 and 21 of the Constitution. The right to property under Article 300A is a Constitutional right. It is not absolute and it can be taken away by authority of law.

14. But Section 10 of the Telegraph Act, 1885, does not take away any right to property. It only creates some restrictions on the enjoyment of right to property by creating a right of user in the telegraph authority. Proviso (a) to Section 10 restricts the power of the telegraph authority only to the draw a telegraph line. It does not grant the Authority provision to use the power for any other purpose. The object is



to provide to the Government or to any other licensee to place telegraph lines and posts which are projects, eminently in public interest. Further, under Proviso (d) the Authority should cause as little damage as possible while undertaking the work. It also mandates that the Authority must pay compensation to the affected person for the damage caused by reason of exercise of the power. Thus, Section 10 prescribes a just and fair procedure for placing limitations on full enjoyment of property. It therefore, cannot be said to be arbitrary and violative of Articles 14 and 21 or 300-A of the Constitution of India, just because it does not contain any provision for issuance of notice or giving hearing to affected person before the work is undertaken.

15. When the provision of Section 10 is read with Sections 16 and 17, it would become clear that under the scheme of Part-III of the Telegraphic Act, 1885 a balance has been struck between the necessity of public interest and the individual need by addressing the grievance of the aggrieved. Notice and hearing have to be read in these sections as they confer a discretion upon the District Magistrate to adjudicate on the justifiability of the objection or acceptability of the suggestion and no public authority can exercise a discretion arbitrarily. Any exercise of such discretion is likely to have ripple effects and civil consequences for the owner or occupier of the private land on the one hand and the escalation in cost and delay in execution on the other hand. Therefore, provision of fair opportunity of hearing in exercise of such a discretion is in consonance with the mandate of Articles 14 and 21. We hold that Section 10 by virtue of Sections 16 and 17, on the whole provides for a fair procedure for a partial deprivation of right to property and simultaneous right to TANTRANSO to enter upon the property only as an user to lay electric Towers.

16. We are conscious of the fact that finalization of route of transmission line is a highly technical and specialized subject. Also, the route of transmission line in this case runs into several hundreds of kilometers and it passes over different lands of different persons.

17. TANTRANSO had acquired only right of user in the lands in question and that too in lieu of payment of full compensation for the damages caused. The Rule of Natural Justice is subserved by the procedure laid down in Part III, particularly in Sections 10, 16 and 17 of the Telegraph Act, 1885. Thus, we find that it is not necessary to give notice to the owners or occupants of private lands at the time of finalization of the route of the transmission line or even at the time of commencement of the project.



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18. Section 68 of the Electricity Act relates to overhead lines and is as follows:-

"68. Overhead lines.- (1) An overhead line shall, with prior approval of the Appropriate Government, be installed or kept installed above ground in accordance with the provisions of sub-section(2) .

(2) The provisions contained in sub-section (1) shall not apply-

(a) in relation to an electric line which has a nominal voltage not exceeding 11 kilovolts and is used or intended to be used for supplying to a single consumer;

(b) in relation to so much of an electric line as is or will be within premisses in the occupation or control of the person responsible for its installation; or

(c) in such other cases, as may be prescribed.

(3) The Appropriate Government shall, while granting approval under sub-section (1), impose such conditions (including conditions as to the ownership and operation of the line) as appear to it to be necessary.

(4) The Appropriate government may vary or revoke the approval at any time after the end of such period as may be stipulated in the approval granted by it.

(5) Where any tree standing or lying near an overhead line or where any structure or other object which has been placed or has fallen near an overhead line subsequent to the placing of such line, interrupts or interferes with, or is likely to interrupt or interfere with, the conveyance or transmission of Electricity or the accessibility of any works, an Executive Magistrate or



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authority specified by the Appropriate Government may, on the application of the licensee, cause the tree, structure or object to be removed or otherwise dealt with as he or it thinks fit.

(6) When disposing of an application under sub-section (5), an Executive Magistrate or authority specified under that sub-section shall, in the case of any tree in existence before the placing of the overhead line, award to the person interested in the tree such compensation as he thinks reasonable, and such person may recover the same from the licensee.

Explanation.- For the purpose of this section, the expression "tree" shall be deemed to include any shrub, hedge, jungle growth or other plant."

19. The State of Tamil Nadu issued **G.O.Ms.No. 74, Energy (A1) Department dated 26.11.2015** granted permission to TANTRANSO as per **Section 68 of the Electricity Act 2003 for erecting and establishing electric transmission lines for executing 30 schemes** which were annexed to the Order. The projects mentioned above have been specifically stated in the annexure to the said Government Order. The Government Order is as follows:-

"Energy (A1) Department

G.O. (Ms.) No. 74

dated 26.11.2016

1. G.O. (Ms.) No. 102, Energy (C3) Department, dated 10.12.2009.

2. From the Principal Secretary/Chairman, Tamil Nadu Transmission Corporation Limited
Lr.No.CE/TR/SE/TR-I/EW/A1/F.Lines App./D.No.
085/15, dated 26.09.2015.

ORDER:

In the Government Order 1st read above orders were issued according administrative approval to Tamil Nadu Electricity Board for executing the power evacuation line works for the NCTPS Stage-II and MTPS Stage - III projects as provided for



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under Sections 68 and 164 of the Electricity Act, 2003.

2. In the letter 2nd read above the Principal Secretary / Chairman, TANTRANSCO has informed that

i. A number of establishment lines are being executed by TANTRANSCO to augment and strengthen the existing transmission network to cope with the growing demand for power and to facilitate transfer of interstate power.

ii. Nowadays objections are encountered while executing the establishment line works by TANTRANSCO and the works are getting delayed due to court cases filed by land owners.

3. The Principal Secretary/Chairman, TANTRANSCO has therefore requested the Government to issue necessary Government orders according approval as per Section 68 of Electricity Act, 2003 for early execution of the 30 schemes as in the annexure.

4. The Government after careful examination accepts the request of the Principal Secretary/Chairman, Tamil Nadu Transmission Corporation Limited and permit TANTRANSCO as per Section 68 of Electricity Act, 2003 for erection of EHT lines for executing 30 schemes Annexed to this order.

(BY ORDER OF THE GOVERNOR)

RAJESH LAKHONI

SECRETARY TO GOVERNMENT"

Scheme 19 in the Annexure is as follows:-

"400 KV DC line with Quad Moosee ACSR from Rasipalayam 400 KV SS to Dharmapuri (Palavadi) 400 KV SS Route length in 195.00 kms."

This Scheme is the subject scheme of the instant Writ Appeals.

20. It is thus seen that TANTRANSCO had been conferred with approval both under Section 164 and under Section 68 of the Electricity Act 2003, and more importantly with specific reference to the project under consideration in these Writ Appeals.



21. Learned counsel for the appellants raised contentions relating to the **Works of Licensees Rules 2006**. We hold that this is misplaced since the **said rules have been framed under Section 67(2) of the Electricity Act 2003**. **Section 67 of Electricity Act, 2003 relates to provision as to opening of streets, railways, etc.** Under the said Rules, the Appropriate Government was authorised to frame rules with respect to the works specified under **Section 67**, namely,

"(a) to open and break up the soil and pavement of any **street, railway or tramway**;

(b) to open and break up any **sewer, drain or tunnel** in or under any street, railway or tramway;

(c) to alter the position of any line or **works or pipes**, other than a main sewer pipe;

(d) to lay down and place **electric lines, electrical plant** and other works;

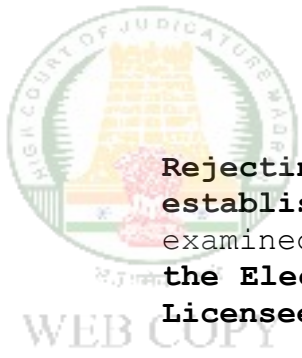
(e) to repair, alter or remove the same;

(f) to do all other acts necessary for **transmission or supply of electricity**."

Clause (f) cannot be read independently and **has to be read in conjunction with** the works specified in **Clauses (a) to (e)**.

22. Admittedly, in the present case, the respondents were erecting overhead lines under **Section 68 of the Electricity Act 2003** which has been extracted above. Execution of work under the provisions of **Section 68 of the Electricity Act 2003 does not envisage either framing of rules or application of the rules framed with the power exercised under Section 67(2) of the Electricity Act, 2003**. Consequently, **references to the Works and Licensees Rules 2006, is totally misplaced** in the context and facts of the present case.

23. As a matter of fact, discussion on these aspects had been made by the Hon'ble Supreme Court in **(2017) 5 SCC 143 [Power Grid Corporation of India Limited Vs. Century Textiles and Industries Limited and Others]**. In the said case, Century Textiles and Industries Limited had challenged laying of transmission lines by Power Grid Corporation of India Limited, a Government of India Undertaking, parallel to the existing lines over a cement manufacturing unit for which they had a registered lease deed executed with the State Government. In that case also, excavation work for erection of towers had started. The transmission lines were to pass through the property leased out.



Rejecting the challenge over erection of towers and establishment of overhead lines, the Hon'ble Supreme Court examined the provisions and implications of **Sections 68 & 69 of the Electricity Act 2003** and also **Rules 3 and 10 of the Works of Licensees Rules 2006** and held as follows:-

"15. It is further submitted that there is violation of Sections 68 and 69 of the Electricity Act, 2003 as well as Rules 3 and 10 of the Works of Licensees Rules, 2006 (hereinafter referred to as "the 2006 Rules") in laying down the overhead lines and, therefore, the High Court erred in law in permitting the same.

16. In order to appreciate the contentions of the writ petitioner, it is necessary to have a glimpse of the provisions of the Electricity Act, 2003 as well as the Rules on which reliance has been placed by Mr Shrivastava.

17. Sections 68 and 69 of the Electricity Act, 2003 fall in Part VIII with the caption "Works". These two provisions directly deal with the overhead lines. As per Section 68, an overhead line can be installed or kept installed above ground "with prior approval of the appropriate Government". "Appropriate Government" is defined under Section 2(5) of the Electricity Act, 2003 and it is not in dispute that in the instant case, it would be the Central Government as it is the Central Government which is the appropriate Government in respect of a generating company wholly or partly owned by it and Power Grid is a company which is owned by the Central Government. The argument was that no such prior approval from the Central Government was obtained in terms of the aforesaid provision.



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18. We find that this assertion is **factually incorrect**. The learned Single Judge specifically noted that the **Power Grid had obtained prior approval of the Central Government under Section 68(1) of the Electricity Act, 2003**. Though, an attempt was made that this finding is incorrect, we do not agree with the said submission of the writ petitioner as the learned ASG pointed out to us the document containing such an approval.

19. Another submission made was that **permission of the writ petitioner was not obtained which was needed as per Rule 3 of the 2006 Rules. Rule 3(a) reads** as under:

"3. Licensee to carry out works.-(1) A licensee may-

(a) carry out works, lay down or place any electric supply line or other works in, through, or against, any building, or on, over or under any land whereon, wherever or whereunder any electric supply line or works has not already been lawfully laid down or placed by such licensee, with the prior consent of the owner or occupier of any building or land;"

20. In the instant case, the **aforesaid Rule is not applicable in view of Section 164 of the Electricity Act, 2003, which reads as under:**

"164. Exercise of powers of telegraph authority in certain cases.-The appropriate Government may, by order in writing, for the placing of electric lines or electrical plant for the transmission of electricity or for the purpose of telephonic or telegraphic communications necessary for the proper coordination of works, confer upon any public officer, licensee or any other person engaged in the business of



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supplying electricity under this Act, subject to such conditions and restrictions, if any, as the appropriate Government may think fit to impose and to the provisions of the Indian Telegraph Act, 1885 (13 of 1885), **any of the powers which the telegraph authority possesses under that Act with respect to the placing of telegraph lines and posts** for the purposes of a telegraph established or maintained, by the Government or to be so established or maintained."

21. It is not in dispute that in exercise of powers under the aforesaid provision, the **appropriate Government has conferred the powers of telegraph authority vide Notification dated 24-12-2003 exercisable under the Telegraph Act, 1885 upon the Power Grid.** It may also be mentioned that a Central transmission utility (CTU) is a **deemed licensee under the second proviso to Section 14 of the Electricity Act, 2003. Power Grid is a Central transmission utility and is, therefore, a deemed licensee under the Electricity Act, 2003.** This coupled with the fact that Power Grid is treated as authority under the **Telegraph Act, 1885, it acquires all such powers which are vested in a telegraph authority** under the provisions of the Telegraph Act, 1885 **including power to eliminate any obstruction in the laying down of power transmission lines.** As per the provisions of the Telegraph Act, 1885, **unobstructed access to lay down telegraph and/or electricity transmission lines is an imperative in the larger public interest.** Electrification of villages all over the country and availability of telegraph lines are the most essential requirements for growth and development of any country, economy and the well-being/progress of the citizens. The



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other than that referred to in clause (c), shall pay full compensation to all persons interested for any damage sustained by them by reason of the exercise of those powers.

15 Disputes between telegraph authority and local authority.—(1) If any dispute arises between the telegraph authority and a local authority in consequence of the local authority refusing the permission referred to in Section 10 clause (c), or prescribing any condition under Section 12, or in consequence of the telegraph authority omitting to comply with a requisition made under Section 13, or otherwise in respect of the exercise of the powers conferred by this Act, it shall be determined by such officer as the Central Government may appoint either generally or specially in this behalf.

(2) An appeal from the determination of the officer so appointed shall lie to the Central Government; and the order of the Central Government shall be final.

16. Exercise of powers conferred by Section 10, and disputes as to compensation, in case of property other than that of a local authority.—(1) If the exercise of the powers mentioned in Section 10 in respect of property referred to in clause (d) of that section is resisted or obstructed, the District Magistrate may, in his discretion, order that the telegraph authority shall be permitted to exercise them.

(2) If, after the making of an order under sub-section (1), any person resists the exercise of those powers, or, having control over the property, does not give all facilities for their being exercised, he shall be deemed to have committed an offence under Section



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188 of the Indian Penal Code, 1860 (45 of 1860).

(3) **If any dispute arises concerning the sufficiency of the compensation to be paid under Section 10 clause (d), it shall, on application for that purpose by either of the disputing parties to the District Judge within whose jurisdiction the property is situate, be determined by him.**

(4) **If any dispute arises as to the persons entitled to receive compensation, or as to the proportions in which the persons interested are entitled to share in it, the telegraph authority may pay into the court of the District Judge such amount as he deems sufficient or, where all the disputing parties have in writing admitted the amount tendered to be sufficient or the amount has been determined under sub-section (3), that amount; and the District Judge, after giving notice to the parties and hearing such of them as desire to be heard, shall determine the persons entitled to receive the compensation or, as the case may be, the proportions in which the persons interested are entitled to share in it.**

(5) **Every determination of a dispute by a District Judge under sub-section (3) or sub-section (4) shall be final:**

Provided that nothing in this sub-section shall affect the right of any person to recover by suit the whole or any part of any compensation paid by the telegraph authority, from the person who has received the same."

23. Section 10 of the Telegraph Act, 1885 empowers the telegraph authority to place and maintain a telegraph line under, over, along or across and posts in or upon any immovable property. The provision of Section 10(b) of the Telegraph Act, 1885 makes it abundantly clear that while acquiring the power to lay down telegraph lines, the Central Government



DC Line with Quad Moose ACSR from Rasipalayam 400 KV SS to Dharmapuri (Palavadi) 400 KV SS and erection of 230 KV SC Line on DC Towers from Arasur 400 KV SS (PGCIL) to Ingur 230 KV SS (Line D).

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25. The Writ Appeal Nos. 889, 894, 908 to 911, 915, 2032, 2044 & 2052 of 2019 relate to establishment of 400KV DC Line with Quad Moose ACSR from Rasipalayam 400 KV SS to Dharmapuri (Palavadi) 400 KV SS and the Writ Appeals Nos. 918, 1923, 1931, 1932, 1934, 1936, 1939, 1947, 1949, 1955 & 1968 of 2019 relate to Erection of 230 KV SC Line on DC Towers from Arasur 400 KV SS (PGCIL) to Ingur 230 KV SS (Line D).

26. A status report of the both the projects had been submitted during the course of hearing by the learned counsel for the respondents. It is seen that with respect to Establishment of 400KV DC Line with Quad Moose ACSR from Rasipalayam 400 KV SS to Dharmapuri (Palavadi) 400 KV SS, foundation for erection of tower has been completed for 527 numbers out of a total of 564 numbers and erection of 465 towers have been completed. However the stringing of electricity line has been completed only for 47.44 kms out of the total length of 190 kms.

27. Similarly with respect to erection of 230 KV SC Line on DC Towers from Arasur 400 KV SS (PGCIL) to Ingur 230 KV SS (Line D), foundation for erection of tower has been completed for 186 towers out of a total of 229 towers and only 166 towers have been completely erected. The electricity line stringing has been completed only for 27.714 kms out of the total route length of 54 kms.

28. It is thus evident that by drawing the respondents to an endless line of litigation, the writ appellants have effectively stalled the project from being completed. This is against public interest and public interest must override the private interests of the appellants. Their bona fide are questionable.

29. In this connection, the directions of the learned Single Judge that the respondents are to settle full compensation and the guidelines laid down for the same are well founded and are upheld by us.

30. However, in the larger public interest, we also issue the following directions:-

I. The respondents are directed to ensure 100% completion on war footing of the works of establishment of 400KV DC Line with Quad Moose ACSR from Rasipalayam 400 KV SS to Dharmapuri



(Palavadi) 400 KV SS and erection of 230 KV SC Line on DC Towers from Arasur 400 KV SS (PGCIL) to Ingur 230 KV SS (Line D), which project has been stalled owing to successive litigations in various course and prolonging of such litigations effectively by the writ appellants and by other land owners;

II. The respondents are specifically directed to ensure completion of the project as expeditiously as possible particularly also since the projects have been funded by grant under the National Clean Energy Fund from Government of India and soft loan from M/s. KfW, German Funding Agency;

III. The District Collector is directed to ensure that enquires are conducted and orders are passed without any delay with respect to payment of compensation and if any objections are raised by holding enquiry on a day-to-day basis and if necessary to form a separate Cell for such enquiry; and finally,

IV. The respondents are specifically granted permission to enter upon the lands of the appellants and such other land owners, who had raised objections and ensure that the towers are erected and overhead lines are drawn without any further delay.

31. We are confident that the concerned Officials would bestow their attention in complying with the directions. The issue of payment of compensation can be taken up simultaneously, but independently, as directed by the learned Single Judge and pendency of enquiries regarding the quantum of compensation should not be a ground to deny permission for entry upon the lands and erection of towers and drawing of overhead lines. Enquiry into grant on otherwise of compensation are an entirely separate independent procedure.

32. In view of the above reasons and particularly in view of the fact that the challenge to the two projects are also found to be motivated with personal interest overriding larger public interest, we have no hesitation in holding that the **Writ Appeals are devoid of merits and deserve to be dismissed.** We direct the respondents to produce a copy of this order before all forums, Civil, Judicial or Quasi Judicial to ensure that the project or such other projects are not injuncted from further progress by order of any Court or any Judicial Authority.

33. Accordingly, the Writ Appeals are dismissed. No order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar



To

1. The District Collector,
Erode District,
Erode - 638 011.
2. The District Collector,
Tiruppur District, Tiruppur.
3. The Chairman
Tamil Nadu Electricity Board,
10th Floor, NPKRR Maaligai,
144, Anna Salai,
Chennai - 600 003.
4. The Superintendent Engineer
General Construction Circle,
Tamil Nadu Electricity Board
TANTRANSCO
Dr.Subbarayan Road
Tatabad, Coimbatore - 641 012.
5. The Executive Engineer
Protection and Communication
TANTRANSCO
Ella medu, Engur,
Perundurai Taluk, Erode District.
6. The Assistant Executive Engineer
TANTRANSCO, TLC Wing, Erode - 9.

+10ccs to M/s.M.Easan,Advocate Sr.No.60036
+1 cc to The Government Pleader, SR.No.60680

AKM/04.09.19/33P- 18C /
AKM/08.01.2020

Judgement made in

W.A.Nos. 2032, 2044, 2052, 889, 894, 908, 909, 910, 911, 915,
918, 1923, 1931, 1932, 1934, 1936, 1939, 1947, 1949, 1955 & 1968
of 2019
And
C.M.P.Nos. 13696, 13752, 13767, 6879, 6843, 6884, 6892, 6887,
6921, 6893, 6951, 13128, 13143, 13145, 13154, 13156, 13161,
13185, 13194, 13249 & 13325 of 2019