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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR

and

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.11049 of 2017

and

WMP No.11998 of 2017

Mr.Blessington

... Petitioner

Vs

1. The Chairman cum Managing Director,
TANGEDCO, formerly TNEB,
10th Floor, NPKRR Maligai,
No.144, Anna Salai, Chennai - 02.

2. The Chairman (Superintending Engineer),
TANGEDCO, formerly TNEB,
110 KV SS Complex,
Anna Main Road, K.K.Nagar,
Chennai - 78.

3. The Assistant Engineer,
Tamil Nadu Electricity Board,
Perungudi Zone,
Chennai - 600 096.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, issuance of a writ of mandamus, for a direction based on the representation dated 15.02.2016 and 13.04.2017 to direct the respondent 1 to 3 to immediately remove the post (VEKN:26), which is situated in front of the Plot.1, from the road in veera Vanchinathan 1st street and re installed it in a safer place and also not to alter the placement of the EB Post (VEKN:29) from its original place, as early as possible to avoid the unwanted damages and unaccounted loss to the residents of Veeravanchinathan, 1st Street, Perungudi, Chennai - 600 096.

For Petitioner : No Appearance

For Respondents: Mr.S.K.Rameshuwar (for R1 to R3)
Standing Counsel for TANGEDCO



O R D E R

(Order of this Court was made by S.MANIKUMAR, J.)

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On 18.07.2019, there was no representation for the writ petitioner. Hence, we passed the following order.

"No representation for the petitioner.

2. Mr.S.K.Rameshwar, learned counsel appearing for the respondents 1 to 3 submitted that when Smt.M.Veerammal, W/o.Munusamy, has submitted an application, dated 17/4/2017, requesting to relocate the pole, at the proposed gate of her premises, under Deposit Contribution Work basis, writ petitioner has submitted a letter, dated 19/4/2017, objecting to the request made by Smt.M.Veerammal. He therefore, submitted that there is no public interest involved in this writ petition, but it is purely a personal interest litigation.

3. Learned counsel appearing for the respondents 1 to 3 is directed to produce a copy of the objection letter, dated 19/4/2017.

4. Post for dismissal on 19/7/2019.

2. Today also there is no representation and we propose to pass orders on merits.

3. Petitioner has sought for a writ of mandamus, for a direction based on the representations dated 15.02.2016 and 13.04.2017, respectively, to direct the Chairman cum Managing Director, TANGEDCO, Chennai, the Chairman (Superintending Engineer), TANGEDCO, Chennai and the Assistant Engineer, TNEB, Perungudi, respondents 1 to 3 respectively, to immediately remove the post (VEKN:26), which is situated, in front of the Plot.1, from the road in veera Vanchinathan 1st street, and re install it, in a safer place and not to alter the placement of the EB Post (VEKN:29) from its original place, as early as possible to avoid unwanted damages and unaccounted loss to the residents of Veeravanchinathan, 1st Street, Perungudi, Chennai - 600 096.

4. In the supporting affidavit, petitioner has stated as follows:

(i) Petitioner along with his family members, are residing at No.8/24, Veera Vanchinathan 1st Street, Perungudi, Chennai, for the last 30 years, and in the said street, the Assistant Engineer, TNEB, Perungudi Zone, Chennai, the third respondent has installed 5 nos. of RCC Electricity posts. All the posts are being mounted at an equal distance on the western side



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of the road. The power supplies are being given through a flyover cables, which are supported by the RCC Posts.

(ii) Petitioner has further stated that few years ago, the residents, on the Western side of the said street, gradually started to encroach the public road towards the Eastern side. The original breadth of the road, in the street, was much larger, approximately 16 to 18 feet, whereas now it has been shrinking to a 12 feet road and become much congested. It can be easily proved in a naked eye that the EB posts are found 2 feet inside the properties on the Western side.

(iii) Petitioner has submitted that the third respondent had removed some EB post from the original place and rooted them into the road in a most endangered and negligent manner. As it seems a big threat to the public, school children, transporters and the local residents, the petitioner and the other local residents of the area strictly opposed the third respondent's reckless act and requested the third respondent to re-consider about the installation plans. But the third respondent had never heeded to those requests and suggestions made by the petitioner, as well as the other residents of the area, but the third respondent has successfully installed, which proves that the third respondent has not raised objections to the encroachers, on the contra, he has deliberately adjusted and bend the rules to favour the landlords on the western side of the street. It is obviously proved that the third respondent has consciously re routed the flyover power cables under the ground, in order to favour the landlord at Door No.5, of the street, who completely violated and encroached beyond the power lines.

(iv) In these circumstances, the third respondent is again attempting to remove a post, bearing identification No.VEKN:29, which is situated and found inside the plot, bearing Door No.4, and move it into the road and exactly in front of the petitioner's house. Third respondent has not responded to the request and complaints of the local residents in this regard, but arbitrarily, is carrying the job of reinstallation of the post, without thinking the safety of the residents in the area. Moreover, it is important to mention here that the posts are used to identify the original boundaries of the public common passage in the road, which are now under the



encroachment.

(v) Petitioner has further submitted that moreover, the EB posts, looks so dangerous and are of severe threat to the life of the residents and animals in the nearby area. The small street is almost busy with four wheels, school vans, and other big size vehicles, which are having threat from the new installed EB posts. On few occasions, the vehicles were rubbed with the post in the roads, in the peak hours. Local residents have given several oral reminders on various occasions and written representations to the third respondent on 15/02/2017, in this regard. The same were duly acknowledged by the third respondent, but surprisingly he did not come forward to act as required. Hence, petitioner, by duly representing the other residents of the said area, has sent a legal notice on 18/04/2017, calling upon the respondents to pay attention in the above issue, and to take appropriate and pre cautionary steps to remove the post (VEKN : 26) immediately from the road and re install them in a safer place as they were earlier, and also not to change the placement of the post bearing identification no.VEKN:29, thereby to avoid any unwanted occurrences and accidents. As there was no response, petitioner has filed the instant writ petition for the relief stated supra.

5. In the Counter affidavit filed by the Assistant Engineer, Perungudi North, CEDC/SOUTH, Chennai, it is stated as follows:-

(i) The LOW TENSION network was established and is being maintained by TANGEDCO Low Tension for feeding supply to the consumer's premises at Veeravanchinathan 1st Street situated at Perungudi area. This is LOW TENSION Over Head network system which is supported by RCC poles as per the standard design. The LOW TENSION network at Veeravanchinathan 1st Street is supported by 5Nos. RCC poles with proper safety level.

(ii) The Low Tension network was established at Veeravanchinathan 1st Street, at the edge of road, as per the standard design during the period at which area development was taking place at Perungudi area. The erected RCC poles are now available only at the edge of the road and not inside the properties as stated by the petitioner. Matter relating to encroachment and size of the road is to be addressed to the department of local administration by the petitioner.



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(iii) TANGEDCO has not removed any RCC poles in the existing Low Tension Network at Veeravanchinathan 1st Street in the past years as per the available office records. The existing Low Tension Network is being maintained as per the standard norms and IE Rules with proper safety measures. TANGEDCO would not compromise on the safety aspects in maintaining network system and no written complaint was received in this office so far about the lack of safety in the existing Low Tension Network system at Veeravanchinathan 1st Street. TANGEDCO was not adding or it has no plan to install any additional network in the existing network system at Veeravanchinathan 1st Street as claimed by the petitioner. TANGEDCO is taking up the periodical maintenance works such as checking of conductors, set right the problem of leaned pole etc. in the existing network system. TANGEDCO is not the authority to raise any objection to the encroachment if any noticed as claimed by the petitioner. TANGEDCO has carried out the conversion of Over Head line into Under Ground Cable System at Plot No.5 to avoid any electrical accident due to unsafely level of Over Head line with the building under Deposit Contribution Work basis as per the Rules. TANGEDCO would not encourage anyone to encroach the land or street but will insist to maintain safety level to the available Over Head lines as per rules.

(iv) TANGEDCO is not attempting to remove the RCC Pole (VEKN.29) as claimed by the petitioner and the same is available at the edge of the road. This pole is not dangerous. No complaint is received from any local residents so far except the objection notice on 19.04.2017 from the petitioner. It is not legally correct to use the TANGEDCO poles as boundary level for public road or common passage in the road. The electricity network poles are being erected as per the design by keeping the safety level of Indian Electricity Rules.

(v) Tmt.M.Veerammal, W/o. Munusamy has submitted an application dated 17.04.2017 requesting to relocate the available pole at the proposed gate of her premises under Deposit Contribution Work basis at No.43, Veeravanchinathan 1st Cross Street which is exactly opposite to the premises of the petitioner. However, the process of the application is stopped and kept pending in TANGEDCO office, as the petitioner is raising objection.



(vi) The residents of Veeravanchinathan 1st Street have not given any oral complaints or written complaints except the objection notice issued by the petitioner on 19.04.2017. The existing pole (VEKN:26) is available only at the edge of the road as well as in the network route. It would not be possible to remove the pole (VEKN:26) from the present location as the road is having narrow space. If the petitioner comes forward to take up the conversion of Overhead line into Under Ground Cable system at the specified location under Deposit Contribution Work basis, TANGEDCO will do the work as per the TNERC rules and as requested by the petitioner. The petitioner has not given any request so far in TANGEDCO office on the above line.

(vii) The existing Low Tension Network available at Veeravanchinathan 1st Street, Perungudi is in good condition with proper safety level. Also, the available poles are in good condition and not giving any threat to the public or transport so far.

(viii) The electricity poles are not to be considered as boundary level for roads or common passage of roads and this is not legally correct. TANGEDCO is not encouraging anyone to do encroachment of land or road as it functions as per the Electricity Act 2003 and maintaining the Networks as per the Indian Electricity Rules.

(ix) The existing poles at Veeravanchinathan 1st Street would not be removed and relocated to road side. However, it can be relocated in the available same network route or it is possible to convert the overhead line into Underground Cable system under Deposit Contribution Work basis as per Tamil Nadu Electricity Regulatory Commission Rules.

(x) TANGEDCO is not taking any steps to relocate the pole (VEKN:29) from its original place which is available in the middle of the proposed gate at plot No.4, Veeravanchinathan 1st Street, Perungudi. However the request application made by Tmt.M.Veerammal, W/o. Munusamy to relocate the pole in the same Network route under Deposit Contribution Work basis is kept pending in TANGEDCO office. Also, no request was made by the petitioner to relocate the pole (VEKN:26) under Deposit Contribution Work basis so far to TANGEDCO office.



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(xi) Low Tension Supply is only for the public purpose to give uninterrupted supply to the general public. For the abovesaid reasons, respondent has stated that there is no merit in the above Writ Petition and the same is liable to be dismissed in limine.

6. In addition to the above, Mr.S.K.Rameshuwar, learned counsel for the Electricity Board produced a copy of the letter dated 15.02.2017 addressed to the Assistant Executive Engineer, TNEB, Perungudi, Chennai, 3rd respondent, wherein objection has been made to relocation of the electricity pole.

7. Contending that an application dated 17.04.2017, was made by one Smt.M.Veerammal, wife of Munusamy, requesting to relocate the pole at the proposed gate of her premises under Deposit Contribution Work basis at No.43, Veravanchinathan, 1st Cross Street and the petitioner made an objection to the same, Mr.S.K.Rameshuwar, learned counsel for the Electricity Board submitted that instant writ petition, would not fall under the definition of a Public Interest Litigation, but Mr.Blessington, petitioner herein has a personal interest.

8. There is no reply to the counter, nor, contents of the letter dated 15.02.2017, refuted. Going through the material on record, and in particular the letter dated 15.02.2017 of the writ petitioner addressed to the Assistant Executive Engineer, we are in agreement with the submission of Mr.S.K.Rameshuwar, learned counsel for the Electricity Board, that the instant writ petition is not instituted in public interest, but, on the other hand, there is a clear personal interest. For the reasons stated supra, writ petition deserves to be dismissed. Accordingly, instant writ petition is dismissed. No Costs. Consequently, the connected writ miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1. The Chairman cum Managing Director,
TANGEDCO, formerly TNEB,
10th Floor, NPKRR Maligai,
No.144, Anna Salai, Chennai - 02.



2. The Chairman (Superintending Engineer),
TANGEDCO, formerly TNEB,
110 KV SS Complex,
Anna Main Road, K.K.Nagar,
Chennai - 78.

3. The Assistant Engineer,
Tamil Nadu Electricity Board,
Perungudi Zone,
Chennai - 600 096.

+1cc to Mr.S.K.Rameshuwar, Advocate sr.62297

W.P.No.11049 of 2017
and WMP No.11998 of 2017

ssd(co)
nr 16/09/2019