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Cont.P.No.1469 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2022

CORAM

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

Cont.P.No. 1469 of 2022

Tamil Mani

.. Petitioner

Versus

1.Mr.S.Karmegum
The Collector
Salem District
Salem

2.B.Ramba
The Manager/PNTML
Powergrid NM Transmission Ltd
(A fully owned subsidiary of Power Grid
Corporation of India Ltd., a Government of
India Enterprise)
765KV Substation
K.R.Thoppur
Konakapadi Post
Salem District – 636 502

.. Respondents

Prayer: Contempt Petition filed section 11 of the Contempt of Courts Act, 1971, to punish the respondents for wilful disobedience of the order of this court dated 20.06.2016 in W.P.No.14366 of 2016.

For Petitioners : Mr.S.Doraisami
for Mr.V.Elangovan

For Respondents : Mr.J.Ravichandran
Additional Advocate General
assisted by Mrs.V.Yamunadevi, SGP
and Ms.P.Aishwarya, GA
Mr.A.R.L.Sundareswaran, Senior Counsel



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for M/s.Aiyar & Dolia for R2
ORDER

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This petition is filed on the basis that the Order of the learned Single Judge of this Court has not been considered and compensation has not been granted as per the guidelines of the Ministry of Power, Government of India dated 15.10.2015.

2. While disposing the Writ Petition by way of a Common Order, this Court directed the first respondent to consider the petitioner's claim in light of the guidelines issued by the Ministry of Power, Government of India dated 15.10.2015.

3. Now, the grievance of the petitioner is that the compensation has not been arrived on the basis of the above said guidelines, whereas, the compensation arrived was only on the basis of a Government Order namely G.O.Ms.No.63, Energy (A1) Department dated 22.11.2017. Therefore, according to the petitioner, it is a clear case of contempt, whereas, the learned Senior Counsel appearing for the second respondent would submit that the guidelines is only in recommendatory in nature. The guidelines itself has indicated necessary action may be taken by the State Government. It is only a request made to the State Government to take suitable decision regarding adoption of the guidelines



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considering that the acquisition of a land is a State subject. Hence, his contention is that the above guidelines were taken note of and the Government has passed the said Government Order to the effect in G.O.Ms.No.63, Energy (A1) Department dated 22.11.2017 that the above guidelines will be applicable only to the new projects with prospective effects.

4. Such view of the matter, it is his contention when the State has taken a policy decision giving prospective effect to such guidelines, the petitioner cannot seek compensation on the basis of the guidelines which are only recommendatory in nature and further, the learned Senior counsel appearing for the second respondent submitted that the only grievance of the petitioner is with regard to sufficiency of the compensation and the remedy lies only before the District Court under Section 16(3) of the Indian Telegraphs Act, 1885 and according to the learned Senior Counsel, Order has been passed and compensation has been fixed as per the G.O., which operates the field on the date of entitlement. Therefore, that cannot be construed as contempt. Hence, opposed this contempt petition.

5. I perused the entire materials. Though the learned Single Judge has directed the first respondent to consider the recommendation of the Ministry of



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Power, Government of India guidelines dated 23.11.2017. On perusal of the

Order, it would indicate that there is no positive directions given by this Court,

what was ordered is only to consider the guideline while fixing compensation.

The guideline referred above are not direction to the State Government to follow.

It is only a request to State and Union Territory to take a decision for adoption of

the guidelines. However, the State Government has taken a decision accepting

recommendations to the effect that it is only prospective i.e., in a new project and

not to the earlier project.

6. Such view of the matter, this Court is of the view that the compensation has been fixed on the basis of G.O.Ms.No.63, Energy (A1) Department dated 22.11.2017. Therefore, when the Government Order stipulates recommendation is only prospective in nature, the petitioner now cannot complain that there is a violation of the Order of the Court. As indicated above, this Court has given a direction to the first respondent to consider the guidelines. As the first respondent is the decision making authority, he has to follow the law governing the State, particularly the Government Orders and he has to act only on the Government Orders.



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7. Such view of the matter, it cannot be held that the respondent committed contempt. Hence, this contempt petition stands closed. However, liberty is granted to the petitioner to file the necessary petition challenging the compensation granted by the first respondent under Section 16(3) of the Indian Telegraphs Act within a period of one month from the date of receipt of a copy of this Order and on such application being filed, the petitioner is entitled to canvass the case to establish that the compensation passed by the first respondent is inadequate. On such application is filed, the District Court shall dispose of the petition expeditiously, considering on its own merits.

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Internet : Yes

Index : Yes / No

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