



WP(MD)No.6950 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.6950 of 2017
and
WMP(MD)No.5486 of 2017

The Commissioner cum Special Officer,
Thoothukudi City Municipal Corporation,
Thoothukudi.

.. Petitioner

v.

The Superintendent Engineer,
Thoothukudi Electricity Distribution Circle,
Tamil Nadu Electricity Generation and Distribution Corporation,
TANGEDCO,
Thoothukudi.

.. Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus directing the respondent to remove the electricity poles standing in the land in S.No.35/2 & 36/1 grassland, near Fathima Nagar, East Zone, Tuticorin Corporation, contrary to Section 10(c) of the Indian Telegraphic Act, 1885.



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For Petitioner : Mr.N.Anandhakumar

For Respondent : Mr.S.Deenadhayalan,
Standing Counsel

ORDER

The petitioner Corporation has filed this writ petition with a grievance that without obtaining permission from the Corporation, the respondent Board has laid electricity poles and also a Transformer in their land.

2.Learned Counsel for the petitioner, by referring Section 10(c) of the Indian Telegraph Act, submitted that the provision mandates a prior permission from the local authority. The Board, before laying the line, ought to have obtained permission from the petitioner Corporation, however, they have not done so.

3.Learned Standing Counsel for the respondent Board submitted that at the time of laying the line, it was only a grass road and therefore, the Board has laid the lines. The lines itself were taken for the proposed construction of a Overhead tank.



4.This Court considered the rival submissions made on either side.

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5.The petitioner has filed this writ petition that the required permission as per Section 10(c) of the Indian Telegraph Act was not obtained by the respondent Board before laying the lines.

6.Section 10(c) of the Indian Telegraph Act is extracted as under:-

“10. Power for telegraph authority to place and maintain telegraph lines and posts – The telegraph authority may, from time to time, place and maintain a telegraph line under, over, along, or across, and posts in or upon any immovable property: Provided that –

... ..

c. except as hereinafter provided, the telegraph authority shall not exercise those powers in respect of any property vested in or under the control or management of any local authority, without the permission of that authority;”

7.Section 10(c) of the Act mandates the Board from getting a permission for laying a line in the land belonging to the local body.



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Admittedly, the subject property is under the control of the petitioner

Corporation and no prior permission has been obtained from them.

8. Therefore, this writ petition is disposed of with a direction to the District Collector, Tuticorin, the competent authority, to conduct an enquiry and to pass appropriate orders as per Section 15 of the Indian Telegraph Act. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
NCC : Yes / No
Internet : Yes
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B.PUGALENDHI, J.

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