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REV.APLW.(MD)No.6 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

REV.APLW.(MD)No.6 of 2020

and

W.M.P.(MD)No.2183 of 2020

1.The Chairman (Superintending Engineer),
Consumer Grievance Redressal Forum,
Madurai, EDC, TANGEDCO (formerly TNEB),
K.Pudur, Madurai-625 007.

2.The Assistant Engineer,
Metro Circle, TANGEDCO,
Anuppanadi, Madurai-625 009.

... Petitioners

Vs.

1.Tamilnadu Maha Sourashtra Sabha,
Rep. by R.K.Baskar,
Managing Trustee,
No.27 C, Narasingapuram 2nd Street,
Kamaraj Salai, Madurai-625 009.

2.The District Collector,
Madurai District, Madurai.



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3. The Correspondent,
Sourasthra Girls Higher Secondary School,
Teppakulam-Anuppanadi Road,
Madurai-625 009.

...Respondents

(R3 is impleaded vide Court order dated 10.10.2023 in W.M.P.(MD)No.16503 of 2023 in Rev.APLW.(MD)No.6 of 2020)

PRAYER: Petition filed under Section 114 r/w Order 47 Rule 1 of C.P.C., praying this Court to review the order dated 06.11.2019 passed in W.P.(MD)No. 23169 of 2019 and to set aside the same.

For Petitioner : Mr.Veera Kathiravan,
Additional Advocate General,
assisted by Mr.S.Deenadhayalan

For R1 : Mr.T.R.Subramanian

For R2 : Mr.S.Shanmugavel,
Additional Government Pleader

For R3 : Mr.T.Lajapathi Roy, Senior Counsel,
for Mrs.K.R.Shivashankari

ORDER

(Order of the Court was made by ***V.LAKSHMINARAYANAN, J.***)

This review petition filed at the instance of the Tamil Nadu Electricity Board seeking to review the portion of the order passed by this Court on



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06.11.2019, whereby the Electricity Board was directed to bear the charges for laying underground cables in Sourasthra Girls Higher Secondary School, situated at Teppakulam-Anuppanadi Road. The said School has been impleaded as 3rd respondent in the review petition.

2.We heard Mr.Veera Kathiravan, learned Additional Advocate General appearing for the review petitioner, Mr.T.R.Subramanian, learned counsel appearing for the 1st respondent and Mr.S.Shanmugavel, learned Additional Government Pleader appearing for the 2nd respondent and Mr.T.Lajapathi Roy, learned Senior Counsel appearing for the 3rd respondent.

3.The 3rd respondent School had been established in the year 1947. Across the School, high power voltage tension electric wires have been laid. The School felt a need to shift the poles, which run across the School and made a representation to the review petitioner.

4.Taking into consideration the request made by the School, the Electricity Board took a stand that if the concerned authority of the School is willing to pay shifting charges, then the Electricity Board will shift the lines or



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change it from existing high power voltage tension electric lines running overhead to underground cables. The School did not challenge the said order nor did it take any further proceedings. Instead a Trust, namely, Tamil Nadu Maha Sourashtra Sabha, represented by its Managing Trustee filed a Public Interest Litigation in W.P.(MD)No.23169 of 2019, seeking for a direction to the District Collector to instruct the Electricity Board to remove the high power electric line and posts, which are passing in the middle of the School.

5.The Writ Petition was filed on 01.11.2019 and came up for admission on 06.11.2019. Even at the time of admission, the Court had directed that the high tension lines, which has been in existence for several decades, were to be shifted or taken underground by taking into consideration the safety of the students studying in the School.

6.The Electricity Board even today has expressed its willingness to convert overhead line into underground cables. It however seeks to review that portion of the order, which directed the Electricity Board to bear entire costs.

7.The learned Additional Advocate General appearing for the appellants by relying upon the proceedings issued by the Chief Engineer (Commercial),



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TANGEDCO, Madurai, which states that in case of Government / Corporation / Municipality Schools, the cost for shifting is to be borne out by the Electricity Board and in case of private and the Government aided Schools, shifting work should be done on DCW basis.

8.When the matter came up on the last occasion, we requested the learned Additional Advocate General to discuss with his client and reduce the charges that have been imposed on the School, taking into consideration the fact that the School is being run at a bare minimum costs and providing education to girl students to the City of Madurai.

9.Taking our suggestion, the learned Additional Advocate General states that as against the original cost, estimate has been prepared and the Electricity Board is willing to complete the project at the cost of Rs.4,037,842/- (Rupees Four Lakhs Thirty Seven Thousand Eight Hundred and Forty Two Only). This includes the cost of changing the overhead lines into underground cables and also applicable GST.

10.At this stage, Mr.T.Lajapathi Roy drew our attention to the judgment of this Court in W.A.(MD)No.932 of 2010, dated 22.02.2011. He would rely upon



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paragraph No.10(21) of the said order and would submit that since the consent of the land owner was not taken nor was the School paid compensation at the time of laying poles and therefore, the School must not be mulcted with the case of the underground cables.

11.While we can sympathise with the School, law is otherwise. Where overhead cable lines had been laid, a Bench of this Court in W.A.No.1164 of 2014, dated 07.03.2018 has categorically held that while shifting, permissible costs for such shifting must be borne out only by the party, who seeks for it. Consequentially, the judgment in W.A.(MD)No.932 of 2010, dated 22.02.2011 does not give any assistance to the 3rd respondent.

12.We are of the view that the Court while disposing of the Writ Petition at the stage of admission had not taken into consideration the proceedings of the Board dated 11.04.2017 and 14.10.2017. Had the Court took notice, it would not have said that the Electricity Board must bear the electricity charges. Consequentially, it is an error on the face of the record. Therefore, the review is granted and the Writ Petition is taken on file. It is disposed of on the following terms:-



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(i)The Electricity Board shall convert overhead high tension electric wires into underground cables on payment of Rs.4,037,842/- either by the 3rd respondent to the review petitioner or by such other person, who may deposit the said amount on its behalf;

(ii)If the cost is paid, the Electricity Board shall shift the overhead lines into underground cables; and

(3)The paragraph No.6 of the order dated 06.11.2019 alone is reviewed.
The remaining portion of the said order stands as it is.

No costs. Consequently, connected miscellaneous petition is closed.

(S.M.S., J.) & (V.L.N., J.)

23.11.2023

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NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To

The District Collector,
Madurai District, Madurai.

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AND

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