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*W.P.Nos.26956, 26958,
26526 & 26529 of 2018*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.08.2022

CORAM

THE HONOURABLE MR. JUSTICE R. SURESH KUMAR

**W.P.Nos.26956, 26958, 26526
& 26529 of 2018**

W.P.No.26956 of 2018

P.Sadhasivam

..

Petitioner

Versus

- 1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Energy Department,
Fort St. George, Chennai – 600 009.
- 2.The Chairman,
Tamil Nadu Electricity Board,
No.800, Anna Salai,
Chennai – 600 002.
- 3.The Chief Engineer,
Tamil Nadu Electricity Board,
No.800, Anna Salai, Chennai – 600 002.
- 4.The Superintending Engineer,
Mettur Thermal Power Project [MTPS],
Tamil Nadu Electricity Board,
Mettur Dam – 2, Salem District.



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5.The Sub-Collector/
Revenue Divisional Officer,
Mettur Revenue Division,
Mettur Dam – 1,
Salem District.

.. Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus, directing the respondents to provide employment to my son viz., S.Bharathkumar as per the rehabilitation scheme formulated by the respondents under the land acquisition category on par with similarly placed persons and as per the orders of this Court made in W.P.Ns.32818 to 32820 of 2002 dated 13.09.2012.

For Petitioner : Mr.M.R.Jothimanian

For Respondents

R1 & R5 : Mr.R.Neethiperumal
Government Advocate

R2 to R4 : Mr.Anand Gopalan
for M/s.T.S.Gopalan & Co.

W.P.No.26958 of 2018

Pavayee

.. Petitioner

Versus

1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Energy Department,
Fort St. George, Chennai – 600 009.



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- 2.The Chairman,
Tamil Nadu Electricity Board,
No.800, Anna Salai,
Chennai – 600 002.
- 3.The Chief Engineer,
Tamil Nadu Electricity Board,
No.800, Anna Salai, Chennai – 600 002.
- 4.The Superintending Engineer,
Mettur Thermal Power Project [MTPS],
Tamil Nadu Electricity Board,
Mettur Dam – 2, Salem District.
- 5.The Sub-Collector/
Revenue Divisional Officer,
Mettur Revenue Division,
Mettur Dam – 1, Salem District.

.. Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus, directing the respondents to provide employment to my granddaughter viz., M.Mekala based on the application of the petitioner dated 30.01.2017 and as per the rehabilitation scheme formulated by the respondents for the land acquisition of Mettur Thermal Power Project within the stipulated time.

For Petitioner : Mr.M.R.Jothimanian

For Respondents

R1 & R5 : Mr.R.Neethiperumal
Government Advocate



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R2 to R4 : Mr.Anand Gopalan
for M/s.T.S.Gopalan & Co.

W.P.No.26526 of 2018

M.Radhakrishnan

.. Petitioner

Versus

1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Energy Department,
Fort St. George, Chennai – 600 009.

2.The Chairman,
Tamil Nadu Electricity Board,
No.800, Anna Salai,
Chennai – 600 002.

3.The Chief Engineer,
Tamil Nadu Electricity Board,
No.800, Anna Salai, Chennai – 600 002.

4.The Superintending Engineer,
Mettur Thermal Power Project [MTPS],
Tamil Nadu Electricity Board,
Mettur Dam – 2, Salem District.

.. Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus, directing the respondents to provide employment to the petitioner's son viz., R.Yuvaraj as per the rehabilitation scheme formulated by the respondents for the land acquisition of Mettur



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Thermal Power Project within the stipulated time.

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For Petitioner : Mr.M.R.Jothimanian

For Respondents

R1 : Mr.R.Neethiperumal
Government Advocate

R2 to R4 : Mr.Anand Gopalan
for M/s.T.S.Gopalan & Co.

W.P.No.26529 of 2018

M.Venkatachalam

.. Petitioner

Versus

1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Energy Department,
Fort St. George, Chennai – 600 009.

2.The Chairman,
Tamil Nadu Electricity Board,
No.800, Anna Salai,
Chennai – 600 002.

3.The Chief Engineer,
Tamil Nadu Electricity Board,
No.800, Anna Salai, Chennai – 600 002.

4.The Superintending Engineer,
Mettur Thermal Power Project [MTPS],
Tamil Nadu Electricity Board,



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Mettur Dam – 2, Salem District.

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5.The Sub-Collector/
Revenue Divisional Officer,
Mettur Revenue Division,
Mettur Dam – 1,
Salem District.

.. Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, calling for the records of impugned order passed by the 4th respondent herein vide letter No.Me Po/Ka/Me Aa Mi Ni / Ni Ea/Ko.58A / Aa.No.110/16 dated 30.05.2016 and quash the same consequently direct the respondents to provide employment to the petitioners son viz. v.Suriyakanth as per the rehabilitation scheme formulated by the respondents under the land acquisition category on par with similarly placed persons and as per the orders of this Honourable court made in W.P.Nos.32818 to 32820 of 2002 dated 13.09.2012 and W.P.No.W.P.No.41078 of 2016 dated 23.11.2016.

For Petitioner : Mr.M.R.Jothimanian

For Respondents
R1 & R5 : Mr.R.Neethiperumal
Government Advocate



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R2 to R4 : Mr.Anand Gopalan
for M/s.T.S.Gopalan & Co.
COMMON ORDER

Since the issue raised in these writ petitions is one and the same with the consent of the learned counsel for the parties these writ petitions were heard together and are disposed of by this common order.

2.Since the facts projected in each of these writ petitions are almost similar except some minor differences, as a lead case the facts projected in W.P.No.26956 of 2018 is traversed hereunder.

3.The petitioner in this writ petition owns land at P.N.Patty Village, Mettur Taluk, Salem District to an extent of 0.50.5 hectare which was acquired by the respondents for Mettur Thermal Power Project. According to the petitioner, this land is the only source of his family livelihood and since the same was acquired by the respondents for the aforesaid project, his livelihood was affected.



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4.Though compensation was paid for such acquisition of the land, at the time of acquisition, the respondents framed a scheme under which, one member of the family, i.e. the land holders whose lands have been acquired for the said project, would be provided employment. Based on such scheme framed by the respondents, the petitioner has made application to the respondents for providing a job for his son and the said plea raised by the petitioner since has not been considered, he has approached this Court by filing the writ petition with the aforesaid prayer.

5.In respect of all other three writ petitions, similar plea have been raised by the respective petitioners who are either the son seeking employment for his son, who is the grandson of the original owner whose lands have been acquired or the very grandson has come forward to seek such employment.

6.In support of these writ petitions, Mr.M.R.Jothimanian learned counsel appearing for the petitioner would contend that, all these lands are



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either agricultural lands or grama natham land where the respective petitioners had been in possession and enjoyment by using the land as dwelling house. Since these lands were acquired, their livelihood certainly was affected. Therefore, under the scheme framed in this regard by the respondents one family member of the land holder like the petitioners since are entitled to get employment such a plea raised by the petitioners shall be considered and accepted by the respondents. Since they have not considered and accepted or in one case they have already rejected it, the learned counsel for the petitioner seeks indulgence of this Court to issue suitable directions by way of Mandamus to the respondent TANGEDCO to consider the plea of the petitioners for providing employment to these petitioners or their family members.

7.Mr.T.M.Hariharan, learned standing counsel appearing for the respondent TANGEDCO by relying upon the averments made in the counter affidavit filed in each of the writ petition would contend that in respect of all these writ petitions, the plea of laches was raised by the respondent TANGEDCO by stating that in three cases the land acquisition was in 2004



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and in one case since the acquisition was in 1995 there was a huge delay in approaching this Court by filing these writ petitions. Therefore, these writ petitions are liable to be dismissed on the ground of laches.

8.That apart, the learned standing counsel would further submit that, though initially the scheme for providing employment to one member of the family under land acquisition category was framed by the respondents, subsequently due to various litigation and in order to set right all those things, the TANGEDCO issued a consolidated Board Proceedings in the year 2008 by B.P.No.14 dated 11.07.2018. In the said Board Proceedings a time frame also has been fixed under which by utilizing the scheme like the one under which now the petitioner sought for employment, they should make the application seeking employment within three years period from the date of acquisition. Here in none of the case, such an earlier plea was raised by any of the petitioner or their family members within three years period from the date of acquisition.

9.However, the learned standing counsel would further add that though



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such a time limit has been prescribed only in B.P.No.14 dated 11.07.2018 which is a latest one, prior to which in all these cases applications have been made and during that time there was no time frame fixed by the respondents to make application by the affected family members for seeking job. That point is not canvassed by the learned counsel appearing for the TANGEDCO that application should have been submitted within three years from the date of acquisition.

10.The learned standing counsel appearing for the respondents would further submit that, except in one case, i.e. W.P.No.26956 of 2018, in all other three cases the job seeker is the grandson of the land holders whose lands originally was acquired. As per the scheme either the land holder or the son or unmarried daughter or wife of spouse alone be entitled to get job and not the grandson. Therefore, in all other three cases since the plea raised by the petitioner seeking job is only for the grand child, such a plea cannot be considered and granted as they are not entitled to get job under the scheme.



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11. Moreover in respect of W.P.No.26529 of 2018 is concerned, the land was acquired not for the purpose of Mettur Thermal Power Project or its extension but only to rehabilitate more than 300 families who were evacuated because of the acquisition made and this was the gesture made only by the State Government through the Revenue Department. Accordingly the land acquired from various persons like the petitioner in W.P.No.26529 of 2018 were utilized by the State Government through the Revenue Department to rehabilitate more than 300 families. Therefore, in this regard since the respondent TANGEDCO is not benefited, those landholders would not be covered under the scheme for providing job to one family member.

12. In so far as W.P.No.26526 of 2018 is concerned, it is the contention of the learned standing counsel that the land was acquired in 1995, immediately the landholder, who was the father sought for job to his son and that plea also was rejected in the year 1997 itself stating that only a part of the land belonged to him was acquired and by virtue of that the landholder in that case would not lose his livelihood as large extent of his other lands were in his holding. Therefore, on that ground his plea already been rejected for



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his son in the year 1997 and now after 20 years or more the very same plea has been raised in this writ petition by the son seeking job for his son, i.e. the grandson of the original owner. Therefore, on that ground also that writ petition is liable to be dismissed, he contended.

13.I have heard the rival submissions made by the learned counsel for the parties and perused the materials placed before this Court.

14.In the counter affidavit filed in respect of each of the writ petitions, especially in W.P.No.26956 of 2018 which is a lead case, it is the contention of the respondent TANGEDCO that the Government of Tamil Nadu in the year 1978 had issued a Government Order in G.O.Ms.No.656 dated 19.06.1978 directing all Public Sector Undertakings which included Tamil Nadu Electricity Board to frame a scheme to provide employment to a member of the family, whose source of income is affected owing to acquisition of lands for setting up projects of Public Sector Undertakings.

15.In the year 1980, the TANGEDCO had passed a Board Proceedings



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in B.P.No.24 dated 10.01.1980 framing a scheme as per the direction of the Government of Tamil Nadu for providing employment to a member of the families whose lands were acquired. The scheme was applicable to families whose source of income was affected by an acquisition and a family member, i.e. landowner, spouse, son, daughter or adopted so, would be provided employment.

16.It is the further contention of the respondents in the counter affidavit that considering the spate of litigation that were filed, the Board considered the issue and issued B.P.No.14 dated 11.07.2018 where it has framed a comprehensive guideline for considering the cases of land givers across all projects in an uniform manner.

17.In so far these petitioners are concerned, according to the respondents their lands were acquired for setting up Mettur Thermal Power Project, i.e. Upper Ash Dyke Project in the year 2004.

18.Though the lands were acquired in the year 2004 except in one



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case, no such applications were filed immediately and after several years, i.e. after ten years or more fifteen years or more these applications were filed by the respective family member seeking job from the respondents. In respect of one case as referred though application was immediately filed in the year 1995 itself, that was rejected for other reason as stated or discussed, in the year 1997 itself. Now once again the son of the land owner filed the present writ petition seeking job for his son, i.e. the grandson of the land holder.

19.It is the further contention made by the respondents in the counter affidavit that, assuming that the petitioner's son was eligible for employment, a no objection has to be obtained from all Patta holders since the land acquired from the petitioner is a joint family property.

20.Also separate counter affidavits had been filed in respect of other writ petitions where also the period of latches had been uniformly raised by the respondents and also the point that benefit can be extended only to the son or daughter or spouse of the landholder and not the grand children, have been raised in all these cases except in one case where the job was asked for



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his son.

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21.In respect of one case, the plea raised by the respondents was that, the land was acquired for the purpose of rehabilitation of more than 300 families and therefore, the TANGEDCO is not directly benefited. Hence the person who had given the land for such rehabilitation project for the State Government through the Revenue Department cannot be included in the welfare scheme of providing job to one family member. In one case the plea raised by the respondents was that in the year 1997 itself the application was rejected for the father who sought for job for his son, now the petitioner became a father who seek job for his son, who is none other than the grandson of the original landholder. Therefore, on that ground that application also is liable to be rejected, he contended.

22.In all these cases, it is the fact remains that the land belonging to these petitioner's family were acquired either in the year 2004 or in respect of one case in the year 1995 for the project of the respondents.



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23.Though a plea was raised that in one case the land acquired was not directly utilized by the respondent TANGEDCO for their project and it was utilized for rehabilitation of 300 families, the reason for rehabilitation of 300 families was triggered only because of the acquisition of the land for the project and because of the project the nearby families who are already settled had to be evacuated. In view of the evacuation process, the rehabilitation became necessitated. Therefore, the lands were acquired. Hence, this Court feel that the plea raised by the respondents that the lands were not directly utilized by the Company for the purpose of setting up or expansion of Mettur Thermal Power Project cannot hold water.

24.In so far as the delay is concerned, even though Board Proceedings in B.P.No.14 of the year 2018 has been cited by the respondents in the respective counter affidavit, the learned standing counsel appearing for the respondent TANGEDCO fairly submitted that since B.P.No.14 was issued only in the year 2018, three years limitation cannot put against these petitioners by invoking the import of B.P.No.14 and therefore, that plea also would go.



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25.Now the yet another plea raised by the respondents is that the beneficiary must be only spouse or son or daughter and not the grandchildren.

26.In this context, the learned counsel appearing for the petitioners has relied upon Permanent P[FB] No.47 [Adm. Branch] dated 03.11.1995, where inter alia the following has been stated:

“3.Under the above circumstances and as the B.P.33 dated 13.06.1989 provides for employment assistance for one member of the family in general daughters also may be considered for job assistance if son or unmarried daughter is not suitable for the job due to over age if they are not qualified.

4.Accordingly the Board has ordered to provide for job assistance in favour of the grandson/unmarried grand daughters of the displaced land owners as Helper [Trainee].”

27.The said proceedings of the TANGEDCO says that the Board has ordered to provide job assistance in favour of the grandson/unmarried grand



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daughters of the displaced land owners as Helper [Trainee].

28.However, this point has been met by the learned standing counsel appearing for the respondent TANGEDCO by citing a clarification letter issued by the Labour and Employment Department of the State Government dated 26.07.1996, where the following clarification was given:

“I am directed to refer to para 4 of the letter cited and to state that in G.O.Ms.No.656, Labour and Employment Department dated 29.06.1978, the Government have issued specific orders that for consideration of appointment to the persons displaced on account of acquisition of lands for the projects of the Public Sector Undertakings, first priority should be assigned to the cultivating owner and the cultivating tenant or varamdars and only second priority should be given to the absentee land lords. Hence only one of the family members whose lands were acquired alone is eligible to claim employment. The Government have not issued orders to provide employment to the nominees of the



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affected persons. As per the existing scheme, the sons, unmarried daughters, wife or husband alone can be considered as nominees of the person whose lands were acquired for projects of the Public Sector Undertakings and only one among them is eligible to get employment when duly nominated as a member of that family.”

29. Therefore, it was the intention of the TANGEDCO to provide job for the land acquisition category family to their grandchildren also that has been clarified by the State Government not to give such job to the grandchildren.

30. Even though this letter was issued by the Labour and Employment Department dated 26.07.1996, i.e. after Permanent P[FB] No.47 [Adm. Branch] dated 03.11.1995 and relying upon this clarification though the learned standing counsel appearing for the respondents submit that in view of the clarification such a job opportunity cannot be given to the grandchildren, this Court is of the view that the clarification given by the Government in



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letter dated 26.07.1996 would run contra to the G.O. issued in this regard by the State Government in G.O.Ms.No.656 dated 19.06.1978. The reason being that, the very intention of the State Government which reflected in the policy decision by virtue of issuance of G.O.Ms.No.656 dated 19.06.1978 is that in order to bail out the families whose lands have been acquired for such huge project by the Public Sector Undertakings, such kind of job opportunity shall be provided for one member of each family. If that is the intention of the policy decision of the State Government, such kind of restriction now put forward by the Government by way of clarification by letter dated 26.07.1996 would be detrimental to the very intention of the Government to provide job for the family members whose lands have been acquired for such huge project. Moreover, any clarificatory order cannot over ride the main import of the policy decision reflected in the Government Order issued under Article 162 of the Constitution of India. Therefore, I am of the view that based on the clarification or under the shelter of the clarification given by the Labour and Employment Department dated 26.07.1996, the respondent TANGEDCO cannot deny the job opportunity to the grandchildren of the family whose lands have been acquired, otherwise the very purpose of providing job



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opportunity to such family in order to bail out the family from penurious and indigent circumstances because of the land acquisition would completely be shattered and hence, the said plea raised on behalf of the respondent TANGEDCO is rejected.

31.The learned standing counsel appearing for the respondents even though clarified that Permanent P[FB] No.47 [Adm. Branch] dated 03.11.1995 is only in respect of one project, i.e. Mettur Thermal Power Project, out of 602 families 439 families have been given job assistance with condition that priority must be given to self, wife, son and unmarried daughter and subsequently, to bail out certain families, concession was extended by giving job to grandchildren and that cannot be extended for every such project, therefore, based on such Permanent P[FB] No.47 [Adm. Branch] dated 03.11.1995, it cannot be expected to be extended to all such land acquired categories and hence, the said benefit cannot be extended to the petitioner, this Court feel that if that would be the stand of the respondents, that amount to discrimination because whatever would be the project the land acquired category shall be treated on par and therefore, since the scheme



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itself is only a beneficial scheme that should be extended to all similarly placed families.

32.In so far as the latches is concerned, it is not the time limit original prescribed within which such application should be made by the landholders' family whose lands have been acquired for the project and such an embargo has been put in by the TANGEDCO only in the year 2018 by BP.No.14 and that was also not insisted because 2018 Board Proceedings import cannot be applied or pressed into service.

33.Moreover, the right accrued on each of the family whose lands have been acquired for these kind of projects seeking for a job either for self or for spouse or for children or even for grandchildren would arise depending upon the availability of such legal heirs in that family who must have minimum educational qualification without which such a plea of job seeking cannot be made. Therefore, it is a continuous cause of action which arises depending upon the nature of the members of the family concerned and hence, the question of latches does not arise in these cases. Therefore, that plea raised



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by the respondents is liable to be rejected and hence, it is rejected.

34.In respect of one writ petition where the plea raised by the original landholder in the year 1995 was rejected in the year 1997 on the ground that the landholder was having other lands and therefore, the livelihood of the family was not affected. After having suffered with such an order by the father, his son cannot once again turn around and come before this Court after several years to file a writ petition to seek a job for his son, who is none other than the grandson of the original landholder is concerned, the family land has been acquired and whether the livelihood of family is affected by virtue of this acquisition or not cannot be measured by merely giving a statement that apart from this land, they are having some other land also.

35.That means if the entire land belonged to the family are acquired, then alone the family is entitled to seek for a job cannot be a criteria. Therefore, on that ground also, earlier rejection would not preclude the present petitioner in the said writ petition to make a plea to seek a job for his son as the family is still struggling to meet both the ends and that has to be measured only after verifying the family circumstances and their financial



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36.Yet another plea raised by the respondents that in respect of one case it was not an agricultural land and it was only a grama natham, therefore no compensation was given and the petitioner in that case is not entitled to get any job. In so far as the natham land is concerned, in those days i.e. before Natham survey in almost all the Villages in the State the people were residing in the Villages have been residing with their habitations in Natham poromboke land, which is otherwise called Grama Natham for time immemorial. Realizing this fact only, the Government has come forward to have a natham survey throughout the State and after completing the survey, whatever the occupancy of such Village people, that kind of natham survey land have been given patta by way of grama natham by the Revenue Department to each of such persons who have been in enjoyment of the natham land. Therefore, such kind of grama natham land can for all purpose be treated as the land belong to the person who have been in occupation as it could have been subsequently given the patta. Therefore, for that purpose it cannot be stated that the land does not belong to the person who have been in



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occupation of the natham land and therefore, on that ground the denial of job by the respondents cannot be accepted. Hence, that plea also is hereby rejected. It is open to the petitioner in that case to provide no objection certificate from all eligible family members and on receipt of such no objection certificate, it is open to the respondents to consider the plea of such writ petitioner for giving him job suitably.

37. In view of the aforestated discussion, this Court is inclined to dispose of these writ petitions with the following order:

- 1) There shall be a direction in these writ petitions to the respondent TANGEDCO to re-consider the plea of the petitioners if it is not already considered or once considered and rejected or kept pending.
- 2) With regard to the plea raised by the respective petitioner for getting a job in the respondent TANGEDCO suitably for their family members either for the son or daughter or for the grandchildren as the case may be, necessary orders to that effect, based on the scheme as well as the observations made in this order as discussed above, shall be made within a period of eight weeks from the date of



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receipt of a copy of this order.

- 3) It is made clear that, in this regard any further input like NOC in one case as required or any further document is required from each of these petitioners, it is open to the respondents to issue notice to each of the petitioner to seek for such documents or additional input and on receipt of such notice, the respective petitioner shall produce those additional input, if it is available, within the time frame to be fixed in this regard by the TANGEDCO and thereafter, the needful as indicated above shall be made and final order shall be passed by the respondents within the time frame mentioned hereinabove.

38. With these directions, all these writ petitions stand disposed of.

However, there shall be no order as to costs.

25.08.2022

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