



W.P.No.9200 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2023

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.9200 of 2023

and

W.M.P.No.9321 of 2023

Thilagam

...Petitioner

Vs.

1. The District Collector,
Collectorate,
Salem-636 001.
2. The Chief Electrical Engineer,
Electrical Project Construction,
Aathur Bypass Road, Salem-14.
3. The Chairman,
Tamil Nadu Transmission Corporation,
NPKRR Maaligai,
144, Anna Salai, Chennai-600 002.
4. Divisional Railway Manager,
DRM's Office, Salem Division,
Southern Railway, Suramangalam P.O,
Salem-636 005.

...Respondents



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Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records in Letter No. Na.Ka.No.10390/2022/B2 dated 28.02.2023 on the file of the 1st respondent and quash the same as illegal, arbitrary and against the principal of natural justice and consequently direct the first respondent to consider the original electrical line plan.

For Petitioner : Mr.V.Raghavachari, SC
for Ms.Aarthi Rao

For Respondents : Mr.K.M.D.Muhilan, AGP, for R1
: Mr.D.R.Arun Kumar, for R2 & R3

ORDER

This Writ Petition has been filed seeking quashment of the Letter of the 1st respondent dated 28.02.2023 bearing Na.Ka.No.10390/2022/B2 and to consequently direct the 1st respondent to consider the original electrical line plan.

2. The case of the petitioner is that he claims to be the owner of the land comprised in S.Nos.1/1 & 1/6, situated at Mummudi Village, Salem

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District, through which the 2nd respondent is implementing the Erection of the HT Towers and stringing Power Lines for 110KW Power Transmission Project, for the purpose of electrification of Salem-Virudachalam Railway line. As per the original Scheme, the HT Towers and the Power lines were to pass through the lands of an Education Trust situated adjacent to the petitioner's land, for which the foundation has been laid and the work had been commenced, however, the said foundation was removed and subsequently the scheme was changed by the 2nd respondent, thereby causing serious prejudice to the petitioner. Therefore, the petitioner made an objection for erection of High Tension Towers and Power Lines on the petitioner's lands. Thereafter, the 1st respondent conducted a meeting on 28.02.2023, by issuing notice dated 19.01.2023 to all the owners of Mummudi Village, calling to participate in the grievance meeting with regard to the acquisition of lands for electrification of the Salem-Virudhachalam Railway Line and construction and setting up of 110 KW substation along with tower on specific lands. However, without considering the objections made by the petitioner and other land owners, the 1st respondent passed an order dated 28.02.2023, directing the 2nd respondent to put up high Tension Towers and stringing Power Lines abutting the

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petitioner's lands. Challenging the same, the present Writ petition is filed.

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3. Learned senior counsel for the petitioner submitted that, as per the original scheme, the HT Towers and the Power Lines were to pass through the lands owned by an Education Trust, adjacent to the petitioner's land, however, subsequently, the respondents purposely changed the same in order to facilitate the Education Trust and to safeguard the lands of politically sound and influential persons and therefore, the 1st respondent/ District Collector decided to set up the High Tension Towers in the lands abutting the petitioner's land, which is not sustainable. Further, it is evident even from the counter affidavit filed by the 2nd & 3rd respondents that, this Hon'ble Court, time and again, has defined the role and power of the District Collector under Sections 10 and 16 of the Indian Telegraph Act, wherein it is held that, the District Collector has got no power to go into the merits of the case and find out whether the alignment proposed is correct or not and whether there is any possibility of realignment and the power is only restricted to remove the obstruction or resistance in the completion of the project. While so, in the present case on hand, the District Collector, who is



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not an expert, conducted an enquiry and directed the Revenue Divisional Officer, Athur to conduct a filed inspection and to submit a report with regard to the feasibility of an alternative route.

4. It is the further submission of the learned senior counsel that, on 03.10.2022, an objection was submitted by the answering respondent/ Electricity board for the proposal of the alternative route and it was requested to grant permission to carry on with the project in the approved route, however, the same was not considered either by the 1st respondent or by the Revenue Divisional Officer. Subsequently, on 09.12.2022, the Revenue Divisional Officer, Athur submitted a report to the District Collector and upon receipt of the same, the 1st respondent, vide letter dated 26.12.2022 forwarded the said report to this Electricity Board and directed the Electricity Board to prepare an alternative route for laying the tower line in line with the report of the RDO and directed TANTRANSCO to carry on the work in the alternative route and to submit a report on the same. Subsequently, an application for enter upon permission was submitted for the alternative route on 12.01.2023 and also submitted a feasibility report on 12.01.2023.



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5. Learned Senior counsel appearing for the petitioner further relied upon the judgment of the Hon'ble Division Bench of this Court reported in 2013-1-LW 170 (in the case of ***M/s.Sri Vignesh Yarns Pvt. Ltd. Vs. S.Subramaniam in W.A.No.1049-1051 of 2012 dated 16.11.2012***), wherein a similar issue fell for consideration of the Division Bench, in which, the Division Bench held as under :-

“4. The writ petitioners challenged the impugned order on the ground that the District Collector had no jurisdiction to decide the route for installation of the transmission lines and that the District Collector, before deciding on an alternative route, has not taken note of the technical recommendations of the experts on the field. According to them, the impugned order directing installation of the transmission towers through their lands was passed in view of the fact that some other land owners who were affected by the original route had filed a batch of writ petitions viz., W.P. Nos.9728, 5205, 5206, 5207, 5208, 5209 and 4900 of 2010. The said batch of writ petitions was disposed of on 30.4.2010 with a direction to the Board officials to proceed with the



work after getting appropriate orders from the District Collector-cum-Magistrate, Tiruppur under the provisions of the [Indian Telegraph Act, 1885](#). A direction was also issued to the District Collector-cum-Magistrate to pass appropriate orders within 15 days from the date of receipt of a copy of that order. Thereafter, the District Collector, Tiruppur instructed the TNEB officials to study the pros and cons of the alternate route, and it was on the instructions of the District Collector, Tiruppur the officials of the Board surveyed both possible routes and submitted a report inter se with their merits and demerits. In their report, considering the technical aspects, they approved the original route as being more feasible with fewer objections, since it was along side with the existing Panchayat Road. Thereafter, the District Collector conducted a meeting with the land owners as well as the Board Engineers and orally declared that the original route would be followed. However, before passing the orders in writing, he was transferred and his successor in office viz., the present District Collector, conducted a second meeting with the land owners and issued the impugned order to proceed with the work on the second proposed route, instead of the



original route.

5. The writ petitions were opposed by the respondents on the ground that 90% of the work relating to laying of the transmission towers was already completed, and therefore, it will not be in public interest to interfere with the impugned order at this stage. It was next contended that though originally the proposal was not to install the towers through the lands belonging to the writ petitioners, subsequently, it was in pursuance of the orders passed by the High Court and after hearing the parties, the District Collector approved the second route. According to the respondents, the District Collector had exercised his jurisdiction under the Tamil Nadu Electricity Act, 2003 and hence, it was not open to the writ petitioners to now challenge the impugned order, especially when the decision was taken in view of the directions issued by this Court.

6. The learned single Judge, on consideration of the rival submissions and the materials on record, observed that as per [Section 16](#) of the Indian Telegraph Act, the District Collector does not have any authority to alter or frame any route of transmission lines and therefore, the impugned order passed in exercise of



such power under [Sections 10](#) and [16](#) of the aforesaid Act was without jurisdiction. It was also observed that the judgment of this Court which was relied upon by the respondents should only be construed to mean that this Court had directed the District Collector to consider the matter strictly in terms of [Section 16](#) of the aforesaid Act and the Court could not have vested any power with the District Collector which was not available to him under the statute. The learned single Judge observed that the experts in the field having asserted that the original route was the best for the purpose, the impugned order passed by the District Collector was not only without jurisdiction, but also prima facie arbitrary and was an outcome of non-application of mind on the part of the District Collector as to the technical aspects with regard to the erection of the transmission lines. The learned single Judge accordingly allowed the writ petitions and directed the Board to take an independent decision in the best interest of laying down of transmission lines, without reference to the order passed by the District Collector. Challenging the order of the learned single Judge, the present writ appeals two by the fourth



respondent and the other by the sixth respondent in the writ petitions have been filed.”

In view of the above ratio laid down by the Division Bench of this Court, the present impugned order of the 1st respondent is liable to be interfered with and it would suffice, if this Court issues direction to the respondents to proceed with the original scheme, which was approved by the Electricity Board. Accordingly, he prayed for appropriate orders.

6. Learned Additional Government Pleader appearing for the 1st respondent submitted that, though the original route/scheme was approved by the Electricity board, however, as per the route approved tower locations no.5 to 7 were initially positioned in the approved locations. Between tower corridors, 5 to 6 lies the land belonging to Barathiyar Women's Engineering College, run by Shri Sakthi Educational Trust and while executing the work for the erection of the transmission tower in locations no. 5 to 6, an objection was raised by the College claiming that they have proposed to develop and use the property as a ground for the College and the same was referred to the District Collector as per Indian Telegraph Act 1885 seeking an enter upon



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permission on 19.07.2022. Hence, taking into consideration the Safety of the students studying in the college, the 1st respondent has directed the Revenue Divisional Officer to find out an alternative route. He further submitted that, the District Collector has authority to reduce/minimise the cost of the project, hence, he has come up with a decision for considering the alternate route and the same cannot be stated as illegal and does not warrant interference of this Court. Hence, he prayed for appropriate orders.

7. Learned Standing counsel appearing for the 2nd and 3rd respondents fairly submitted that, as per the order of the Division Bench of this Court, which was relied upon by the learned Senior Counsel for the petitioner, as per Section 16 of the Indian Telegraph Act, the District Collector does not have any authority to alter or frame any route of transmission lines, while so, the District Collector has no authority to issue direction to the Revenue Divisional Officer to submit a report with regard to feasibility of an alternative route, which is contrary to the route approved by the Electricity Board. He further submitted, on 03.10.2022, an objection was submitted by the Electricity board for the alternative route and it was requested to grant permission to carry on with the project in the approved route, however, the



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same was not considered either by the 1st respondent or by the Revenue Divisional Officer. Hence, he prayed for appropriate orders.

8. Heard learned counsel on either side and perused the material documents placed on record.

9. Admittedly, the 3rd respondent is in process of erection of 110 KV SC Line on DC Tower with panther conductor from existing Thalaivasal 110KV SS to the proposed Thalaivasal Railway Traction 110 KV SS, for which, the technical approval was granted on 19.03.2021 and 25.03.2021 respectively, at an estimated cost of Rs.791.661 Lakhs. Further it is pertinent to note that, though, under Statute, notice or consent is not required from the landowner, a public notice was published on 07.01.2022 in daily newspapers, calling for objections for the execution of the said project and since no objections were received, the proposal was published in the Gazette on 13.04.2022. The Chief Engineer/Transmission accorded approval to the route map vide Letter dated 17.05.2021 and the entire profile was approved by Chief Engineer/Civil Chennai on 28.07.2021. Further, while approving the profile, the Chief Engineer / TANTRANSCO, Chennai -2 had laid the

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following conditions:

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

10. It is evident from the material documents placed on record that, before the original scheme is proposed, a detailed study had been conducted along various alternate routes, existing EHT line crossing, road crossing, cost aspect etc., and finally the most economical and technically feasible route was approved by the Chief Engineer / Transmission. Therefore, the entire works are being executed only along the approved route alignment through agricultural, barren, and Poromboke lands in order to strictly maintain the above vertical clearance. While so, upon receipt of an objection from the College while erecting the transmission tower in locations No.5 to 6, since between tower corridors, 5 to 6 lies the land belonging to Barathiyar Women's Engineering College, run by Shri Sakthi Educational Trust.



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11. The fact remains that, as per the originally approved route, the transmission tower in locations no. 5 to 7 were initially positioned in the approved locations. However, due to the intervention of the 1st respondent, the Revenue Divisional Officer conducted an inspection and submitted a report dated 09.12.2022, which was in turn forwarded by the 1st respondent, vide letter dated 26.12.2022 to the Electricity board, directing the electricity officials to prepare an alternative route for laying the tower line, despite the objection dated 03.10.2022 made by the 2nd and 3rd respondents for the proposal of the alternative route and it was requested to grant permission to carry on with the project in the approved route.

12. In the aforesaid backdrop, it is to be pointed out that the District Collector, who is not an expert, had stepped into the issue on his own and had given a direction to the Revenue Divisional Officer to find an alternative route, which act is not only impermissible, but is beyond the competence of the District Collector. Further, when the experts have carved out the best route for erecting the HT lines, the District Collector has no power to direct the Revenue Divisional Officer to find out an alternative route and, thereupon impose upon the Electricity Board to reroute the transmission



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lines in the alternative route identified by the Revenue Divisional Officer.

The District Collector has no authority to interfere in the matter and direct finding of an alternate route, much less give further action to the Electricity Board to reroute the transmission lines in the alternative route, which act smacks of *mala fides*.

13. The decision in *M/s.Sri Vignesh Yarns Pvt. Ltd. Vs. S.Subramaniam in W.A.No.1049-1051 of 2012 (2013-1-LW 170)*, extracted supra, is squarely applicable to the case on hand, wherein it has been held in unequivocal terms that the District Collector is not clothed with any authority or expertise to decide on the alternative route, when the experts in the field have carved the route in which the project should be implemented.

14. For the foregoing reasons, the order of the District Collector/the 1st respondent dated 28.02.2023 impugned in this writ petition is liable to be interfered with.



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15. Accordingly, the Writ petition is allowed and the order passed by the 1st respondent dated 28.2.2023 is set aside and further, the 2nd & 3rd respondents are directed to proceed as per the initial approved plan for the installation of the HT transmission lines. There shall be no order as to costs. Consequently, connected Miscellaneous petition is closed.

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NCC : Yes / No
Speaking Order : Yes / No
Index : Yes / No

Note to office: Issue order copy on 21.06.2023.

To

1. The District Collector,

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Collectorate,
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M.DHANDAPANI., J.



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