



W.P.(MD)No.17188 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED:23.08.2023

CORAM

THE HON'BLE DR.JUSTICE D.NAGARJUN

W.P.(MD)No.17188 of 2023
and
W.M.P.(MD) No.14386 of 2023

M/s.JSW Renew Energy Limited,
Rep. by its Manager, Mr.Mani AR,
JSW Centre, Bandra Kurla Complex,
Bandra (East), Mumbai - 400 059.

... Petitioner

Vs.

1. The District Collector,
Thoothukudi District.
2. The Superintendent of Police,
Thoothukudi District.
3. The Revenue Divisional Officer,
Kovilpatti, Thoothukudi District.
4. The Deputy Superintendent of Police,
Kovilpatti, Thoothukudi District.
5. The Tahsildar,
Kayathar Taluk, Thoothukudi District.
6. The Inspector of Police,
Kayathar Police Station, Thoothukudi District.

... Respondents



W.P.(MD)No.17188 of 2023

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents to provide adequate police protection to life and limb of the staffs of the petitioners company for stringing of transmission overhead lines through the lands comprised in SF Nos. 35/8, 36/2, 36/3, 36/4, 36/6, 53/7B, 114/7, 122/2, 123/1, 123/4 and 124/2A of Sivagnanapuram Village and SF Nos. 5/1, 5/6, 6/3, 6/4, 154/1C, 154/2B, 154/2C1, 154/4 and 155 of Assor Village, Kayathar Taluk, Thoothukudi District pursuant to the enter upon order granted in favour of the petitioner under Section 16(1) of the Indian Telegraph Act 1885 vide proceeding bearing No.Mu.Mu.(Si. 5)/698040/2023 dated 10.04.2023 of the first respondent and in the light of the representation made by the petitioner to the second respondent dated 17.04.2023 within a period that may be stipulated by this Court.

For Petitioner : Mr.Isaac Mohanlal
Senior Counsel

For Respondents : Mr.SS.Madhavan
Government Advocate (Crl. Side)

ORDER

This petition is filed for a direction to the respondents police to provide adequate police protection to the petitioner's company for stringing of transmission overhead lines through the lands comprised in SF Nos. 35/8, 36/2, 36/3, 36/4, 36/6, 53/7B, 114/7, 122/2, 123/1, 123/4
2/12



W.P.(MD)No.17188 of 2023

and 124/2A of Sivagnanapuram Village and S.F Nos. 5/1, 5/6, 6/3, 6/4, 154/1C, 154/2B, 154/2C1, 154/4 and 155 of Assor Village, Kayathar Taluk, Thoothukudi District, pursuant to the order granted in favour of the petitioner under Section 16(1) of the Indian Telegraph Act 1885, *vide* proceedings bearing No.Mu.Mu.(Si.5)/698040/2023 dated 10.04.2023 of the first respondent and in the light of the representation made by the petitioner to the second respondent dated 17.04.2023.

2. The facts in brief as submitted by the learned counsel for the petitioner are that:-

2.1. The petitioner company is a registered public limited company, engaged in the generation, transmission of electricity through non-conventional electricity generation power projects and is in the process of setting up renewable energy power projects across India including the State of Tamil Nadu. The petitioner has obtained permission under Section 164 of the Electricity Act, 2003, from the Central Electricity Authority, Ministry of Power, Government of India, *vide* notification dated 25.04.2022 bearing F.No.CEA-PS-13-23(13)/3/2022-PSPM Division, conferring all the powers which



W.P.(MD)No.17188 of 2023

the telegraph authority possesses under the Indian Telegraph Act, 1885, with respect to placing of telegraph lines and posts for the purpose of a telegraph established or maintained, by Government to the defendant for laying the overhead lines and posts covered under the transmission scheme "Connectivity transmission system for evacuation of 500 MW Blended Power Project (Wind: 400MW & Solar: 100 MW) of JSW Renew Energy Limited in Thoothukudi District, Tamil Nadu".

2.2. The petitioner Company has obtained approval to the route of "Extra High Tension Power Line" from the Power Telecommunication Co-ordination Committee (PTCC) bearing No. SR-PTCC/TN 1723/15 dated 07.03.2022, for the erection of 230 KV OH D/C Line on D/C Towers with AL-59 Moose Conductor from 230/33 KV Blended Power Project situated at Savalaperi to the existing Power Grid Corporation India Limited (PGCIL), situated at Vadakku Vandhanam Village of Tuticorin District.

2.3. On the strength of permissions and approvals, the petitioner company has erected the transmission lines for a length of 19.505



W.P.(MD)No.17188 of 2023

Kilometres starting from our Pooling Sub Station-A situated at Savalaperi Village, Thoothukudi District, to the existing Power Grid Corporation India Limited (PGCIL), situated at Vadakku Vandhanam Village, Thoothukudi District. This transmission line consists of 80 transmission towers and completed stringing through the private lands with the consent of respective landowners, after paying adequate compensation to them. The petitioner company has completed the stringing of overhead transmission lines at 77 spans after paying adequate compensation to the respective landowners out of 80 spans. Due to obstruction from some landowners, the petitioner company is unable to complete the stringing of transmission/overhead lines through the lands comprised in SF Nos. 35/8, 36/2, 36/3, 36/4, 36/6, 53/78, 114/7, 122/2, 123/1, 123/4 & 124/2A of Sivagnanapuram Village and Survey Nos. 5/1, 5/6, 6/3, 6/4, 154/1C, 154/28, 154/201, 154/4 & 155 of Asoor Village, Kayathar Taluk, Thoothukudi District.

2.4. In this regard, few land owners have approached this Court by filing writ petitions in WP (MD) Nos. 16942, 16493, 17899 and 20481 of 2022, seeking for a direction to the respondents therein, including the



W.P.(MD)No.17188 of 2023

petitioner, not to lay high power overhead transmission lines affecting their respective lands comprised in SF Nos. 35/8, 36/2, 36/3, 36/4, 36/6, 53/78, 114/7, 122/7, 123/1, 123/4 & 124/2A of Sivagnanapuram Village and SF Nos. 5/1, 5/6, 6/3, 6/4, 154/1C, 154/28, 154/2C1, 154/4 & 155 of Asoor Village, Kayathar Taluk, Thoothukudi District and the said writ petitions are pending before this Court.

2.5. Basing on the procedures set out in W.P.(MD) No.6319 of 2020, dated 07.08.2020, the petitioner company has made applications under Section 16 of the Telegraph Act, 1885, on 20.01.2023 and 07.03.2023, seeking permission to enter into the lands owned by the person, who have raised their objections. Thereafter, the first respondent has passed an order under Section 16(1) of the Indian Telegraph Act, 1885, *vide* proceedings bearing No. Mu. Mu. (SI.5)/ 698040/ 2023 dated 10.04.2023, permitting the petitioner company to carry out the work by fixing adequate compensation for the landowners who have raised objections, as per the guidelines of Payment of Compensation towards damages *qua* Right of Way for Transmission Lines dated 15.10.2015, Ministry of Power, Government of India and G.O.(Ms) No. 86 Energy



W.P.(MD)No.17188 of 2023

(A1) Department. Further, the first respondent also directed the second respondent police to provide adequate protection to the petitioner company for carrying out the operation in the aforesaid lands. However, the landowners refused to accept the compensation fixed by the first respondent.

2.6. Thereafter, the petitioner company submitted representation to the second respondent on 17.04.2023, seeking protection to execute the enter upon order dated 10.04.2023, passed by the first respondent. It is submitted that the petitioner company have already invested more than hundred crores of rupees for the erection of transmission system and failure in charging the transmission would incur huge revenue loss and denial to provide protection to execute the enter upon order would lead to impose penalty to the petitioner company by the Solar Energy Corporation of India (SECI) for delay in supplying power before the dead line as agreed with SECI under the Power Purchase Agreement. It is also mentioned that since no other effective and efficacious alternative remedy is available to the petitioner company, they are constrained to move the present writ petition.



W.P.(MD)No.17188 of 2023

WEB COPY

3. Learned Government Advocate (Crl. Side) appearing for the respondents, on the other hand, submits that the District Collector had conducted an inquiry on 27.03.2023 with the holders of the concerned lands in their respective villages and the landowners have participated in the said inquiry and recorded their objections/ statements.

4. Learned counsel for the petitioner company also relied on the order of this Court dated 02.06.2022 in the case of ***M/s.Ascend Telecom Infrastructure Private Limited v. The Superintendent of Police***, wherein, this Court held as follows:-

"6.This Court has consistently taken the view that no one can be prevented from erecting the cell phone towers on a mere apprehension about the effect of radiation from the cell phone tower. The apprehension does not have a scientific backing. Till a positive finding is given in this regard, cell phone towers cannot be prevented to be installed on mere apprehensions.

7.For the reasons stated above, there shall be a direction to the second respondent police to provide police



W.P.(MD)No.17188 of 2023

protection to the petitioner for erection of the cell phone tower. The second respondent police shall ensure that the entire process goes on in a smooth manner, without giving rise to any law and order problem."

5. Initially, there was certain apprehensions in the minds of people for various reasons and there were instances where the people used to prevent erection of High Tension wires. The District Collector has spoken to the persons who have been raising objections and has issued proceedings permitting the petitioner company to go ahead for erection of electric poles and the District Police were also directed to provide sufficient police protection while erecting the High Tension wires. Once proceedings were issued under Section 16 of Indian Telegraph Act, 1885, the respondent police are bound to provide suitable protection.

6. For the foregoing reasons, the respondents police are directed to provide adequate police protection to the petitioner for carrying out the stringing of transmission overhead lines.



W.P.(MD)No.17188 of 2023

7. The Writ Petition is allowed with the above directions. No costs.

Consequently, the connected miscellaneous petition is closed.

23.08.2023

NCC	:	Yes / No
Index	:	Yes / No
Internet	:	Yes / No
PKN		



W.P.(MD)No.17188 of 2023

WEB COPY

To

1. The District Collector,
Thoothukudi District.
2. The Superintendent of Police,
Thoothukudi District.
3. The Revenue Divisional Officer,
Kovilpatti, Thoothukudi District.
4. The Deputy Superintendent of Police,
Kovilpatti, Thoothukudi District.
5. The Tahsildar,
Kayathar Taluk, Thoothukudi District.
6. The Inspector of Police,
Kayathar Police Station, Thoothukudi District.
7. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



W.P.(MD)No.17188 of 2023

DR.D.NAGARJUN,J

PKN

W.P.(MD)No.17188 of 2023

Dated:23.08.2023