



W.P.No.3294 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 03.08.2023

Pronounced on : 04.10.2023

CORAM : JUSTICE N.SESHASAYEE

W.P.No.3294 of 2021  
and WMP.No.3741 of 2021

1. Aditya Vidyashram  
Gurugram Campus e-Techno School  
Represented by its Principal  
Poonamallee - Avadi Main Road  
Veeraghavapuram, Thiruverkadu  
Chennai - 600 077.

2. S. Krishnamoorthy

... Petitioners

Vs.

1. The Chairman cum Managing Director  
TANGEDCO  
10th Floor, NPKRR Maaligai  
144, Anna Salai  
Chennai - 600 002.

2. The Executive Engineer  
Transmission Line Construction  
Guindy, Chennai - 600 032.

3. The Superintendent Engineer  
Transmission Line Construction GCC-1  
Guindy, Chennai - 600 032.



W.P.No.3294 of 2021

4. Sameera Estates

Rep by the Authorised Signatory

Mr.K.S.Gnanaseelan

Having Office at :

No.117, Township Prime Gardens

Poonamallee - Avadi Main Road

Parivakkam, Chennai - 600 056.

5. Vellamal Hospitals Private Limited

Represented by its Authorised Signatory

Having its registered office at :

Vellammal Village, Madurai-Tuticorin Ring Road

Anuppanadi, Madurai - 625 009.

... Respondents

[R4 impleaded vide order dated 12.01.2023 in  
WMP.No.243/2023 in WP.No.3294 of 2021]

[R5 impleaded vide order dated 11.07.2023 in  
WMP.No.18688 of 2023 in WP.No.3294 of 2021]

**Prayer :** Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to forbear the respondents from erecting towers taking high tension wires or line over and adjacent to the surroundings of the school property situated in S.No.103/1 & 103/2A and for consequential orders.

For Petitioners : Mr.V.Raghavachari, Senior Advocate  
for Mrs.V.Srimathi

For Respondents : Mr.J.Ravindran, Addl Advocate General  
Assisted by Mr.D.R.Arunkumar  
Standing Counsel for R1 to R3

Mr.N.L.Raja, Senior Counsel  
Assisted by Ms.V.J.Latha for R4



WEB COPY



W.P.No.3294 of 2021

Mr.ARL.Sundaresan, Senior Counsel  
for Mr.Abishek Jenasen for R5

**ORDER**

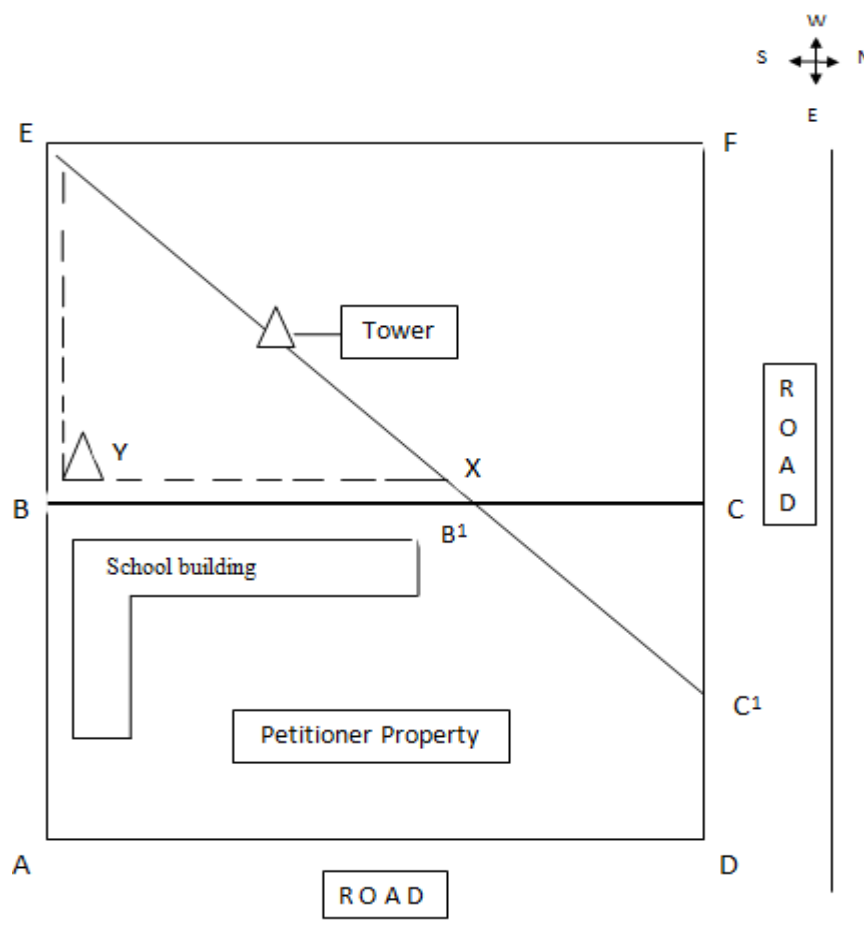
This writ petition is filed by Aditya Vidyashram, a school of which the second petitioner is the Chairman. Henceforth it would be referred to as '*the school*'.

1.2 It has filed this petition to restrain the 4<sup>th</sup> respondent from erecting High Tension electric towers (henceforth HT tower) in his property which lies to the west of the school (on the rear side of the school) as it breaches Regulation 61 of the *Central Electricity Authority (Measures relating to safety and electric supply) Regulations, 2010 (henceforth would be referred to as the Regulation 61)*.

1.3 Now, during the pendency of the petition, the property of the 4<sup>th</sup> respondent has changed hands, and now it belongs to the 5<sup>th</sup> respondent. The petition in essence is opposed by respondents 4 and 5. However, for narrative convenience, the property would continue to be referred to as the 4<sup>th</sup> respondent's property.



2. In order to understand the dispute, and to appreciate whether the HT tower erected in the property of the 4<sup>th</sup> respondent (now the 5<sup>th</sup> respondent) deviates Regulation 61, it is necessary to provide certain basic facts. this Court chooses to rely on the following rough sketch.



- a) The school is bounded on the east and north by roads. As seen in the sketch school building is seen built along its western and southern boundaries, which taken together appear as the mirror image of



WEB COPY

number 7. On the north is a vacant space with trees, and the school buses are seen parked there.

- b) As mentioned earlier, the 4<sup>th</sup> respondent's property is situated to the immediate west of the school. The school has a well demarcated compound-wall along BC line, to separate it from the property of the 4<sup>th</sup> respondent. (As would be seen later, this compound wall has a role to play in this controversy).
- c) A HT line is seen running from the about the north-eastern corner of the school slightly diagonally but to the north of the school building and crosses its compound wall, and enters the property of the 4<sup>th</sup> respondent. This is shown along B' C' line in the sketch. In the plot of the 4<sup>th</sup> respondent, the HT line runs diagonally, towards the south-western corner of this plot, with a HT tower to support it about the middle. This is also shown in the sketch.
- d) The way the HT line has been running over the property of the 4<sup>th</sup> respondent with a HT tower right about its middle, it has made it inconvenient for the 4<sup>th</sup> respondent to develop his land, it applied to the Tantransco to shift it along its eastern boundary (which is the western boundary of the school), and behind the school buildings. On 11.01.2021, the 3<sup>rd</sup> respondent granted its the sanction.



W.P.No.3294 of 2021

e) Pursuant to the same, the 4<sup>th</sup> respondent began erecting new HT towers

at points X and Y in the sketch, to run the HT line long the XY line.

This is now opposed by the petitioner on the ground that the erected towers does neither conform to the prescriptions of Regulation 61 of the Central Electricity Authority (Measures relating to safety and electric supply) Regulations, 2010, nor to the safety standards of the children studying in the school.

3. It may have to be stated that both sides painstakingly have laced their pleadings with frills and embroideries, but they are carefully clipped off, as it serves only to distract the focus from the issue to be resolved: whether the HT tower erected at the expense of the 4<sup>th</sup> respondent at points X and Y deviates either from the aforesaid Regulation 61 referred to above, or the sanction order of the 3<sup>rd</sup> respondent viz-a-viz the vertical and the horizontal clearances mandated for running a HT line.

4.1 Regulation 61 prescribes the minimum vertical and horizontal clearance required for erecting different categories of HT lines and it reads as below:

***61. Clearances from buildings of lines of voltage exceeding***

***650V.- (1) An overhead line shall not cross over an existing***



WEB COPY



W.P.No.3294 of 2021

*building as far as possible and no building shall be constructed under an existing overhead line.*

*(2) Where an overhead line of voltage exceeding 650V passes above or adjacent to any building or part of a building it shall have on the basis of maximum sag a vertical clearance above the highest part of the building immediately under such line, of not less than-*

*(i) for lines of voltage exceeding 650 volts - 3.7 metres  
upto and including 33,000 volts*

*(ii) for lines of voltage exceeding 33 kV - 3.7 metres plus  
0.30 metre for  
every additional  
33,000 Volts or  
part thereof.*

*(3) The horizontal clearance between the nearest conductor and any part of such building shall, on the basis of maximum deflection due to wind pressure, be not less than-*

*(i) for lines of voltage exceeding 650 volts - 1.2 metres  
upto and including 11,000 volts*

*(ii) for lines of voltage exceeding 11,000 V - 2.0 metres  
and up to and including 33,000 V*

*(iii) for lines of voltages exceeding 33 kV - 2.0 metres plus  
0.3metre for  
every additional  
33 kv or part  
thereof*



W.P.No.3294 of 2021

(4) For High Voltage Direct Current (HVDC) systems, vertical clearance and horizontal clearance, on the basis of maximum deflection due to wind pressure, from buildings shall be maintained as below:

| Sl. No. | DC Voltage (kV) | Vertical Clearance (mtrs.) | Horizontal Clearance (mtrs.) |
|---------|-----------------|----------------------------|------------------------------|
| 1.      | 100 kV          | 4.6                        | 2.9                          |
| 2.      | 200 kV          | 5.8                        | 4.1                          |
| 3.      | 300 kV          | 7.0                        | 5.3                          |
| 4.      | 400 kV          | 7.9                        | 6.2                          |
| 5.      | 500 kV          | 9.1                        | 7.4                          |
| 6.      | 600 kV          | 10.3                       | 8.6                          |
| 7.      | 800 kV          | 12.4                       | 10.7                         |

4.2 The HT line in question is 110 kV. The sanction order of the 3<sup>rd</sup> respondent dated 11.01.2021 stipulates the following conditions:

*'1.0 The profile for "Deviation of the existing 110kV Kaduvetti -HVF 110 kV line on the request of M/s.Sameera Estate Pvt Ltd in Veeragavapuram on DCW basis" furnished by the Superintending Engineer / General Construction Circle-I/Chennai, in the reference (1) cited has been scrutinized and found to be generally in order. Hence this profile is approved subject to the following conditions :*

- i. A minimum ground clearance of 6.10 Mt for 110 KV line must be ensured throughout the length of the line. Sufficient vertical clearance for cart track, road crossing & National Highways to be ensured as per Memo No.CE/C/TR/SE/C-II/TR/EEC/A3/ F.Clearance/D.222/2014*



WEB COPY



W.P.No.3294 of 2021

dt. 28.04.2014.

- ii. *A minimum required horizontal clearance of 12.20m for trees\* on either side must be ensured throughout the line.*
- iii. *Care shall be taken regarding the type of foundation (Dry/Wet) depending on the actual site conditions.*
- iv. *A minimum vertical clearance of 2.75 must be ensured between the existing LT/HT & 110 KV lines and 4.57 Mts. for 230 KV line.*

[\* Note: Trees are contextually relevant, as there are few trees within the property of the school along between the school building and its western compound wall].

5. Before detailing the rival submissions, it is necessary to mention that the school has put up a wall right under the HT line that runs within its property between the points C' and B' in the sketch above. This aspect has some relevance, as it figured prominently in the arguments of the counsel for the 4<sup>th</sup> respondent.

6. To assist this Court, instead of appointing an Advocate-Commissioner, this Court required, the Executive Engineer, the 2<sup>nd</sup> respondent to personally visit the property, take measurements in the presence of both the parties, and to file her report along with necessary sketches. She had made her report on 22.07.2023, and the material details that could be culled out from it are:



WEB COPY

| Tower Point<br>(as per sketch<br>in para 4<br>above) | Location                            | Distance (in metres)    |                              |                         |                           |                                       |
|------------------------------------------------------|-------------------------------------|-------------------------|------------------------------|-------------------------|---------------------------|---------------------------------------|
|                                                      |                                     | From School Building    |                              | From Compound Wall      |                           | From<br>eight<br>trees                |
|                                                      |                                     | To the edge<br>of tower | To the<br>middle of<br>tower | To the edge<br>of tower | To the middle<br>of tower |                                       |
| X                                                    | About<br>North<br>West<br>School of | No building             |                              | 2.05                    | 6.46                      | Varies<br>between<br>7.95 and<br>8.37 |
| Y                                                    | About<br>South<br>West<br>School of | $2.3 + 1.6$<br>=<br>3.9 | $2.3 + 5.68$<br>=<br>7.98    | 1.6                     | 5.68                      |                                       |

7. Arguing that under Sec.197 of the District Municipalities Act, 1920, a building is defined to include a compound wall, and hence the compound wall must be reckoned as part of the building, Mr V. Raghavachari, the learned senior counsel appearing for the petitioner, contended that :

a) that the present proposal to put up a HT tower for 100 KV transmission neither satisfies the vertical clearance nor the horizontal clearance as provided under the Regulation 61(4) above.

- At Point X (about the north-west of the petitioners school) the distance between the compound wall and the HT tower is found to be 2.05 m, whereas the horizontal distance required to be maintained in terms of the Regulation 61 is a minimum of 2.9 m. At point Y, the horizontal clearance between the compound wall



WEB COPY



W.P.No.3294 of 2021

and the tower is a bare 1.6m. And, if the distance criteria is now tested on the basis of the definition of the building as in Sec.197 of the District Municipalities, which to repeat, includes the compound wall, then the horizontal clearance between the compound wall and the tower hardly meets the distance criterion as stipulated in Regulation 61.

- When the sanction order dated 11.01.2021 of the 3<sup>rd</sup> respondent is considered, it stipulates that the distance between the trees within the school premises (between the school building and the compound wall) there must be a horizontal clearance of 12.20m, whereas it now varies between 7.95m to 8.37m.

Thus, from whichever angle the issue is considered, the respondents have not ensured that the HT towers erected in conformity of Regulation 61 and also the sanction order.

- b) This apart, the proposed HT lines are so proximate to the school building, that in case of any mishap happening, the life of the children studying in the school will be in peril.
- c) Ideally the line should have been drawn along the road that runs to the north of the school and also the 4<sup>th</sup> respondent's property, and it could



WEB COPY

have taken a turn about the north-western corner of the latter's property  
(at about point F in the sketch)

8. Per contra, Mr.N.L.Rajah, learned senior counsel appearing for the fourth respondent and Mr.AR.L.Sundaresan, learned senior counsel appearing for the fifth respondent made the following submissions:

- a) So far as the allegation that the HT tower now raised violates the Regulation 61 both as regards the vertical clearance as well as horizontal clearance is concerned, the line will be drawn on the inner arm of the tower facing the property of the 4<sup>th</sup> respondent, and not along the outer arm of the tower which faces the school building.
- b) While the respondents 4 and 5 have no qualms over the distance criterion as stipulated in Regulation 61, yet it needs to be underscored that in terms of Regulation 61(4) the vertical clearance and horizontal clearance is statutorily provided '*on the basis of maximum deflection due to wind pressure from the buildings*'. In other words, the point from where the distance need to be calculated is not the compound wall but the building. In this regard, in the counter of the respondents 1 to 3, the authorities have made clear that there is a horizontal clearance of 6.4 metres from the compound wall of the petitioner's school, and 11.9



W.P.No.3294 of 2021

WEB COPY

meters horizontal clearance from the school building, whereas statutorily required distance of horizontal clearance is only 2.9 metres.

In other words, what is now proposed to be done is at least four times the distance than what is the statute has prescribed.

- c) The petitioner does not question the administrative sanction. The object behind providing the clearance is that it must be away from human habitation to the extent possible so as to secure the safety. Viewed thus, a compound wall cannot be termed as a building for the purposes of Regulation 61.
- d) So far as the distant described from the trees are concerned, the regulation does not provide it, and only the administrative sanction for establishing the tower gives it. Therefore, the petitioner is at liberty to approach the sanctioning authority for clarification.
- e) On the possibility of an unforeseen accident is concerned, the Government has taken into account all these factors and hence it has brought out statutory regulation. As long as the regulation itself is not challenged on this ground all that is required to be ascertained is whether the regulations are conformed by the petitioner.
- f) If the petitioner takes objection to the very sanction order given by TANTRANSCO to these respondents, then the petitioner ought to have



W.P.No.3294 of 2021

WEB COPY

challenged it or if the petitioner is anxious about the safety of the children then he ought to have challenged the very regulation. Neither of the two was done and the petition is filed for a mere mandamus.

g) Admittedly, part of the HT line travels through the property of the petitioner, and to protect the children from any mishap, the petitioner has put up the compound wall right beneath the HT cable as was disclosed in the affidavit of the petitioner. In other words, the petitioner has done the very things that he preaches the respondent as it has not left any clearance between the HT line and the compound wall when it constructed it right beneath the line. When the petitioner has violated that which it has not chosen to follow, it smacks of malafide and it cannot sustain this petition. Reliance was placed on the authority in ***Manohar Lal (Dead) by LRs. Vs Ugrasen (Dead) by LRs. and Others*** [ (2010) 11 SCC 557]

h) there is no cause of action for the writ, since only some structures are erected and electric lines are drawn, and nothing has been commissioned yet, and hence, as on today, there is no cause of action.

i) The officials of the TANTRANSCO are the experts in the business and erection of the HT towers has been done under their supervision and

j) there is hardly any need to suspect that they are violating the



regulation.

WEB COPY

9. The point involved is essentially one on fact, but sustainability depends on its conformity to Regulations 61, and the conditions stipulated in the sanction order of 3<sup>rd</sup> respondent, dated 11.01.2011. Here, it may be stated that while Regulation 61 has stipulated the minimum horizontal distance from the building, the 3<sup>rd</sup> respondent has taken into account one more factor: the horizontal distance between the trees and the proposed HT tower. This is known from on a comparative analysis of the table given in paragraph 5.1 and the one given in paragraph 6 above.

10.1 If the compound wall between points BC of the school is not taken as part of the school building, then it must be stated that the horizontal clearance between the school building and the HT tower stand satisfied. But the point is should the compound wall must be reckoned as part of the school building. The dictionary meaning of the word '*building*' is one which has walls and a roof. The learned counsel for the petitioner, however, would argue, that under Sec.197 of the District Municipalities Act, 1920, a building includes a compound wall, and hence the compound wall must be reckoned as part of the building. This Court however, is not convinced about this argument.



W.P.No.3294 of 2021

Sec.197 of the District Municipalities Act, 1920, deals with the application for construction or reconstruction of a building, in the context of obtaining permission from the municipality for their construction in terms of the applicable Rules and hence the definition of a building under this Act must be contextually restricted. In other words, for the purpose of applying for the construction or reconstruction of a building to the municipality, the compound wall must be read as part of the building, because the municipality has to decide on granting permission for any such construction or reconstruction. This definition therefore, cannot be extended mechanically to all circumstances. In particular, when the Regulation 61 does not attempt to define a building referentially in terms of its definition under the District Municipalities Act.

10.2 What can now be deduced from the above is that, the if the horizontal clearance is reckoned from the school building, it satisfies the criterion required in Regulation 61, and there is no need to measure the distance from the compound wall between points BC in the sketch.

11. The respondent 4/5 is still not safe. The sanction order of the 3<sup>rd</sup> respondent dated 11.01.2021 has included one more factor: the trees. It



W.P.No.3294 of 2021

emphasises that there must be left 12.20m between trees on either side. Here there is a clear breach, since the distance between the HT tower and the trees vary between 7.95m and 8.37m (average 8.16m).

12.1 It may be that Regulation 61 does not state anything about trees as a factor determining the horizontal clearance for erecting a HT tower. But it does not prohibit the sanctioning authority from reckoning it either. To state it differently, when Regulation 61 stipulates certain criteria, it has to be construed as the minimum that it intend to prescribe, but it may not be limited to what it prescribes. If a sanctioning authority on a field visit is satisfied that there ought to be a distance of 12.20m between the trees and a proposed HT tower (not the LT line) as an aspect of safety, that needs to be respected. Indeed, if the sanction order dated 11.01.2021 is closely read, it does not state anything about the horizontal distance between the school building and the tower, (which at any rate will be covered by Regulation 61), but only about the trees. The authority appears to have has made a conscious decision to include the trees, as a criterion, and the 4<sup>th</sup> respondent has not taken any objection to it.

12.2 Somewhere in the course of the arguments, it was heard that the tress



W.P.No.3294 of 2021

could be chipped, but then that may be applicable if the branches grow big enough to go beyond the compound wall of the school and comes into contact with any existing HT tower. Now given the fact that the average distance between the trees and the proposed line is only 8.16m, not just the branches of the trees may have to be chipped, but the whole trees must be uprooted. The point is why should the school lose its trees, which it has planted to support the environment, for the benefit of 4/5<sup>th</sup> respondent? The petitioner has scored a vital point here.

13. Turning to what this court may consider as an argument in miscellany that the school has only put up a compound wall beneath the HT line between points B'C' in the sketch and if this line which is right above the compound wall can be justified, so can the line near the compound wall of the school. First, this argument does not require any consideration, since this Court has already held that a compound wall need not be the base-line for reckoning the horizontal distance. Secondly, when the HT line is drawn by the TANTRANSCO, the school has very little option to resist it, but not when a private party draws a line for his/her convenience. Here, the sanction order becomes far more relevant.



W.P.No.3294 of 2021

WEB COPY

14. To conclude, this Court holds that inasmuch as the HT towers have been erected not in conformity with the sanction order of the 3<sup>rd</sup> respondent, dated 11.01.2021 as regards the horizontal distance from the trees, they cannot be where they are now. Consequently, the petition is allowed and the respondents 1 to 3 are now restrained from commissioning the line along HT towers at points X and Y till the towers are shifted to a place where it leaves a horizontal clearance of 12.20m from the trees of the school. No costs. Connected miscellaneous petition is closed.

04.10.2023

Index : Yes / No

Speaking order / Non-speaking order

Asr/ds

To:

1. The Chairman cum Managing Director  
TANGEDCO  
10th Floor, NPKRR Maaligai  
144, Anna Salai, Chennai - 600 002.
2. The Executive Engineer  
Transmission Line Construction  
Guindy, Chennai - 600 032.
3. The Superintendent Engineer  
Transmission Line Construction GCC-1  
Guindy, Chennai - 600 032.



WEB COPY



W.P.No.3294 of 2021

N.SESHASAYEE.J.,

ds

Pre-delivery order in  
W.P.No.3294 of 2021

04.10.2023