

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :10.01.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.34637 of 2018
and
W.M.P.No.40157 of 2018

T.Chinnasamy

.. Petitioner

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 District Collector
Dharmapuri
Dharmapuri District - 636 705
- 4.The Thasildar,
Pennagaram
Pennagaram Tk,
Dharmapuri District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the respondents from installing additional transmission towers on the petitioner's land situated in the property having an extent of 51.89 cents in Sy.No.646/1 of Thithiopannahalli Village, Dharmapuri pursuant to the petitioners representation dated 22.12.2018.

For Petitioner : Mr.D.Arun

For Respondents : Mr.Akhil Akbar Ali,
Government Advocate
for R1, R3 & R4
Mr.Jayesh B.Dolia
for M/s.Aiyar & Dolia for R2

O R D E R

The relief sought for in this writ petition is to forbear the respondents from installing additional transmission towers on the petitioner's land situated in the property having an extent of 51.89 cents in Sy.No.646/1 of Thithiopanahalli Village, Dharmapuri pursuant to the petitioners representation dated 22.12.2018.

2. The learned counsel for the writ petitioner state that his right of property is going to be taken away by the respondent / Power Grid Corporation of India. The petitioner is the agriculturist and he is performing the agricultural activities in the entire location. The respondents have proposed to commission transmission lines / poles through the agricultural lands belongs to the writ petitioner. Such a policy is now objected by the farmers of that locality. In some of the cases, the District Collector had already passed orders and such orders are challenged before this Court and this Court has already considered all the issues involved in the matter of commissioning of Power transmission towers in that locality in writ petition in W.P.No.30124 of 2018 dated 07.12.2018 and the relevant paragraphs 35 to 40 are extracted hereunder:

35. Thus, this Court is of the considered opinion that Article 300 A of the Constitution of India enumerates that " No person shall be deprived of his property save by authority of law". Thus, property right is a Constitutional right. Undoubtedly, a citizen of India has got a property right under the Constitution though it is not a fundamental right. The property right is no more a fundamental right. Thus, no person shall be deprived of his property save by authority of law. In order to countenance the Constitutional right of the citizen of this great nation, the respondents are bound to establish that they are implementing the Project for the welfare of the public under the authority of law.

36. In this regard it is to be noted that the Sections 68 and 164 of the Electricity Act, 2003 confers power to the Appropriate Government to erect Overhead lines for the transmission of electricity or for the purpose of telephonic and telegraphic communications. Section 164 of the Electricity Act, 2003

categorically enumerates that 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, 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. Thus, the said provisions empowers the Appropriate Government to grant permission.

37. In the present case, the second respondent is an organization of the Government of India. Ministry of power also approved the Project. The Project is for the larger interest of the public of our great nation. The transmission lines are planned to be erected from Raigarh of Chattisgarh to Pugalur, State of Tamil Nadu. The transmission lines are crossing through five major States across the country. Even in Tamil Nadu the transmission lines are being laid for the distance of about 345 km. This being the nature of the project, this Court is of an opinion that the writ petitioners have no say to obstruct the project, which is being implemented in the larger interest and for the development of our great nation. Consistent developmental activities of a welfare State is also a Constitutional Directive. Thus, the State is bound to implement the Welfare Schemes for the development of our great nation. Infrastructure facilities and all other developmental and technical activities are to be consistently improved in order to compete with all other countries across the globe. India, being a fast growing nation, cannot afford to suffer implementation of all such larger Welfare Schemes. The Welfare Schemes

are once approved and if the schemes does not suffer from any Unconstitutionality or illegality, the Courts must be cautious in granting even any interim orders so as to cause an irreparable loss to the public interest as well as to the State exchequer. In the event of granting interim order or keeping the matter pending for an unspecified period or any postponement of all such Welfare Projects would further cause financial loss to the tax payers money. Delay in implementation of the projects would result in escalation in cost and such escalation would affect the interest of the tax payers money. Thus, all such schemes, if tested, must be considered at the earliest possible and if there is no prima facie case made out by the writ petitioners, the grant of interim order also to be restrained so as to ensure the public projects are not stalled on account of the personal ideologies of any person. However, citizens may have their own ideas and views. No doubt, the ideas and views of individuals are also to be respected. However, the larger interest of the public alone must prevail over the individual ideas. Overlooking the opinion of the committee of the Experts can never be considered at all. The Courts are bound to consider the grievances of each and every citizen of this great nation. While considering the grievances of such citizen, there cannot be any compromise in respect of larger public interest as far as the implementation of the larger Welfare Schemes are considered. Thus, a balancing approach is to be adopted and principles of pragmatism are to be followed.

38. In the present Writ Petition, undoubtedly, transmission towers are being laid/proposed to be laid in the agricultural lands belonging to the writ petitioners. The Statute provides payment of compensation to the damage or loss if any caused. The quantum for compensation was arrived by the competent authority. If at all, the writ petitioners are aggrieved in respect of fixing of compensation, for the loss or damage, the petitioners are at liberty to approach the District Judge concerned for claiming compensation or enhancement or otherwise. Contrarily, the writ

petitioners cannot obstruct the implementation of the scheme by stating that no consent has been obtained from them and such a consent is required under the law and it is an acquisition proceedings and the second respondent is the user of the land and transmission towers are commissioned without acquiring the land. Considering the nature of the scheme under implementation, this Court is of an opinion, with reference to the provisions of the Electricity Act, 2003 and the Indian Telegraph Act, 1885, that authorities competent are empowered to commission the transmission towers in the lands belonging to the writ petitioners and, if at all, the writ petitioners are aggrieved in any aspect, they are at liberty to approach the learned District Judge concerned for redressing their grievances in respect of claiming compensation alone. However, the project cannot be questioned by the writ petitioners on the ground that the project details are not furnished to them. For the purpose of commissioning the transmission towers, furnishing of entire projects details to the farmers are unnecessary and not contemplated under the Statutes. No purpose would be served even those documents are served on the writ petitioners. The writ petitioners have no locus standi to object the welfare schemes being implemented for the welfare of the citizen at large. Thus, the writ petitioners, even if not furnished with the documents, are not prejudiced as the scheme being implemented by virtue of the authority conferred under the provisions of the Statutes referred supra.

39. It is brought to the notice of this Court that the writ petitioners along with some other persons had indulged in filing number of cases before the Courts with an idea to stall the entire project. It is contended that Crl.O.P.No.28520 of 2018 was filed to forbear them from giving police protection in any manner aiding the Officials of the Power Grid Corporation Limited & the Revenue Officials in implementing the "800 KV Raigarh (HVDC Stn) - Pugalur HVDC Stn) HDVC Bipole link with MW capacity", unless those Officials obtain enter-upon permission under the provisions of the

"Indian Telegraph Act, 1885" or "Works of Lincensees Rules, 2006". The said Crl.O.P was dismissed by this Court. This apart, even on earlier occasion, the petitioners filed writ petitions for a direction to dispose of the representation and the present writ petition is also challenging the order passed by the District Collector in proceeding dated 27.10.2018 for removal of the obstruction. Citing all these cases, the learned senior counsel appeared on behalf of the second respondent submitted that the writ petitioners are frequently filing petitions after petitions before one Court or before the other Court to achieve their ill motives. Thus, the petitioners are in the habit of filing cases before various Courts and attempting to stall the national level project of installing transmission towers from Raigarh, Chattisgarh to Pugalur, State of Tamil Nadu. The conduct of the petitioners in filing several cases for the purpose of causing an obstruction are to be deprecated and such conduct can never be encouraged by the Courts.

40. In respect of the order impugned passed by the District Collector, this Court is of the opinion that the District Collector had given an opportunity to the writ petitioners to submit their objections. However, as discussed in the aforementioned paragraphs, the District Collector is not an authority to modify the Route or to change the place. The Collector is empowered to remove the obstructions, if any, caused for the purpose of implementation of the Scheme of erecting transmission towers. Thus, the Authority of the Collector in this regard is restricted and shall be exercised only with reference to the provisions of the Electricity Act, 2003 and Indian Telegraph Act, 1885. Thus, the Collector has proceeded in accordance with the provisions of the above Acts. Though, the Collector has provided an opportunity, the same has not been fully utilised by the writ petitioners by providing their statements. Contrarily, the petitioners appeared and refused to record their statements. This being the conduct of the writ petitioners, this Court is unable to accept the contention that the prior permission was needed from the writ

petitioners and the opportunity also had not been given to the writ petitioners to put forth their grievances. When opportunity was provided in accordance with the provisions and the powers of the Collector under the Acts are certainly limited, the Collector cannot change the Scheme or modify the route already approved by the appropriate Government. The only course left open for the writ petitioners are to claim damages or just compensation manner by approaching the concerned District Judge by filing appropriate petitions under the provisions of the Act. This being the scope of the litigation before this Court, the writ petitioners have not established any acceptable grounds for the purpose of considering the relief as such sought for in the present Writ Petition.

3. In view of the orders passed in the writ petition cited supra, the case of the writ petitioner also shall be considered by the District Collector on merits and in accordance with law. It is needless to mention that the District Collector has to provide an opportunity to the writ petitioner and the writ petitioner also shall avail the opportunity and furnish his statements or documents before the District Collector, enabling the District Collector to pass orders on merits and in accordance with law. In view of the fact that this Court had elaborately discussed the issues in the earlier writ petition, the District Collector shall consider the observations made in the earlier writ petition also.

4 .Accordingly, the 3rd respondent / The District Collector is directed to consider the representation of the petitioner in the light of the orders passed in W.P.No.30124 of 2018 dated 07.12.2018, within a period of four weeks from the date of receipt of a copy of this order. The writ petitioner is also directed to submit a copy of the representation and all other relevant documents, if any, along with the orders passed in the writ petition.

5. With these directions, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

ska/kmm

To

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

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B-9, Qutab Institutional Area
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3.The District Collector
Dharmapuri
Dharmapuri District - 636 705

4.The Thasildar,
Pennagaram
Pennagaram Tk,
Dharmapuri District.

+1 cc to M/s.Aiyar & Dolia, Advocate Sr.No.3735
+1 cc to The Government Pleader, Sr.No.3228

BR(CO)
CSL/01.03.2019

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