



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
24.01.2022	11.02.2022

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NOS. 8322 & 8366 OF 2020

AND

W.M.P. NOS.9980, 10049 & 10050 OF 2020

Ms. T.Akshya

.. Petitioner in WP 8322/2020

1. Muniyappa

2. Yaaseen Khan

3. Sampangiyappan

4. Narayanappa

5. Sameer Khan

6. Ramaiha

7. Thanappa

.. Petitioners in WP 8366/2020

- Vs -

1. The State of Tamil Nadu

rep. by Prl. Secretary to Govt.

Dept. of Energy, Govt. of Tamil Nadu

Fort St. George, Chennai 600 009.

2. The Chairman

TANTRANSCO

10th Floor, NPKRR Maaligai

No.144, Anna Salai, Chennai.

3. The Chief Engineer

Civil Transmission

TANTRANSCO, No.144, Anna Salai

Chennai 600 002.

4. The Superintending Engineer

General Construction Circle

Tamil Nadu Transmission Corporation

Krishnagiri.



5. The District Collector
Krishnagiri District,
Krishnagiri.

.. RR-1 to 5 in both petitions

6. Exide Industries Ltd.

rep. by its Authorised Signatory
Mr. Siddappa Shivasharanappa Nimbal
Exide House, 59E, Chowringhee Road
Kolkata 700 020.

.. R-6 in WP No.8366/2020

(R-6 impleaded vide order of this
Court dat. 19.11.21 in WMP 25212/21 in
WP.8366/2020 by MDIJ)

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus to call for the records with respect of the proceedings in vide memo No.CE/C/TR/SF/CII/TR/EEC/A3/F Profile /D.862/18 dated 26.10.2018 on the file of the 3rd Respondent granting approval of erection of over Head 110 KV Dc line on DC Towers with panther conductor for making LIL0 of the Hosur -Zuzuvzadi-Bagalur 110 KV Feeder at proposed Sevaganappalli 110 KV SS and to quash the same being violative of Article 14 of the constitution of india and in breach of the order passed by the division Bench of this Hon'ble court Madurai Bench and consequently direct the Respondents 1 to 4 to approve and erect underground DC Lines with panther conductor for making LIL0 of the Hosur-Zuzuvadi-Bagalur 110 KV feeder at proposed Sevanganapalli 110 KV SS.

For Petitioners : Mr.Prashanth Bhushan, SC, for
Ms. Jayasudha

For Respondents : Mrs. C.Sangamithirai, Spl. GP for RR-1, 4 & 5
In both WPs
Mr. J.Ravindran, AAG, assisted by
Mr. S.Madhusudhanan for RR-2 & 3
In both WPs
Mr. Sricharan Rangarajan for
Mr. K.Gowtham Kumar for R-6 in WP 8366/20

COMMON ORDER

The present petitions have been filed by the respective petitioners against the order of the 5th respondent, dated 14.11.2019, permitting respondents 2 and 3 to erect DC towers and overhead DC line passing through the agricultural lands of the petitioners and for setting aside the same.



2. It is the case of the petitioners that they are the owners of agricultural lands comprised in the respective survey numbers, as given in the writ petitions at Sevaganapali Village, Hosur Taluk. It is the case of the petitioners that the High Tension DC Tower and DC wire passes through their lands and inspite of the representation given by the petitioners, the 5th respondent has not properly considered the same and passed orders directing respondents 2 and 3 to proceed with the erection of High Tension DC Tower and DC wire, which not only prejudices the property of the petitioner, but also is hazardous to the inhabitants nearby.

3. It is the further averment of the petitioner that with regard to similar issue relating to Over Head High Tension Wire erection at Pugalur HVDC Station - Thiruvalam and Paramathy were filed before the Madurai Bench and considering the perils being caused by overhead high tension lines, which poses serious safety and health risks to human lives and considering the advantages of underground wires/cables, the Division Bench directed the respondents therein to consider underground wires/cables over overhead high tension wires.

4. It is the averment of the petitioner that the present case also falls within the same campus, as the respondents are putting over head high tension wires through the agricultural lands of the petitioners, which is against the orders passed by the Division Bench. It is the further averment of the petitioners that the respondents are duty bound to take precautionary measures to avoid any harm to inhabitants near the over head high tension DC lines and this fact has also been emphasised by the Hon'ble Supreme Court in Raman - Vs - Uttar Haryana Bijli Vitran Nigam Ltd. (2014 (15 SCC 1)).

5. Though direction has been given by the Madurai Bench in W.P. (MD) No.9772/2019, wherein the Division Bench has passed interim directions with regard to laying of underground power lines, however, the respondents, without due regard to the directions of the Division Bench in W.P. (MD) No.9772/2019 are installing over head high tension power lines, which is not only detrimental to the health and safety of the petitioners and other human lives and also endangering their livelihood, but also discriminatory, in that the order of the Division Bench having not been followed, there being no efficacious remedy available to the petitioners, the present writ petitions have been filed.



6. Learned senior counsel appearing for the petitioners, advertising to the order of the Division Bench in W.P. (MD) No.9772/2019, submitted that the health of the public takes precedence over the other activities of the State. It is the submission of the learned senior counsel that there is a high risk of cancer to the general public due to the laying of overhead high tension transmission lines. Only due to the above fact, the Division Bench, in W.P. (MD) No.9772/2019, considering the various health hazards, had directed the respondents therein to consider laying of underground cables/wires instead of overhead high tension lines. However, inspite of such a direction from the Division Bench, which is to be considered for the future projects as well, the respondents, in scant respect and regard to the said directions, had taken the step of provisioning overhead high tension lines.

7. It is the further submission of the learned senior counsel that the entire stretch of around 6 Kms., of proposed overhead high tension transmission line, 1.5 Kms., passes through residential area, which is against Regulation 61 of the Central Electricity Authority (Measures Relating to Safety & Electricity Supply) Regulations, 2010 and also the guidelines of the Government of India dated 15.10.2015, which has mandated the width of right to way to be maintained at 22 metres for transmission line with 110 KV. It is therefore the submission of the learned senior counsel that the passage of high tension lines through the residential area has not been considered properly by the respondents 1 to 3 and the technical feasibility has not been properly ascertained before approving the proposal for erection of towers. It is the submission of the learned senior counsel that allowing the high tension overhead line to pass through the residential area would endanger the lives of the occupants of the locality, in addition to causing health hazards to the persons living in the said locality.

8. It is the further submission of the learned senior counsel that the respondents 3 to 5 could exercise powers of the Telegraph Authority u/s 10 and 16 of the Indian Telegraph Act, 1885 for erection of electric towers and lines, only if it is for public purpose. It is the further submission of the learned senior counsel that the powers u/s 10 and 16 of the Indian Telegraph Act could not be exercised by the authorities for private purpose. However, in the case on hand, the high tension transmission lines are being laid specifically for the purpose of the 6th respondent and there is no iota of public purpose involved and, therefore, in view of the decision of the Hon'ble



Apex Court in The Power Grid Corporation of India Ltd. - Vs - Century Textiles & Industries Ltd. & Ors. (2017 (5) SCC 143).

9. It is the further submission of the learned senior counsel that the power conferred u/s 10 (b) is subject to the provision of Section 10 (d) of the Act, which empowers placing of telegraph post and line only with minimal damage and such power could not be construed as an unabridged power depriving the right to shelter guaranteed under Articles 19 and 21 of the Constitution of India. It is the submission of the learned senior counsel that the erection of towers in the residential area would have a detrimental effect on the health of the citizens in the locality and, in turn, would make the citizens flee from the place of their residence, which is nothing but depriving the residents of the constitutional guarantees provided to them under Article 19 and 21 of the Constitution.

10. It is the further submission of the learned senior counsel that it is not the case of respondents 3 to 5 that based on the application by the 6th respondent, the high tension overhead line is being erected. However, the counter of respondents 3 to 5 projects a picture as if the project is for the benefit of the general public at large. However, it is the submission of the learned senior counsel that the high tension lines, in no way, benefits the public and the fact that the 6th respondent has impleaded itself would show that only to meet the requirements of the 6th respondent the entire project has been undertaken and this would also be evident from the fact that the proposed sub-station is situated within the premises of the 6th respondent on the border of the State of Tamil Nadu and State of Karnataka and that there are no adjoining villages near the substation, which would benefit from the commissioning of the said substation.

11. It is the further submission of the learned senior counsel that the State of Gujarat has evolved a model of underground cable lines through the State, more particularly high tension lines, which has been done keeping in mind the health of the public. However, inspite of direction from this Court, the State has not considered the feasibility of implementing underground cables with regard to high tension lines, as that would have lesser impact on human lives and it is the further submission of the learned senior counsel that though the initial cost for laying underground cables/lines would be a bit higher, but the recurring cost would not be far more lower when compared to the recurring cost that would necessary for maintaining the overhead high tension cables/wires. Therefore,



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this Court may incidentally direct the respondents to consider laying of underground cables/wires for all such projects henceforth while considering the present case for direction to do away with the overhead high tension lines and replacing the same with underground cables/wires.

12. In support of the above contentions, on behalf of the petitioners, reliance is placed on the following decisions :-

- i) The Power Grid Corporation of India Ltd. - Vs - Century Textiles & Industries Ltd. & Ors. (2017 (5) SCC 143);
- ii) UP Avas Evam Vika Parishad - Vs - Friends Cooperative Housing Society Ltd. (1995 Supp (3) SCC 456;
- iii) State of Karnataka - Vs - Narasimhamurthy (1995 (5) SCC 524);
- iv) Chameli Singh - Vs - State of UP (1996 (2) SCC 549); and
- v) Ahmedabad Municipal Corporation - Vs - Nawab Khan Gulab Khan (1997 (11) SCC 121)
- vi) Century Rayon Ltd. - Vs - IVL Ltd. & Ors. (2019 (2) Bom CR 94;
- vii) Century Rayon Ltd. - Vs - IVP Ltd. & Ors. (AIR 2020 SC 1923).

13. Per contra, learned Addl. Advocate General appearing for respondents 2 to 4 on the basis of the counter filed submitted that it is within the domain of the State, in the interest of public to consider erection of towers for transmission lines, which are covered by the relevant provisions of the Indian Telegraph Act a also the electricity Act, 2003. It is further submitted by the learned Addl. Advocate General that on the basis of the licence granted under the Electricity Act, respondents 2 to 4 are within their powers to erect high tension electrical towers. It is the further submission of the learned Addl. Advocate General that the 5th respondent, after considering the representation submitted by the petitioners and after affording an opportunity of hearing, though not contemplated under the relevant provisions, passed the order, granting permission to enter into the lands of the petitioners for the purpose of erection of towers. The technical feasibility had been considered and analysed by the experts and only upon proper study and consideration the above project has been undertaken. It is the further submission of the learned Addl. Advocate General that the public interest overrides the right of private individuals and in the case on hand, the transmission lines would have much significant impact on the



overall electrical voltage in and around the area of establishment and would provide uninterrupted power supply and cater to the growing power demand in the locality and once the work to an extent of more than 50% gets completed the Courts shall not normally interfere considering the monetary aspect involved in the project. Further, it is submitted that the petitioners have not, through any credible materials, established that the transmission lines would cause cancer to the public at large and in such a backdrop, it is prayed that this Court may dismiss the present writ petitions.

14. Learned counsel appearing for the 6th respondent that upon application filed by the 6th respondent, TANGEDCO had approved the application of the 6th respondent for provision of high tension overhead line and in this regard, necessary lands, which were sought for by TANGEDCO were provided to TANGEDCO. It is the submission of the learned counsel that the petitioners were heard before order was passed by the 5th respondent and, after proper appreciation of the materials, the order granting permission to enter and to erect towers was passed by the 5th respondent. It is the further submission of the learned counsel that Sections 39 and 40 of the Electricity Act, 2003 empowers the respondents 2 to 4 to discharge all functions of planning and coordination relating to intra-state transmission system. It is the further submission of the learned counsel, placing reliance upon the decision of the Hon'ble Supreme Court in Century Rayon case (supra) that it is not only for public purpose, but also for providing dedicated distribution facilities, the Government is empowered to provide the facilities even for commercial purpose and merely because the power is given for commercial purpose by erecting the towers and transmission lines, would not by itself, be a ground to interfere with the said order as the Government would still be entitled to tap the said service line for providing electricity to other consumers.

15. It is the further submission of the learned counsel that but for the husband of the petitioner in WP No.8322/20, who filed objections before the 5th respondent, none of the other petitioners had filed objections before the 5th respondent and even the allegations made in affidavit are vague, in that, it merely states that the transmission lines passes through their parcels of land, but no material whatsoever has been placed to substantiate the same.

16. It is the further submission of the learned counsel that the 5th respondent after affording opportunity of hearing



and considering the objections of the land owners and also taking into account the report of the Revenue Divisional Officer and the Village Administrative Officer, including the proposal for alternative route suggested by some of the land owners, had passed the impugned order, which order, till date, has not been challenged and even if challenged, the scope of judicial review in such matters is very limited.

17. It is further submitted by the learned counsel for the 6th respondent that the establishment of a sub-station would not benefit the 6th respondent alone, but it would be beneficial to the entire adjacent villages. In this regard, the learned counsel placed reliance on the order passed by the 5th respondent in which the report filed by the Revenue Divisional Officer has been dealt with, wherein specific mention has been made that the establishment of the sub-station would put an end to the low voltage problems faced by many households and would benefit the surrounding villages as also the industrial establishment.

18. It is the further submission of the learned counsel that the suggestion of alternative route has also been taken into consideration and the report has specifically mentioned that after considering the suggestion and deliberating upon the same, the alternative route was found to be technically not feasible, as the same would necessarily have to pass through residential colonies, whereas in the present case, it mainly passes through agricultural lands.

19. It is the further submission of the learned counsel that balancing the conflict of interest between the land owners and having shortest possible route to avoid transmission loss are best left to the experts as has been laid down by this Court in T.Thirumalai - Vs - The District Collector (2016 SCC OnLine Mad 15421), and where more than 75% of the work has been completed, it is not advisable to deviate from the proposed route, as the same would cause unnecessary loss to all the stakeholders concerned. It is the submission of the learned counsel that even according to the petitioners, most of the work of erection of towers have been completed and, therefore, any detrimental order passed by this Court at this stage, would have far reaching monetary ramifications.

20. It is the further submission of the learned counsel that even after erection of towers, in case of higher compensation for any damage to the property, the concerned land owners can very well invoke the provisions of Section 16 of the



Indian Telegraph Act, as it is only under the said Act, erection of towers is being taken up.

21. It is the further submission of the learned counsel for the 6th respondent that the petitioner in WP No.8322/20 has come before this Court with unclean hands. Though it is the stand of the petitioner that he is putting up residential unit, however, it is evident from the record that the petitioner had obtained planning permission much later in point of time when the project approval was granted. Therefore, the claim of the petitioner that the erection of towers would have an impact on the residential construction of the petitioner is wholly unsustainable.

22. It is the further submission of the learned counsel for the 6th respondent that the reliance placed on the Division Bench order in WP (MD) No.9772/19 would not be of any use to the petitioners as even in the said decision, it has been ordered that where projects which have already commenced and amount in excess of 50% of the estimated project cost has been spent, the respondents shall not refrain from proceeding further with the said project. It is the submission of the learned counsel that in the case on hand, almost 75% of the work has been completed and that being the case, the plea of the petitioners for changing the alignment of overhead transmission lines when it is on the verge of completion cannot be sustained.

23. It is the further submission that it is not the case of the petitioners that there has been any violation of the Regulations or any of the provisions of the Act. It is the further submission of the learned counsel that it is also not the case of the petitioners that no technical feasibility was conducted or proper appraisal has been made before the project was approved. In such circumstances, the stand of the petitioners that the transmission lines are passing through the agricultural lands alone would not suffice to defeat the larger public interest which is involved in the erection of the transmission lines. Therefore, the learned counsel prays for dismissal of the petitions.

24. In support of his submissions, learned counsel for the 6th respondent placed reliance on the following decisions :-

- "i) Century Rayon Ltd. - Vs - IVP Ltd. & Ors. (2019 SCC OnLine SC 1521);
- ii) Power Grid Corporation of India Ltd. - Vs - Century Rextile & Industry Ltd. (2017 (5) SCC 143);



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- iii) R.Santhanaraj - Vs - The Chief Engineer (2014 SCC OnLine Mad 6205);
- iv) Vellaichamy - Vs - State of Tamil Nadu (2012 (1) CTC 504);
- v) T.Thirumalai - Vs - The District Collector (2016 SCC OnLine Mad 15421); and
- vi) M.Mary - Vs - The Chairman (2014 SCC OnLine Mad 11142)"

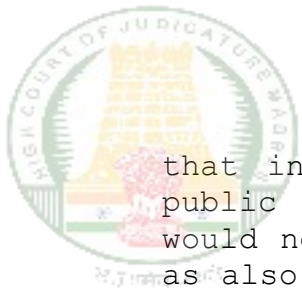
25. This Court gave its anxious consideration to the submissions advanced by the learned counsel appearing for the parties and perused the materials available on record as also the decisions relied on by the learned counsel for the parties.

26. The contentions raised by the learned senior counsel is three-fold :-

- (i) the overhead transmission lines going through the agricultural lands is hazardous to the health of the public in and around the locality;
- (ii) The project is not in public interest as it has been designed and executed only for the purpose of the 6th respondent; and
- (iii) respondents 2 to 4 should have gone ahead with the more viable and healthy option of laying underground cables/wires, which would not have affected the health and would also ensure that farming activities are carried on without any hindrance.

27. Insofar as the contention relating to the public health being affected on account of laying of overhead transmission lines, it is to be pointed out that the lands through which the overhead HT transmission lines are to pass through are over agricultural fields. In fact, it is also one of the stand of the petitioners that if the alignment is changed so as to avoid the agricultural fields, the agricultural operations would not be affected. From the above, it is clear that even according to the petitioners, the transmission lines is passing through agricultural fields. In such a scenario, this Court is at a loss to understand as to how it would be detrimental to the health of the public.

28. True it is that in the agricultural lands, farmers would be working for a period of time, but that cannot be the ground to put fetters on the respondents not to take the transmission lines over the area, as it is to be pointed out



that in all the places, there would be ingress and egress of public and in that scenario, the erection of transmission lines would not be a feasible one. It is the duty of the authorities as also this Court to balance both, the health of the public and the interest and benefit of the public to arrive at a just and reasonable conclusion and this Court cannot, at the behest of the petitioners, come to the conclusion that the passing of the transmission lines over the agricultural fields would be detrimental and hazardous to public health. Further, no scientific material is also placed before this Court to substantiate the plea that the erection of high tension overhead transmission lines would have a detrimental impact on the health of the public in the locality. However, this Court is not venturing into the said subject of the transmission lines causing health hazards to the public as this Court is not an expert to deal with the same, more so in the absence of any expert opinion placed before it. The fact that the petitioners themselves have admitted that the transmission lines are passing through their agricultural fields, in which there may be houses, as is the case of the petitioner in WP No.8322/2020 cannot be the ground for this Court to come to the conclusion that it is a residential area and, therefore, the erection of overhead high tension transmission lines cannot be permitted. Therefore, the above contention raised on behalf of the petitioners deserve to be negatived.

29. The next contention raised on behalf of the petitioners relate to the said project not being in public interest but only in private interest and, therefore, the interest of the other individuals, like the petitioners, should also be taken into consideration before the private interest of the 6th respondent can be satisfied.

30. It is borne out by record that the 6th respondent has made application for providing additional power for the industry established by the 6th respondent. It is further evident that respondents 2 to 4 have also granted approval pursuant to which the 6th respondent has provided the requisite lands to respondents 2 to 4 for establishing the necessary sub-station and it is also further evident that the 6th respondent has also paid the requisite fees and other amounts that are required to be paid for the purpose of establishing the sub-station.

31. The materials available on record also further reveals that report was called for from the Revenue Divisional Officer, wherein the Revenue Divisional Officer has opined that establishing the sub-station would address the problems of low



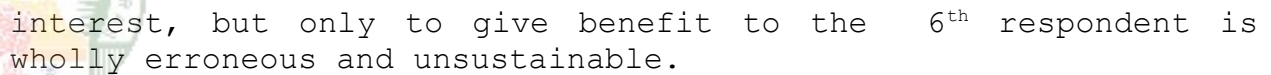
voltage faced by the households and would benefit the surrounding villages as well as the industrial establishment. The 5th respondent, on the basis of the report of the Revenue Divisional Officer has given the permission for entry into the lands and also for erection of towers.

32. No doubt, the sub-station is being established at the instance of the 6th respondent. But it should not be lost sight of that establishing a sub-station is not for the exclusive use of the 6th respondent. The Hon'ble Supreme Court in Power Grid Corporation case (supra), with reference to the necessity for installation of electricity transmission lines, has held as under :-

"..... As per the provision of the Telegraph Act, 1885, unobstructed access to lay down telegraph and/or electricity transmission lines is imperative in the larger public interest. Electrification of villages all over the country and availability of telegraph lines are the most essential requirement for growth and development of any country, economy and the well-being/process of citizens. The Legislature has not permitted any kind of impediment/obstruction in achieving this objective and through the scheme of the Telegraph Act, 1885, empowering the licensee to lay telegraph lines, applied the same, as it is, for laying down transmission lines."

33. Further, it is to be pointed out that it has been the consistent view of the Courts that personal interest cannot override the larger public interest. When it comes to matters of larger public interest, the personal interest should be relegated to the back seat, else the economic and developmental activity of the country will be greatly hampered.

34. In the case on hand, the sub-station is being established at the instance of the 6th respondent, but as per the provisions of the Telegraph Act as also the Electricity Act, respondents 2 to 4 are well within their power to draw any lines from the said transmission lines for the benefit of the public. Definitely the high tension overhead transmission lines would greatly help in minimising the low voltage problems being faced by the surrounding villages, as has been opined by the Revenue Divisional Officer in his report. Therefore, in the above circumstances, this Court is of the considered view that the submission of the petitioners that the project is not in public



36. In this regard, useful reference can be had to the decision of the Hon'ble Supreme Court in Power Grid Corporation case (supra), wherein, it has been held as under :-

23) Section 10 of the Indian Telegraph Act, 1885 empowers the Telegraph Authority to place and maintain a telegraph line under, over, along or across and posts in or upon any immovable property. The provision of Section 10(b) of the Indian Telegraph Act, 1885 makes it abundantly clear that while acquiring the power to lay down telegraph lines, the Central Government does not acquire any right other than that of user in the property. Further, Section 10(d) of the Indian Telegraph Act, 1885 obliges the Telegraph Authority to ensure that it causes as little damage as possible and that the Telegraph Authority shall also be obliged to pay full compensation to all person interested for any damage sustained by them by reason of the exercise of those powers.

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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 owner are saved. But it may result in the transmission 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."

38. Therefore, feasibility is one of the main concerns which needs to be addressed coupled with balancing the conflicting interests, which are the pivotal points to be considered while considering the proposal for alternative route. It has been laid down that those aspects are to be best left to experts and this Court should not sit in the chair of the experts to find out whether the decision taken is proper or not so long as the said decision is within the domains of legality and rationality. In the case on hand, the technical experts have chosen a particular route, which has been endorsed to be the best route by the Revenue Divisional Officer and the Village Administrative Officer on conduct of field inspection. Such being the case, this Court, under the guise of judicial review, cannot import its decision to that of the experts in the field.

39. One other aspect that requires to be highlighted is the fact that according to the respondents, more than 75% of the work has been completed and the sub-station ought to have been functional by 2019 itself, but for the interim order passed by this Court. In this regard, it is the submission of the learned counsel for the respondents that the decision relied on by the petitioner, viz., W.P. (MD) No.9772/2019 leans more in favour of the respondents rather than on the petitioner. While granting interim order, the Division Bench has observed as under :-

"10. In view of the above highlighted risk, this Court direct the respondents that if the projects have already been commenced by spending more than 50% of the cost, the respondents need not refrain themselves from proceeding with the said projects."

40. In the case on hand, it is the stand of the respondents that nearing 75% of the work has since been completed, which



fact is not disputed. Further, the said submission gets strengthened from the fact that even the stand of the petitioner reveal that of the 33 towers to be erected, towers 1 to 20 have been erected and 32 and 33 are within the premises of the 6th respondent and only due to the interim orders of this Court, tower Nos.21 to 31 are yet to be erected. When almost two-thirds of the work has been completed, putting the shackles on the respondents and asking them to find an alternative route, when alternative route suggested by the petitioners was negatived as the same was found to be technically not feasible, this Court cannot brush aside the aforesaid undisputed position and direct the respondents to find any other alternative route. In fact, it is public money that has been spent on the entire project in addition to the money put in by the 6th respondent. When the public at large would be deriving benefit out of the project by getting better power supply, this Court has to look at the larger public interest, than to safeguard the interest of few of the individuals like the petitioners.

41. Further, it is to be pointed out that it is the explicit case of the respondents 2 to 4 that the tower positions are finalized purely on the merits of the techno-economic consideration and that while optimising the transmission line project, care should be taken to safeguard the permanent features such as roads, power lines, railway lines, communication lines, dwelling units and crossing stipulations, which have been taken care of by the respondents. As already pointed out, the transmission lines are being taken through agricultural lands by erecting towers, which will have a minimal impact on the agricultural lands, but the enormity of the benefits to be reaped out of the same cannot be brushed aside for the mere fact that the petitioners will be put to sufferings.

42. Further, it is to be pointed out that it is not the case of the petitioners that there is violation of any of the provisions of the Indian Telegraph Act or the Electricity Act. The only grievance expressed by the petitioners is that erection of transmission towers would be detrimental and hazardous to the residents in the locality and that the sub-station is erected only for fulfilling the needs of a private entity and it does not have the larger public interest in mind.

43. This Court has already answered the aforesaid contentions and the only contention which remains to be dealt with by this Court relates to the cabling to be made underground rather than through overhead means. In this regard, learned senior counsel for the petitioners relied on the Gujarat model



wherein the entire electricity cabling for the purpose of high tension transmission lines is done underground, which will not only be monetarily beneficial, but it would also not affect the livelihood of the farmers through whose lands, the transmission lines would be taken to be connected to the sub-station.

44. It is to be pointed out that the above aspect of underground cabling is also within the domain of the experts and this Court cannot sit and review the decision taken by the experts, either to have underground cabling or to have overhead transmission lines. It may not be out of context to point out here that both the underground cabling as well as the overhead transmission lines have their positives and negatives and it is only the experts in the field, who can decide which is best in the current scenario and merely because a different State in India had adopted a certain model, the same ought to be followed by the other State as well. Therefore, this Court cannot take into consideration the underground cabling system followed by the State of Gujarat and direct the respondents 2 to 4 to follow such a system.

45. For the reasons aforesaid, this Court is of the considered view that the contentions put forth on behalf of the petitioners do fall short of acceptance and, therefore, this Court has no hesitation to dismiss the writ petitions. Accordingly, both the petitions are dismissed. Consequently, connected miscellaneous petitions are closed. In the circumstances of the case, there shall be no order as to costs.

46. Before parting with the case, this Court would like to emphasise an important fact. Much of the State of Tamil Nadu, more especially the extent down South are mainly agricultural areas, where vast extent of lands are cultivable lands being put in use for cultivation by the farmers, who earn their livelihood through the crops they produce, which ultimately fills the stomach of the common man in the cities. Farming is the major and important activity in Tamil Nadu and most of the agriculturists strive hard to cultivate crops for the benefit of all. In effect, the farmers are the torch bearers of public interest with least self-interest, they cultivate the lands to provide food to humanity and the humaneness with which the farmers produce their products reflects in the smiles on the face of the persons on consuming the food. When the transmission lines are taken through the agricultural fields, inspite of proper maintenance, electrical hazard cannot be ruled out and since the agricultural lands would be wet most of the time to retain moisture for the better cultivation of crops.



47. True it is that the technical experts are the better equipped persons to find out the best route for taking the transmission lines for the development of the society. However, it should not be lost sight of that the development of the society cannot be at the expense of the livelihood of the masses. Monetary considerations in the completion of a project cannot outweigh the livelihood of the masses, as the livelihood is not for the farmers, who are cultivating the crops, but also for the entire humanity, as the agricultural lands are the "Akshaya Patra", which feeds the human race. Therefore, due regard is to be given to the lands and the farmers, who toil and sweat out their lives for feeding the hungry. It is high time that the Government introspect this aspect of the matter and as and when any new projects are planned, the Government may see to it that monetary aspect shall not be a deterrent to raze out agricultural lands, as any detriment caused to agriculture is in effect a detriment caused to humanity.

Sd/-
Deputy Registrar(CS)

//True Copy//

Sub Assistant Registrar

GLN

To

1. The Prl. Secretary to Govt.
Dept. of Energy, Govt. of Tamil Nadu
Fort St. George, Chennai 600 009.
2. The Chairman
TANTRANSCO
10th Floor, NPKRR Maaligai
No.144, Anna Salai, Chennai.
3. The Chief Engineer
Civil Transmission
TANTRANSCO, Anna Salai
Chennai 600 002.
4. The Superintending Engineer
General Construction Circle
Tamil Nadu Transmission Corporation
Krishnagiri.



5. The District Collector
Krishnagiri District, Krishnagiri.

+3cc to Mr.K.Jayasudha, Advocate SR.No.8776
+2cc to Mr.K.Gowthamkumar, Advocate SR.No.8857
+2cc to Mr.S.Madhusudanan, Advocate SR.No.8751

W.P. NOS. 8322 & 8366 OF 2020

GSM(CO)
GN(22/02/2022)