

PRAYER IN W.P. (MD) No. 10716 of 2017: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to forbear the respondents or their subordinates from in any way constructing high tension electric transmission tower and laying high electric transmission lines through the petitioner's property in S.No. 110/1, 110/2, 110/3 and 199, Kandithampattu Village, Thanjavur Taluk, Thanjavur District.

COMMON PRAYER IN W.P. (MD) Nos. 15059 & 15061 of 2017: Writ petitions are filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to forbear the respondents to erect and draw the electricity tower line in and above of the petitioners land in survey No. 214/21 and 215/4B, respectively at Soorakottai Village, Thanjavur Taluk and District by considering the representation of the petitioners dated 12.04.2017.

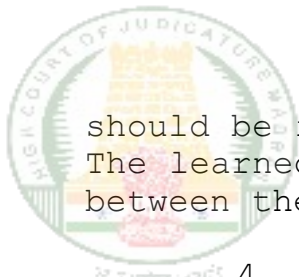
For Petitioner	:	Mr.M.Mahaboob Athiff for M/s Ajmal Associates
For R2	:	Ms.M.Rajeshwari for Mr.S.M.S.Johny Basha Standing Counsel
For R1	:	Mrs.S.Srimathi Special Government Pleader (in W.P. (MD) No. 10716 of 2017)
For Petitioners	:	Mr.G.Karnan
For RR1, 2, 4 & 5	:	Ms.M.Rajeshwari for Mr.S.M.S.Johny Basha Standing Counsel
For R3	:	Mrs.S.Srimathi Special Government Pleader (in W.P. (MD) No. 15059 & 15061 of 2017)

COMMON ORDER

Heard the learned counsel appearing for the petitioners, the learned Standing Counsel appearing for the respondent Board and the learned Special Government Pleader appearing for the official respondent.

2. The petitioners are aggrieved by the construction of high tension electric transmission towers and laying high electric transmission lines on and over the petition mentioned properties.

3. The learned counsel for the petitioners raised a contention that for carrying out such works, the respondents should be backed by a notification under Section 164 of the Electricity Act, 2003. According to the learned counsel for the petitioners, the respondents have not been so authorised and that therefore, they



should be restrained from carrying out the petition mentioned works. The learned counsel for the petitioners wanted to draw a distinction between the usual overhead lines and transmission lines.

4. The learned Standing counsel appearing for the respondents draws my attention to the proceedings dated 10.03.2015 issued by the Chief Engineer (Planning and RC), Tamil Nadu Transmission Corporation Limited, in which the following recital is found:-

"3.By virtue of the provisions contained in sub-section (2)(a) of Section 185 of the Electricity Act, 2003, TANTRANSCO being the transmission utility, Licensee and successor entity of Tamil Nadu Electricity Board will exercise the powers of the Telegraph Authority under the provisions of Section 164 of the Electricity Act, 2003, which have already been conferred upon the Board under Section 51 of the Indian Electricity Act, 1910."

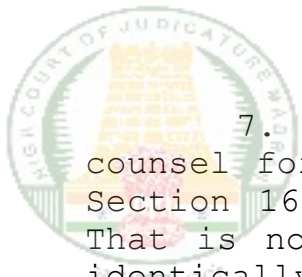
5. Section 164 of the Tamil Nadu Electricity Act reads as under:-

"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."

6. It is not in dispute that Section 51 of the Indian Electricity Act, 1910 is identically worded. Therefore, the learned Standing Counsel is justified in relying on Section 185 of the Act. This clause deals with repeal and saving. Section 185(2)(a) of the Act, reads as under:-

"(2) Notwithstanding such repeal:

(a)anything done or any action taken or purported to have been done or taken including any rule, notification, inspection, order or notice made or issued or any appointment, confirmation or declaration made or any licence, permission, authorisation or exemption granted or any document or instrument executed or any direction given under the repealed laws shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act."



7. I would have sustained the contention of the learned counsel for the petitioners, if Section 51 of the repealed Act and Section 164 of the present Act were inconsistent with each other. That is not so. They are identically in *pari materia*. They are identically worded. Therefore, the authorisation given under Section 51 of the Indian Electricity Act, 1910 would definitely not only survive the repeal of the earlier Act and promulgation of the Electricity Act, 2003 but also inure in favour of the successor. It is true that TNEB had been bifurcated and TANGEDCO and TANTRANSCO have come into existence. But then, the authority given under Section 51 of the Indian Electricity Act, 1910 should be deemed as the authority conferred on TANTRANSCO under Section 164 of the Electricity Act, 2003 also. Therefore, I find no ground to interfere or to restrain the respondents from carrying out the petition mentioned works.

8. These writ petitions accordingly stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The District Collector,
Thanjavur District,
Thanjavur.
2. The Superintending Engineer,
General Constructions Circle,
TANGEDCO, Mannarpuram,
Trichy.
3. The Chairman Cum Managing Director,
Tamil Nadu Electricity Board,
No.144, Anna Salai,
Electricity Avenue,
Chennai-600 002.



4. The Director,
TANTRANSCO (Tamil Nadu Transmission Corporation),
No. 144, Anna Salai,
Electricity Avenue,
Chennai-600 002.

5. The District Collector,
Thanjavur District,
Thanjavur.

6. The Superintending Engineer
(General Construction Circle)
Tower Line Construction,
TNEB, Thenur Circle, Manarpuram,
Trichy.

7. The Executive Engineer,
Tower Line Construction,
TNEB, Opposite to Tamil University,
Vallam Road,
Thanjavur.

W.P. (MD) Nos. 10716, 15059 and 15061 of 2017
28.07.2020

VB (06.08.2020) 5P 8C