



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 21.07.2021

PRONOUNCED ON : 26.07.2021

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P(MD)Nos.7888 and 7899 of 2021

and

W.M.P(MD) .Nos.6032, 6033 and 6021 of 2021

WP(MD) .No.7888 of 2021:

AMRL Hitech City Ltd.,

Represented by its authorised Signatory

Mr.S.Dharmalingam.

... Petitioner

Vs.

1.The Managing Director,
TANTRANSCO,
NPKR Ramasamy Maaligai,
144, Anna Salai,
Chennai-600 002.

2.The Executive Engineer,
Transmission Lines Constructions,
TANTRANSCO,
Tirunelveli-11.

3.The Superintending Engineer,
General Construction Circle,
TANTRANSCO,
Madurai-600 007.

4.Assistant Engineer,
TANTRANSCO,
Transmission of Line Construction,
Valliyoor.

5.The Chairman and Managing Director,
Tamilnadu Electricity Board,
10th Floor,
NPKRR Malligai,
Chennai-600 002.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for the records comprised in Impugned Order in I.P. No. 892/2020/EE/TLC/TIN/SDM/F-AMRL/2020-21 dated 17.11.2020 passed



by Respondent no.2 and consequential Impugned Order in Lr.No.SE/GCC/MDU/AEE/MONI/F.NANGUNERI/D.No.1283/2020 dated 19.11.2020 issued by the Respondent no.3 and consequential Impugned order in Lr.No.SE/GCC/MDU/AEE/Tech/AE/F.NANGUNERI/D.NO.198/21 dated 11.02.2021 issued by respondent no.3 and quash the same to the extent the impugned orders compel the petitioner to bear the 'defrayment costs'.

WP(MD).No.7899 of 2021:

AMRL Hitech City Ltd.,
Rep. by its authorised Signatory
Mr.S.Dharmalingam.

... Petitioner

Vs.

1.The Managing Director,
TANTRANSCO,
NPKR Ramasamy Maaligai,
144, Anna Salai,
Chennai-600 002.

2.The Executive Engineer,
Transmission Lines Constructions,
TANTRANSCO,
Tirunelveli-11.

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General Construction Circle,
TANTRANSCO,
Madurai-600 007.

4.Assistant Engineer,
TANTRANSCO,
Transmission of Line Construction,
Valliyoor.

5.The Chairman and Managing Director,
Tamilnadu Electricity Board,
10th Floor,
NPKRR Malligai,
Chennai-600 002.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records of the Impugned Order passed by the Respondent No.4 in Lr.No.AEE/TLC/VLR/F.DKT/D.NO.61/20 dated 24.02.2021 and quash the same as being arbitrary and illegal and consequently direct the respondents to consider the representation of the petitioner in letter no.AMRL/TNEB/42/2020-21 dated 24.03.2021 to proceed with the 'Deviated Plan' as issued subsequent to the joint survey between the



Petitioner and respondents on 08.12.2020 as acknowledged by the petitioner vide Lr. No. AMRL/TNEB/30/2020-21 dated 16.12.2020.

In both cases:

For Petitioner : Mr. Sathish Parasaran
Senior Counsel
for Mr.Raguvaran Gopalan

For Respondents : Mr.Veerakathiravan
Senior Counsel on behalf of State of Tamilnadu
for Ms.M.Parameswari
for Mr.S.M.S.Johny Basha
Standing Counsel

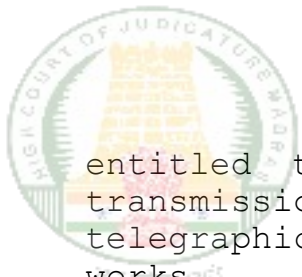
COMMON ORDER

The issue involved in both the writ petitions are common and hence they are taken up together, heard and disposed of through this Common order.

2. The subject matter of challenge in the writ petitions is the impugned letter dated 17.11.2020 issued by the second respondent and the consequential proceedings of the third respondent dated 19.11.2020 and 11.02.2021 and the impugned letter of the fourth respondent dated 24.02.2021 wherein the petitioner Company has been informed that they must bear the defrayment costs towards deviation of the approved line failing which the respondents will proceed further to carry on with the works of erection of 230 KV and 110 KV transmission line as per the original approved route and the petitioner has sought for a direction to the respondents to consider the representation dated 24.03.2021 and proceed with the work as per the deviated plan suggested during the Joint Survey that was undertaken by both parties on 08.12.2020.

3. The petitioner has set up a multi-product Special Economic Zone (SEZ) in an area measuring about 2518 Acres at Tirunelveli District. The Department of Commerce vide proceedings dated 20.08.2018 granted approval to the petitioner to set up the SEZ. The petitioner also entered into a 99 year lease agreement with TANGEDCO on 03.02.2011 whereby a portion of the land in the South Eastern part was given to TANGEDCO for establishing and commissioning of an Electric Sub-Station. Accordingly the department has also established a 110 KV sub-station.

4. The Tamilnadu Transmission Corporation Limited (TANTRANSCO) is a deemed transmission licensee under the relevant provisions of the Electricity Act, 2003. The State Government through G.O(MS) No.16, dated 23.02.2012 has conferred powers under Section 164 of the Electricity Act upon TANTRANSCO the power of a Telegraph authority under the Indian Telegraph Act, 1885 and thereby it is



entitled to place 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.

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5. The respondents wanted to implement a scheme in order to cater to the growing power demand for further expansion of factories in the Nanguneri SEZ, besides improving the system stability in the transmission network and to ensure uninterrupted power supply. The respondent wanted to avoid over load of existing Kayathar 230 KV sub-station and Sankaneri 203 KV and hence decided to establish a 230 KV Sub-station at Nanguneri. Hence a decision was taken to establish the 230 KV Sub-station adjacent to the existing 110 KV Sub-station. Accordingly the following project was planned to be commissioned:

"a. Erection of 230 KV DC line on DC towers with Zebra Conductor for making LILO of the existing 230 KV Abishekpatti - Udayathur feeder at the proposed Nanguneri 230/110 KV SS.

b. Erection of 230 KV SC line on DC tower with Zebra conductor from the proposed Samugarengapuram 400 KV SS to the proposed Nanguneri 230 KV SS.

c. Erection of 110 KV 3 Circuit line on MC tower with Panther conductor from the proposed Nanguneri 230 KV SS to common point C for the 110 KV Nanguneri - Melakallur feeder - I, II and 110 KV Nanguneri - Kalakad feeder.

d. Erection of 110 KV DC line on DC towers with Panther conductor from the proposed Nanguneri 230 KV SS to common point B and common point C to common point D (0.5 kms + 7.83 kms) for 110 KV Nanguneri - Sanganeri feeder - I, II, 110 KV Nanguneri - Melakallur feeder - II and 110 KV Nanguneri Kalakad feeder.

e. Erection of 110 KV SC line on DC towers with Panther conductor from common point D to Melakallur 110 KV SS for 110 KV Nanguneri - Melakallur Feeder - II.

f. Erection of 110 KV SC line on DC towers with Panther Conductor from Common point D to Kalakad 110 KV SS for 110 KV Nanguneri - Kalakad feeder."

6. The administrative approval for the project was granted vide Board proceedings dated 04.10.2018. Thereafter a public notice was published on 22.12.2018 in daily newspapers calling for objections for execution of the project. Since no objections were received, the proposal was published in the Gazette on 20.02.2019. Thereafter the route map was approved through various proceedings of the Chief



Engineer in the year 2019 and the Work Profile was approved in the year 2020 subject to certain conditions.

7. The second respondent issued a letter dated 22.09.2020 to the petitioner and informed the petitioner about the project and sought for the permission of the petitioner to lay tower foundation in the land belonging to the petitioner. The petitioner immediately responded through a letter dated 25.09.2020 and expressed their reservations since the transmission lines will be cutting across their property and will largely affect the development of SEZ which will defeat the object of the very project itself. Therefore the petitioner requested for further deliberations.

8. After some deliberations and exchange of letters, the second respondent through letter dated 17.11.2020, after considering the request made by the petitioner imposed two conditions for deviating the line from the approved corridor and they are extracted hereunder:

"1.The extra cost involved in deviating the line away from the approved corridor has to be borne entirely by M/s.AMRL.

2. The deviation of the approved line, if at all done, has to be carried through the boundary limit of M/s.AMRL, only up to the approved common point located outside your land. Under any circumstances it cannot be carried through patta lands of other private party."

9. A Joint meeting was convened and parties from both sides were present on 01.12.2020. The issues raised by both sides were minuted and it was decided that TANTRANSCO will finalise the request made by the petitioner before 07.12.2020 and the petitioner will respond to TANTRANSCO before 14.12.2020 to finalise the pending issues. Thereafter a joint survey was also conducted on 08.12.2020.

10. The petitioner through letter dated 06.01.2021 took a specific stand and laid down certain conditions to accept the alternative routing proposal. For proper appreciation, the relevant portions in the letter are extracted hereunder:

"5.AMRL wishes to place on record that it is acceptable to the alternative routing proposal as per drawing sent to AMRL subject to the following conditions:

a.Since the proposed use of AMRL land is to be in terms of the provisions of the Telegraph Act, due compensation must statutorily be paid to AMRL by TANTRANSCO for use of our land and the damage caused to our property under Section 10 of the Telegraph Act r/w G.O.(Ms).No.86 dated 30.10.2019.

As per our calculations area of land rendered



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directly useless and nonconstructable is 37 acres and 133 acres of land rendered useless and non constructable to AMRL in terms of G.O.(Ms).No.86 dated 30.10.2019 under the 'alternative routing proposal' in INR 680,000,000.00 (Rs.Sixty Eight crore only).

b.Since the lines have not been placed/installed and the deviation from the original route is at the project design stage itself, there is no statutory basis under the Telegraph Act, 1885, or any other legislation for the difference in cost of execution of line between the original route and the deviated route to be borne by AMRL/recovered from AMRL. The demand of TANTRANSCO for extra costs to be borne by AMRL for deviation of the line, as recorded in its letter dated 17.11.2020, letter dated 19.11.2020 and in the MoM dated 01.12.2020, is therefore without any statutory basis or legal authority. You will appreciate that not only is AMRL land being used for laying of transmission lines for which AMRL is statutorily entitled to compensation in the manner set out above (about which there has not even been a whisper by TANTRANSCO so far in its written communications), but that TANTRANSCO is unjustly and without any statutory basis asking AMRL to pay extra costs for deviation of the line/difference in costs between the original and deviated route, in an arbitrary and unjust manner. The project being undertaken by TANTRANSCO is not for the benefit of AMRL as AMRL has already provided with TNEB substation and the project is being undertaken for the benefit of other industries/residents in Kalakadu, Sangneri, Melakallur etc., (other than AMRL) Therefore no additional costs can be recovered from AMRL especially when there exists no statutory basis for such demand.

Therefore AMRL wishes to state that the difference in cost between the original and deviated route shall be to the account of TANTRANSCO and AMRL shall not bear or re-imburse or be liable to bar-reimburse, the notional difference/difference in cost of execution of the deviated /alternate route.

6.We look forward to the alternative routing proposal being proceeded with subject to the conditions we have set out in para 5 above. We also request you to indicate to us the timeframe within which the statutory compensation due to AMRL will be provided to AMRL, for use of AMRL land under the alternative routing proposal."



11. On receipt of the above letter, TANTRANSCO through their letter dated 11.02.2021 took a very definite stand to the effect that the project will be proceeded with as per the approved route profiles and if the petitioner is aggrieved, they can claim compensation. This was once again reiterated through letter dated 24.02.2021. Aggrieved by the same, writ petitions have been filed before this Court.

12. The fourth respondent has filed a detailed counter affidavit and the relevant portions in the counter affidavit are extracted hereunder:

" c. Before the scheme is proposed a detailed study had been conducted along various alternate routes, existing EHT line crossing, road crossing, cost aspect etc., and finally the most economical and technically feasible route was approved by the Chief Engineer/Transmission / Chennai.

d. I state that by proceedings dated 17.07.19, 22.07.19, 25.02.19 & 16.09.19 the Chief Engineer, TANTRANSCO accorded approval to the route map and by proceedings dated 24.05.19, 26.07.19, 07.08.19, & 21.08.20 the entire work profile was approved by the Chief Engineer.

e. approving the profile, the Chief Engineer / TANTRANSCO, Chennai -2 had laid the following conditions for 230 KV and 110 KV respectively:

1. A minimum ground clearance of 7.01 m must be ensured throughout the length of the line.
2. A minimum vertical clearance of 3.05 m must be ensured between existing LT/HT/P&T lines.
3. A minimum required horizontal clearance of 12.20 m for trees on either side throughout the line.

And for 110 KV

1. A minimum ground clearance of 6.10 m must be ensured throughout the length of the line.
2. A minimum vertical clearance of 2.75 m must be ensured between existing LT/HT/P&T lines.
3. A minimum required horizontal clearance of 12.20 m for trees on either side throughout the line.

f. Hence, the entire works are being executed only along with the approved route alignment through agricultural, barren and Poromboke lands, wherever possible in order to strictly maintain the above vertical clearance.



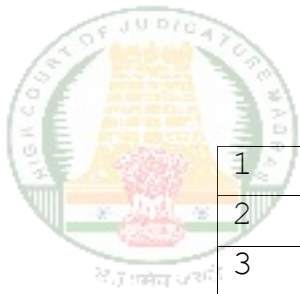
g. The present stage of the project are as follows in 230 KV DC line of Abisegapatti-Uthayathur LIL0 at Proposed Nanguneri 230 KV project:-

1	Total Distance	20.264
2	Total number of Towers	85
3	Total number of Tower foundations made	67
4	Total number of Towers erected	56
5	Total number of towers proposed in the Petitioners property	23
6	Total number of foundations laid in Petitioner property	15
7	Total number of tower laid in Petitioner property	12
8	Total distance stringing completed in the entire project	5.415
9	Total distance stringing completed in the petitioner property	2.810
10	Project schedule	1 year

f. The present stage of the project are as follows in 230 KV SC line from Samugarengapuram 400 KV SS to Proposed Nanguneri 230 KV SS project:-

1	Total Distance	20.861
2	Total number of Towers	88
3	Total number of Tower foundations made	58
4	Total number of Towers erected	31
5	Total number of towers proposed in the Petitioners property	3
6	Total number of foundations laid in Petitioner property	-
7	Total number of tower laid in Petitioner property	-
8	Total distance stringing completed in the entire project	-
9	Total distance stringing completed in the petitioner property	-
10	Project schedule	1 year

a. The present stage of the project are as follows in Nanguneri to Melakallur110 KV project:-



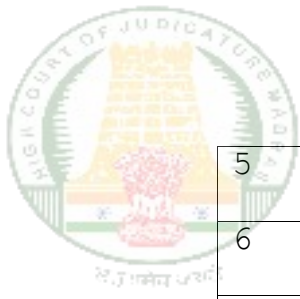
1	Total Distance	36.607
2	Total number of Towers	154
3	Total number of Tower foundations made	32
4	Total number of Towers erected	7
5	Total number of towers proposed in the Petitioners property	26
6	Total number of foundations laid in Petitioner property	5
7	Total number of tower laid in Petitioner property	-
8	Total distance stringing completed in the entire project	-
9	Total distance stringing completed in the petitioner property	-
10	Project schedule	1 year

b. The present stage of the project are as follows in Nanguneri to Sankaneri 110 KV project:-

1	Total Distance	45.545
2	Total number of Towers	180
3	Total number of Tower foundations made	72
4	Total number of Towers erected	32
5	Total number of towers proposed in the Petitioners property	14
6	Total number of foundations laid in Petitioner property	-
7	Total number of tower laid in Petitioner property	-
8	Total distance stringing completed in the entire project	-
9	Total distance stringing completed in the petitioner property	-
10	Project schedule	1 year

a. The present stage of the project are as follows in Nanguneri to Kalakadu 110 KV project:-

1	Total Distance	8.798
2	Total number of Towers	36
3	Total number of Tower foundations made	14
4	Total number of Towers erected	14



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5	Total number of towers proposed in the Petitioners property	9
6	Total number of foundations laid in Petitioner property	-
7	Total number of tower laid in Petitioner property	-
8	Total distance stringing completed in the entire project	-
9	Total distance stringing completed in the petitioner property	-
10	Project schedule	1 year

b. I state that as the projects are proposed to strengthen the existing Nanguneri 230/110 KV SS and as the said Sub Station is located in the property within the petitioner property, considering the location of the Sub Station the high tension lines are to be erected only in the Petitioner's land and the sketch attached herein would evidence the same.

5. I state that the contention of the Petitioner in the Writ Petitions that they are not bound to pay the deviation cost for the reason that no tower has been laid in their property and no compensation has been paid as per Section 10 and 16 of the Indian Telegraph act and hence seeking to pay the deviation cost as per Section 17 does not applies. The contention of Petitioner misconceived and not legally valid for the reason, that it is the mandate imposed upon the Corporation to carry out the work only in the approved route and in case of any request for deviation the same will be considered only on Deposit Contributory Work (DCW) basis i.e., the person seeking to deviate the work is to pay the cost involved in the deviation of the work. In the present case there were 71 number of towers were proposed in the originally approved route and as per the deviated route 77 number of towers is to be laid in order to lay the towers within the boundary of the Petitioner and the type of towers and materials also differs and the Petitioner is bound to pay the cost. I state that seeking the said payment is not illegal as Corporation being a state exchequer cannot be made to incur further cost in the project in order to comply with the request of the Petitioner.

6. I state that the contention that after accepting the deviation plan, Respondent cannot go back to original plan does not hold good for the reason, that the proposal for deviation places an obligation on either



parties and when the Petitioner has not complied with its part of the obligation cannot compel the Respondent to perform its part alone, in such case the same would result in severe loss to the Respondent.

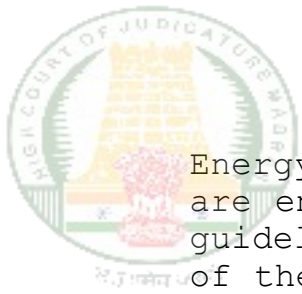
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7. I deny the contention that the levy of deviation cost is illegal and without any basis and state that as explained above the number of towers to be laid in the deviated plan is more than the towers proposed in the original plan and cost involved in the extra towers alone is sought from the Petitioner and the same cannot be said to be illegal. I state that details of the towers in the original route and the towers to be laid in the deviated route and the cost involved are annexed herewith.

8. I state that Section 17 of the Indian Telegraph Act, 1885 does not apply to the present facts of the case, since the same can be invoked only if the tower has been laid as mandated in the Section. In the present case tower has not been laid. Further, the cost sought to be paid by the Petitioner is the cost involved in the erection of additional towers than the towers in the approved route and the same cannot be termed as illegal. I further state that the Petitioner is well aware of the same as the same was explained to the Petitioner in the meeting held on 14.10.2020 and 01.12.2020.

9. I state that since the Petitioner has not concurred to pay the deviation cost, the Corporation has proceeded with the original route and had laid 15 number of towers in the original route and only 8 number of towers are left for the completion of the 230 KV DC line project in the Petitioner property as such the request for deviation at this stage is not technically feasible. I state that though the Petitioner is aware of the said fact has approached this Hon'ble Court without placing the actual fact that transpired on the field and has obtained an interim order.

10. I state that in the execution of a tower line project, TANTRANSOCO does not acquire any rights other than the user of the property causing as little damage as required for the execution of the work. As enunciated under Section 10(d) of the Indian Telegraph Act, 1885, that while exercising the powers under the telegraph authority, the authority shall ensure minimal damage to the property and to pay full compensation for such damage sustained. I state that as per G.O.Ms.No.86,



Energy Department (A1) dated 30.10.2019, the Petitioners are entitled for compensation at the rate of 100% of the guideline value for the area covered under the four legs of the tower and 20% of the guideline value for the line corridor area. I state that as per the above G.O., the compensation is to be worked out by the District Magistrate concerned since Corporation is not an expert in the field and G.O also mandates the same. The tentative compensation for the project is annexed herewith and full compensation can be ascertained only after the completion of the work.

11. I state that the project is of great importance for the public and the line comes under Inter State Transmission Infra Structure in the State of TamilNadu. I state that once the project is completed, it would be possible to achieve the uninterrupted power supply and to meet out the increasing demand in Nanguneri SEZ. I further submit that major portion of the project has been completed. I further state that as explained above, TANTRANSCO had secured all statutory approvals before initiating of the project and has not violated or deviated from the established procedures in the erection of high tension electric towers.

12. I state that the transmission line is taken along the approved route and Google images of the tower location is based on the approved check survey report. I state that there is no deviation from the approved route, plan and there cannot be any deviation from the approved route, since the route is decided after considering the techno-economical aspects in laying the towers. I state that the said view has been upheld by this Hon'ble Court in the case of T.Thirumalai Vs The District Collector and others reported in 2016 SCC Online Mad 15421, wherein this Hon'ble Court was pleased to observe as follows:

"34. The objective of the Respondents should always be to select the shortest route with the least possible damage to the lands and least detriment to the land owners. We are conscious of the fact that the choice of lands that will provide the shortest route with the least possible damage, may not always be so easy. If the respondents avoid installation of towers on certain lands due to their high fertility, the eco-system and the individual land owners are saved. But it may result in the transmission



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towers being erected on alternate lands that may not provide the shortest route. The consequence of this option is that the cost of the generation and transmission would go up, that would have an impact upon the economy of the country. Therefore, the act of balancing the conflicting interests are best left to experts."

13. I state that the tower is being erected in the approved route as once the route is approved there cannot be any deviation from the same as the same would cause serious issues with regard to the stability of the entire scheme. I state that the EHT line mostly runs in straight line and Residential and other buildings, wells, pathways are avoided leaving sufficient clearance to structures according to Indian Electricity Rules and Regulations for transmission of power. I state that for any damage sustained by the owner compensation is being paid on the rates fixed by the District Collector/Agriculture department.

14. I further state that the entire project ought to have been completed by end of this transmission programme year, but due to the various objections raised by the landlords as such the Petitioners herein, TANTRANSO is not in a position to complete the project within the time schedule and is executing the project after securing extension of time for completion of the project. Hence, the indulgence of this Hon'ble Court is necessary to complete the project. The project is of great importance for the public and I state that once the project is complete, it would be possible to achieve the uninterrupted power supply, therefore the overwhelming public interest should prevail over individual interest. I further submit that almost 50% of the total project has been completed and huge public money has been spent."

13. After the pleadings were completed, the matter came up for hearing on 08.07.2021 and this Court passed the following order:

"The submissions made on either side were heard in full.

2. The present case requires balancing the interest of an SEZ on the one hand and TANTRANSO on the other. In order to understand the entire scope of the original plan and the deviation plan



and the cost that will be incurred by the respondents, if they choose to go by the deviation plan, the learned Senior counsel for the State is directed to place a sketch explaining the original plan, deviation plan and the work that has been completed thus far. It shall also be accompanied by a calculation memo giving the total cost with break up details that will be incurred by TANTRANSCO, if they opt for deviation plan.

3. This Court requested the learned Senior counsel appearing on either side as to whether a special sitting can be held on 21.07.2021, which is a Court holiday. Both sides agreed for the request made by this Court.

4. Considering the nature of this case, a physical hearing will enable this Court to understand the technical details in this case. The learned counsel on either side also agreed to attend the physical hearing on 21.07.2021.

5. The Registry is directed to place this order before the Hon'ble Administrative Judge and formally get a concurrence of the Administrative Judge to post this case on 21.07.2021 at 11.00 a.m."

The Hon'ble Chief Justice granted approval on 13.07.2021 for hearing this case on a Court holiday and accordingly the matter was listed for final hearing on 21.07.2021.

14. This Court had requested the technical persons belonging to both sides to be present in Court and accordingly the following persons were present :

On the side of the Petitioner:

a. Mr.K.Tamilselvan, Chief Manager-Operations, AMRL, SEZ.

On the side of the Respondents:

b. Ms.A.Dhara, Superintendent Engineer/General Construction Circle TANTRANSCO/TNEB., Madurai.

c. Mr.R.Ganesan, Executive Engineer, Transmission Line Construction, Tirunelveli.

d. Mr.M.Raja, Assistant Executive Engineer, Transmission Line Construction, Valliyoor.

e. Ms.S.Bhuvaneswari, Assistant Engineer, Transmission Line Construction, Valliyoor.

15. A detailed sketch was presented before the Court along with a status report and it was explained. Both sides were given sufficient opportunity to put forth their points of view. A detailed



work sheet was also submitted before this Court explaining the cost factor if the original plan is implemented and the increase in the cost if the project is proceeded further with the deviation plan.

16. Heard Mr.Sathish Parasaran, learned Senior Counsel appearing for Mr.Raguvaran Gopalan, learned counsel appearing on behalf of the petitioner and Mr.Veerakathiravan, learned Senior Counsel, State of Tamilnadu for Ms.M.Parameswari, learned Counsel appearing for Mr.S.M.S.Johny Basha, learned Standing Counsel for the respondents.

17. This Court has carefully considered the submissions made on either side and the materials placed on record. This Court also had the advantage of taking assistance from the experts from both sides.

18. This is one of those rare cases where a Special Economic Zone Unit has been pitted against TANTRANSCO which is going ahead with a project of establishing a 230 KV sub-station at Nanguneri. The complaint of the SEZ Unit is that initially an impression was given by TANTRANSCO as if lines are going to be erected along the boundary of the property belonging to the petitioner, but however later it came to be known that transmission lines are going to be laid across the property of the petitioner and thereby it is going to render directly and indirectly nearly 800 acres of land useless, out of the total extent of 2518 acres. The further grievance of the petitioner is that the attitude of TANTRANSCO goes against the letter and spirit of Section 10(d) of the Indian Telegraph Act, 1885 which contemplates that only a little damage as far as possible must be caused while exercising the rights of laying the transmission lines. The further grievance of the petitioner is that the TANTRANSCO was expecting the petitioner to bear huge expenses in order to consider the alternative proposal given by the petitioner and the said demand made by the respondents is not backed by any law. It is further stated that the entire project is undertaken to benefit the SEZ and whereas it is now proving to be counter productive and a large chunk of land is going to be rendered useless. Therefore the SEZ is questioning the very purpose of the project which is detrimental to the interest of the SEZ.

19. On the other hand, the respondents are coming up with a case to the effect that this is a project where the approval was given in the year 2019 itself and before the scheme was implemented, a detailed study was made and finally the most economically and technically feasible route was approved by the Chief Engineer of TANTRANSCO. According to the respondents, this project falls within the transmission programme finalised by TNERC and it must be completed on or before 31.03.2022. It is further stated that the respondents are in compliance with Section 10(d) of the Telegraph Act and it was ensured that minimum space belonging to the



petitioner will be utilised for laying the line and the petitioners are coming up with an exaggerated version as if 800 acres are going to be rendered useless. The TANTRANSO has taken a stand to the effect that they did consider the alternate route suggested by the petitioner and informed the petitioner that they must bear the defray expenses/deviation cost and this was not acceptable to the petitioner and therefore there was no other alternative for TANTRANSO except to proceed further with the project as per the original plan. It is brought to the notice of this Court through the status report filed on 19.07.2021 that 45% of total number of towers, lines and stringing position has been completed and the details are given below:

1. From Abisegapatti Power grid (PGCIL) 230 KV main incoming source.

(Name of transmission line: 230 KV DC line of Abisegapatti - Uthayathur LILO at Proposed Nanguneri 230 KV SS project)

Sl. No	Description	Total in scheme	Inside AMRL / TITCO land	Outside portion
I	Total number of Location proposed	84	23	61
a	Foundation completed	72	15	57
b	Tower erection completed	67	11	56
II	Total distance (Stringing length)	20.264	6.007	14.257
a	Stringing completed	15.543	2.810	12.733

2. From Samugarengapuram 400/230-110 KV SS 230 KV incoming source.

(Name of transmission line: 230 KV SC line from Samugarengapuram 400/230-110 KV SS to Proposed Nanguneri 230 KV SS project)

Sl. No	Description	Total in scheme	Inside AMRL / TITCO land	Outside portion
I	Total number of Location proposed	88	3	85
a	Foundation completed	65	Nil	65
b	Tower erection completed	52	Nil	52
II	Total distance (Stringing length)	20.861	0.21	20.651
a	Stringing completed	8.956	Nil	8.956

**3. To Melakallur 110 KV Line from Proposed Nanguneri 230 KV SS project.**

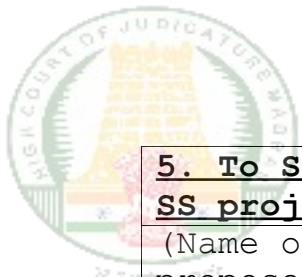
(Name of transmission line: 110 KV SC feeder II from proposed Nanguneri 230-110 KV SS to Existing Melakallur 110 KV SS.

Sl. No	Description	Total in scheme	Inside AMRL / TITCO land	Outside portion
I	Total number of Location proposed	154	26	61
a	Foundation completed	42	5	57
b	Tower erection completed	22	Nil	56
II	Total distance (Stringing length)	36.607	6.22	30.387
a	Stringing completed	Nil	Nil	Nil

4. To Kalakadu 110 KV Line from Proposed Nanguneri 230 KV SS project.

(Name of transmission line: 110 KV SC feeder from proposed Nanguneri 230-110 KV SS to Existing Kalakadu 110 KV SS.

Sl. No	Description	Total in scheme	Inside AMRL / TITCO land	Outside portion
I	Total number of Location proposed	36	9	27
a	Foundation completed	14	Nil	14
b	Tower erection completed	14	Nil	14
II	Total distance (Stringing length)	8.798	2.420	6.378
a	Stringing completed	Nil	Nil	Nil



5. To Sankaneri 110 KV Line from Proposed Nanguneri 230 KV SS project.

(Name of transmission line: 110 KV SC feeder II from proposed Nanguneri 230-110 KV SS to Existing Sanganeri 110 KV SS.)

Sl. No	Description	Total in scheme	Inside AMRL / TITCO land	Outside portion
I	Total number of Location proposed	180	14	166
a	Foundation completed	82	Nil	82
b	Tower erection completed	45	Nil	45
II	Total distance (Stringing length)	45.545	3.420	42.125
a	Stringing completed	Nil	Nil	Nil

20. The above status was as on 16.07.2021 outside the lands of the petitioner and as on 16.04.2021 inside the lands of the petitioner. The TANTRANSCO did not proceed further after 16.04.2021 in view of the status quo order passed by this Court.

21. According to TANTRANSCO, if the project is proceeded further as per the deviation plan suggested by the petitioner, they will be incurring a steep rise in the cost and to demonstrate the same, the following details are provided by TANTRANSCO:

DEVIATION COST IN AMRL LAND (In Lakhs)

I. LILO of 230 KV Abisekapatty-Udayathur at NGRI 230/110KV SS.

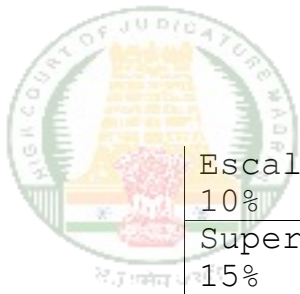
Work award cost for Original Plan	Tentative Est. Cost for Deviation plan	Difference in cost
(277.04+106.16) 383.2	(316.10+235.83) 551.93	168.73

II. All 110 KV lines.

Work award cost for approved Plan	Tentative Est. Cost for Deviation plan	Difference in cost
462.37	587.75	125.38

Abstract

Description	For 230 KV Line	For 110 KV line
Difference in cost	168.73	125.38



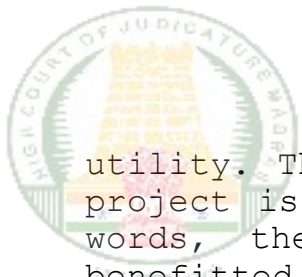
Escalation charges @ 10%	16.87	12.54
Supervision charge @ 15%	25.31	18.81
EPF @ 13% for 40% of Gross value	8.77	6.52
ESI @ 3.25% for 40% of work por	2.19	1.63
Sub total	221.88	164.87
.GST@18%	39.94	29.68
Grand total	261.82	194.55

<u>Grand Abstract</u>	
For 230 KV Line	261.82
For 110 KV line	194.55
Total	456.37

22. Ultimately TANTRANSCO has taken a stand that it is not feasible to change the route at this point of time and they have to necessarily proceed further with the project.

23. When this Court had invited technical persons from both sides and tried to find a viable solution, the counsel for the petitioner on instructions also suggested an alternate place on the western side of the property to lay the 230 KV sub-station. By making this suggestion it was submitted that the polls that have already been laid and the lines drawn from Abisegapatti Power Grid can connect to the Sub-station suggested in the alternate place. This suggestion according to the experts from TANTRANSCO is not viable and they had so many reasons to explain why it is not viable. That apart, it was also stated that if the alternate suggestion given by the petitioner is acted upon, it will delay the project for more than two years since once again they have to go through the approval process. That apart it was also stated that it will give a solution only insofar as 230 KV is concerned. However, the problem for 110KV will continue and the alternate route suggested by the petitioner to take 110KV from the existing sub-station is also not technically feasible for TANTRANSCO. Therefore whatever alternates were proposed, ultimately did not work out and both the parties were not able to reach a common ground.

24. It is quite surprising that the main purpose of the project is to benefit the SEZ Unit and in the status report it is mentioned that the new project will bring in a load of 120 MVA to the SEZ Unit and the balance 80 MVA alone is going to be used for other public



utility. The petitioner is crying hoarse with a grievance that the project is virtually killing the future of the SEZ Unit. In other words, the petitioner states that the SEZ Unit will be more benefitted if this project does not interfere with their property.

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25. When this Court was trying to understand the difficulties that will be faced by the TANTRANSCO if the deviation plan is adopted, it was informed to this Court that the transmission lines, as far as possible has to be in a straight line in order to eliminate loss of transmission. If it is taken in a zigzag manner, it would require additional materials and the type of tower and material will also differ which ultimately will escalate the cost of the project substantially. In order to explain the same, the following tabular column has been provided in the status report and the same is extracted hereunder:

<u>Difference in type of tower used inside AMRL / TITCO land.</u>					
Type of tower	Used for angle deviation	Original plan.	Due to plan deviation.	Difference	
				Required due to deviation	Excess in original
I. 230 KV Transmission towers					
LSR	30 to 60 degree	6	10	4	
KSR	2 to 30 degree	5	9	4	
GR	0 to 2 degree	12	9		3

II. 110 KV Transmission towers					
QD	30 to 60 degree	3	4	1	
QC	2 to 30 degree	1	2	1	
KCR	30 to 60 degree	15	18	3	
HCR	2 to 30 degree	11	12	1	
GCR	0 to 2 degree	18	12		6
	Total	71	76	14	9



<u>Difference in type of tower extensions used inside AMRL / TITCO land.</u>					
Type of tower	Original plan.	Due to plan deviation.	Difference		Remarks
			Required due to deviation	Excess in original	
I. 230 KV Transmission towers					
LSR+3	1	2	1		
LSR+6	1	4	3		
LSR+9	0	2	2		
KSR+6	0	2	2		
KSR+9	0	1	1		
GR+3	1	5	4		
GR+6	0	1	1		
II. 110 KV Transmission towers					
QD+3	0	3	3		
QD+9	2	0		2	
QC+3	1	0		1	
KCR+6	1	3	2		
KCR+9	2	0		2	
HCR+3	4	2		2	
GCR+3	1	0		1	
GCR+6	1	0		1	

26. The petitioner is not alleging any malafides against the respondents. Both the sides are having their own points of view and most of it hinges upon technical details and cost factor. This is not one of those cases where this Court is adjudicating upon issues which falls within the parameters that can be gone into under Article 226 of the Constitution of India. The issue involved is an area of expertise and this Court is completely ill-equipped to deal with the same. This Court cannot give a definite finding on any of the issues raised on either side. That is the reason why the Hon'ble Supreme Court has sounded a word of caution when it comes to interference by Courts on issues involving technical and scientific matters which are within the realm of expertise. This Court cannot sit in appeal over decisions of experts. There may be justifications in the claim made by the petitioner and the defence taken by the respondents. However, it is not feasible for this Court to decide a



lis of this nature more particularly since it does not possess the necessary expertise. This Court must be very slow in interfering with projects involving expertise while exercising its jurisdiction under Article 226 of Constitution of India.

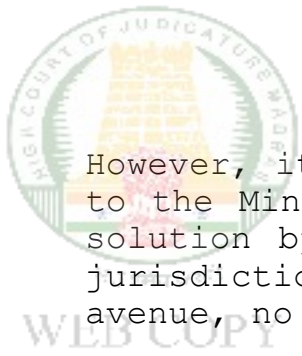
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27. The learned Senior Counsel appearing on behalf of the petitioner also placed reliance upon Section 17 of the Indian Telegraph Act to question the manner in which the respondents are compelling the petitioner to defray the entire expenses in order to continue the project in the alternte path/deviation plan suggested by the petitioner. The petitioner cannot place reliance upon Section 17 of the Indian Telegraph Act since it can be invoked only after the tower is laid. We are dealing with a case where the work is still in progress. In any case, since the respondents have taken a decision to proceed further in the original approved route, it may not be necessary for this Court to delve much on this issue.

28. In the present case, it is important to preserve the interest of both the petitioner as well as the respondents since both are involved in implementing projects of public interest. It is brought to the notice of this Court that recently the Government of Tamilnadu had identified Nanguneri SEZ as one of the main Special Economic Zone to attract industrial investments. If that be so, the concerned Ministry must undertake the exercise of finding a solution for this problem. Only a co-ordinated effort involving the Ministry of Industry and Ministry of Electricity will be able to bring about a solution for the grievance expressed by both the sides. There cannot be industrial development without proper co-ordination between various Departments. Before the State Government proceeds to invite investments, a solution has to be found out for the existing problem. Ultimately, the project that is implemented by TANTRANSCO should not adversely affect the development of the Special Economic Zone which is seen to be the future for industrial investments in this State.

29. The recent report that was released by the Ministry of Power, New Delhi shows that TANGEDCO has been ranked 39 among 41 power companies or boards that were rated. It is also stated in the report that TANGEDCO is falling within the last Grade namely, "C-Grade" which means it falls within the scores 0-20. This report must be a wake up call for the Ministry of Electricity in Tamilnadu. Unless some effective steps are taken to achieve a financial turnaround, reduce power purchase cost and also bring down the dependency on Government subsidy, it is only going to move from bad to worse. Therefore some proactive measures are required on the side of the Ministry of Electricity.

30. In view of the above discussion, this Court is not inclined to interfere with the project implemented by the respondents.



However, it is left open to the petitioner to make a representation to the Ministry of Industry to interfere in this matter and find a solution by co-ordinating with the concerned Ministry within whose jurisdiction the respondents are operating. Except opening up this avenue, no further orders can be passed in these writ petitions.

31. These writ petitions are disposed of accordingly. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PJL

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 Managing Director,
TANTRANSCO,
NPKR Ramasamy Maaligai,
144, Anna Salai,
Chennai-600 002.

2.The Executive Engineer,
Transmission Lines Constructions,
TANTRANSCO,
Tirunelveli-11.

3.The Superintending Engineer,
General Construction Circle,
TANTRANSCO,
Madurai-600 007.

4.Assistant Engineer,
TANTRANSCO,
Transmission of Line Construction,
Valliyoore.



5.The Chairman and Managing Director,
Tamilnadu Electricity Board,
10th Floor,
NPKRR Malligai,
Chennai-600 002.

+2 CC to M/s.RAGHUVARAN GOPALAN, Advocate (SR-
23930[F] dated 26/07/2021)

W.P(MD)Nos.7888 and 7889 of 2021

26.07.2021

RD(2.08.2021) 24P 8C