

In the High Court of Judicature at Madras

Dated : 17.2.2020

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.17270 to 17274 & 30424 of 2016 &
all connected pending WMPs

S.Thirumurthy	...Petitioner in WP.17270/2016
V.Bhaskar Naidu	...Petitioner in WP.17271/2016
P.Subramaniam Reddy	...Petitioner in WP.17272/2016
K.D.Munisamy Reddy	...Petitioner in WP.17273/2016
P.Mukesh Reddy	...Petitioner in WP.17274/2016
N.Seetharaman	...Petitioner in WP.30424/2016

Vs

- 1.The Chairman, Tamil Nadu
Electricity Board, Anna Salai,
Chennai.
- 2.The Executive Engineer, Tamil Nadu
Electricity Board, Guindy, Chennai.
- 3.The President, Village Panchayat,
Panapakkam Village, Uthukottai
Taluk, Tiruvallur District. ...Respondents in all the WPs

Common Prayer: PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Mandamus forbearing respondent 1 and 2 from erecting poles to draw 400 KV High Tension wire over the petitioners' patta lands without giving any notice or seeking consent from the petitioners for such usage of the petitioners' patta lands.

For Petitioners : Mr.M.L.Ramesh
For Respondents 1 & 2 : Mr.Abdul Saleem for
M/s.M.Vijayameghanath
For Respondent-3 : No appearance

COMMON ORDER

I have heard Mr.M.L.Ramesh, learned counsel for the petitioners and Mr.Abdul Saleem, learned counsel appearing on behalf of respondents 1 and 2.

2. In all these writ petitions, the petitioners seek to forbear respondents 1 and 2 from erecting poles to draw 400 KV high tension wire over the petitioners' patta lands without giving any notice or seeking consent from the petitioners for such usage of the petitioners' patta lands. The relief sought for in these writ petitions is identical and W.P.No.30424 of 2016 is taken as the lead case.

3. The sheet anchor of the argument of the learned counsel for the petitioners is that the Government approved 30 projects to be implemented by the Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO), pursuant to which, G.O.Ms.No.74 dated 26.11.2015 came to be issued. After granting of such approval by the State Government, the respondent Board issued a Gazette Notification for erection of transmission lines mentioning the names of the transmission lines, names of villages through which the transmission lines proposed should pass through, route length in kilometer, relevant Board proceedings numbers and cost of the scheme. In the said Gazette Notification, liberty has been granted to any person interested to make a representation on the scheme within one month from the date of publication.

4. The grievance of the petitioners is that in the said Gazette Notification dated 03.7.2014, there is a mention about 400 KV DC line from the proposed Thervaikandigai 400 KV Sub-Station to Thervaikandigai Manali common point at Perumudivakkam and the names of various villages have been given, through which, the lines are proposed to pass through. However, the petitioners' village namely Panapakkam was not mentioned. Therefore, the petitioners cannot be expected to give any objections.

5. It is further submitted by the petitioners that if the village of the petitioners does not find a place in the Notification, then the only option given to the TANGEDCO is to approach the petitioners and seek their consent and without that, the TANGEDCO cannot enter upon the petitioners' properties. It is also submitted that in terms of the Indian Telegraph Act, 1885, if an objection is raised by the land owner, then the only option given to the TANGEDCO is to approach the District Collector seeking permission and the District

Collector shall issue notice to the land owners, consider their objections and thereafter pass orders. However, this procedure cannot be resorted to in the petitioners' case because the name of the village where the petitioners' lands are situated, does not find a place in the Gazette Notification issued by the TANGEDCO dated 03.7.2014.

6. Per contra, the learned Standing Counsel for respondents 1 and 2 submits, by referring to the counter filed in W.P.No.17270 of 2016, that the project is in final stage of implementation, that a sum of Rs.500 Crores has already been invested for the project, that only a few towers are to be erected and that because of the pendency of the writ petitions and granting of an order of status quo in all these writ petitions, the work could not be completed. It is further stated that the TANGEDCO is not going to acquire the lands for erection of towers and its allied works. The tower proposed in so far as the petitioner in WP.No.17270 of 2016 namely Mr.S.Thirumurthy is concerned, it is in location No.56 and the dimension of the line, which will be occupied by the tower, has also been stated in paragraph 12 of the counter. It is again stated that after erection of the tower, the petitioners can continue their agricultural operations in the lands in question.

7. The petitioner in W.P.No.17270 of 2016 filed a reply affidavit to the said counter affidavit stating that the value of the lands will be destroyed if the tower is erected. The petitioner reiterated that the scheme published in the newspaper 'Dinathandhi' on 24.5.2014 did not contain the name of the village of the petitioners. In support of his contention, the learned counsel for the petitioners relies upon the decision of the High Court of Karnataka in the case of S.M.Rao Vs. State of Karnataka [reported in AIR 1999 Karnataka 475].

8. After elaborately hearing the learned counsel for the parties and carefully perusing the materials placed on record, this Court is of the view that the objections now raised by the petitioners can very well be raised before the District Collector as and when the TANGEDCO/Tamil Nadu Transmission Corporation Limited (TANTRANSCO) approaches the District Collector seeking permission. Before seeking permission, the TANTRANSCO is bound to establish that the petitioners' village is also one among the villages, through which, the proposed lines are to be drawn/are drawn.

9. The learned Standing Counsel appearing for respondents 1 and 2, on instructions, submits that the proposed pathway of the line has been mentioned, in which, the petitioners' village

clearly finds a place.

10. This question cannot be adjudicated by this Court in a writ petition and it has to be necessarily left open to be decided by the District Collector concerned. The decision of the High Court of Karnataka in the case of S.M.Rao was rendered in the year 1999 and thereafter, there had been subsequent decisions on the point, which also would state that merely because the name of the village was not mentioned in the Notification, it will not vitiate the project.

11. In the decision in the case of S.M.Rao, it was pointed out that the Electricity Board is a technical body created by the Statute for the purpose of supply of electrical energy generated in the State, that in discharging the said function, it has to keep in mind and observe such technical and other matter insisted upon by the Statute and regulations, that it is an admitted fact that it is the routine business of the Board to prepare and implement scheme for supply of electricity, that it would have gained vast experiences in this behalf, gained by practice, that in such cases, it would not be incorrect to assume that the Board's decision must normally rest on its own expertise acquired by implementing such schemes earlier and that its judgment in this behalf should be accepted as correct rather than undertaking an autopsy of the same on the basis of any particular factual details discovered by a layman. It has been further held that in such cases, mathematical details need not be shown to exist to support the decision of the Board and its schemes and that the Board, being an expert body, can be presumed to have conducted itself properly and prepared the scheme as an expert would rather than inferring the Board to have violated statutory and regulatory provisions. Therefore, in the considered view of this Court, the said decision would support the stand taken by the TANGEDCO/TANTRANSCO.

12. In the light of the above, the writ petitions are disposed of by giving liberty to the respondent Board to approach the District Collector concerned by way of an application since the petitioners conveyed their objections for drawal of lines across their lands. Though written objections were not given by the petitioners, filing of these writ petitions would be sufficient to hold that the petitioners are objecting to the drawal of lines over their patta lands. Therefore, necessarily the TANGEDCO/TANTRANSCO has to approach the District Collector concerned under the provisions of the Indian Telegraph Act. As and when such an application is filed, it goes without saying that the petitioners shall be issued with a notice by the District Collector concerned and that they shall

be given a minimum of 30 days' time to submit their objections and after affording a reasonable opportunity to all concerned, orders shall be passed. On perusal of all the affidavits, it is seen that the entire lands in question pertain to Panapakkam Village. This issue also has to be adjudicated by the District Collector concerned as and when the application is filed by the TANGEDCO seeking approval/ permission. The District Collector concerned is directed to pass orders as expeditiously as possible and preferably within a period of 60 days from the date, on which, the enquiry is completed. Till then, the status quo with regard to the lands in question shall be maintained. No costs. Consequently, the connected WMPs are closed.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

RS

To

- 1.The Chairman, Tamil Nadu Electricity Board,
Anna Salai, Chennai.
- 2.The Executive Engineer,
Tamil Nadu Electricity Board,
Guindy, Chennai.
- 3.The President, Village Panchayat,
Panapakkam Village, Uthukottai Taluk,
Tiruvallur District.

+6cc to Mr.M.L.Ramesh, Advocate SR.12973, 12974, 12975
12976, 12977, 12978

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of 2016 & all connected pending
WMPs

SS (CO)
CB(09/03/2020)

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