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W.P.Nos.2233, 2673, 3202 and 4084 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON : 24.02.2025

ORDERS DELIVERED ON : 17.03.2025

Coram:

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.Nos.2233, 2673, 3202 and 4084 of 2025
& W.M.P.Nos.3006, 3009, 3552 and 4588 of 2025

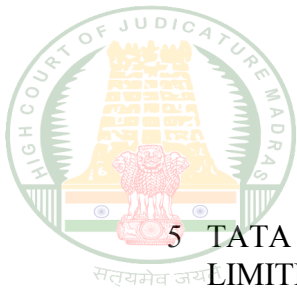
In W.P.No.2233 of 2025:-

ESWARI

.. Petitioner

Versus

- 1 THE STATE OF TAMIL NADU
REP. BY ITS DISTRICT COLLECTOR, KARUR DISTRICT
COLLECTORATE I FLOOR KARUR- 639 007
- 2 THE REVENUE DIVISIONAL OFFICER
KARUR SUB COLLECTOR OFFICE
N.PRADHAKSANAM ROAD MADAVILAGAM KARUR 639 002
- 3 THE SUPERINTENDING ENGINEER
GENERAL CONSTRUCTION DIVISION, 110 KV SUB
STATION PERIYAMILAGUPARAI TRCIHY 620 002
- 4 THE SUPERINTENDING ENGINEER
TAMIL NADU GENERATION AND DISTRIBUTION
CORPORATION LIMITED, KARUR ENGINEERING
DIVISION CIRCLE, TNEB COMPLEX, KARUR 639 002



W.P.Nos.2233, 2673, 3202 and 4084 of 2025

5 TATA POWER RENEWABLE ENERGY
LIMITED C/O THE TATA POWER COMPANY LIMITED
CORPORATE CENTRE A BLOCK 34 SANT TUKARAM
ROAD CARNAC BUNDER MUMBAI 400 009

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the respondents 3 and 4 to implement the order of the 2nd respondent dated 20.12.2024 in O.Mu.A.1/7834/2024 by conducting enquiry and taking appropriate action on my representation dated 12.12.2024 in accordance with law within stipulated time fixed by this Court.

For the Petitioner : Mr.J.Antony Jesus

For the Respondents : Dr.S.Suriya
Additional Government Pleader for RR1&2
Mr.Sathish Parasaran
Senior Counsel
for Mr.Abinav Parthasarathy for R5
Mr.D.R.Arun Kuar, for RR3 & 4

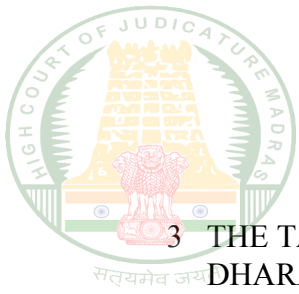
In W.P.No.2673 of 2025:-

- 1 S.DHARMARAJ
- 2 SELLAMUTHU
- 3 PALANISAMY

.. Petitioners

Versus

- 1 THE DISTRICT COLLECTOR
TIRUPPUR DISTRICT TIRUPPUR.
- 2 THE REVENUE DIVISIONAL OFFICER
DHARAPURAM REVENUE DIVISION
TIRUPPUR DISTRICT.



W.P.Nos.2233, 2673, 3202 and 4084 of 2025

3 THE TAHSILDHAR
DHARAPURAM TALUK TIRUPPUR DISTRICT.

4 THE SUPERINTENDENT OF POLICE
OFFICE OF THE SUPERINTENDENT OF POLICE
TIRUPPUR DISTRICT.

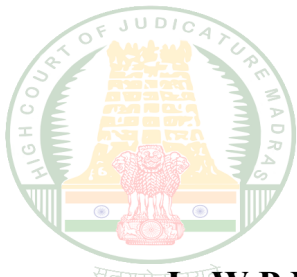
5 M/S.TP VARDHAMAN SURYA LIMITED
REPRESENTED BY ITS GENERAL MANAGER C/o
THE TATA POWER COMPANY LTD, 34 SANT TUKARAM
ROAD CARNAC BUNDAR MUMBAI 400 009

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records of the impugned order of the 1st respondent in Na.Ka.No.7500/2024/E5 dated 31.12.2024 and quash the same and consequently direct the respondents to follow the procedure established by law i.e., the strict compliance of the procedure established under Sections 10 & 16 of the Indian Telegraph Act, 1885 and pass such other order.

For the Petitioners : Mr.R.Gowtham Kumar
Senior Counsel
for Mr.S.Ganesh Babu

For the Respondents : Dr.S.Suriya
Additional Government Pleader for RR1&2
Mr.C.S.Vaidyanathan
Senior Counsel
for Mr.Shri Venkatesh for R5
Dr.C.E.Pratap, Govt. Advocate, for R4



W.P.Nos.2233, 2673, 3202 and 4084 of 2025

In W.P.No.3202 of 2025:-

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- 1 SELVARAJ
- 2 K.SENNIYAPPAN
- 3 SUDHA
- 4 SELAMBANA GOUNDER
- 5 S.KARUPPUSAMY

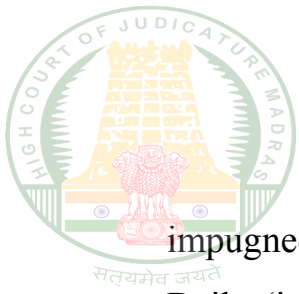
.. Petitioners

Versus

- 1 UNION OF INDIA
REP BY THE SECRETARY MINISTRY OF NEW AND
RENEWABLE ENERGY, BLOCK -14 CGO COMPLEX
LODHI ROAD NEW DELHI- 110 003.
- 2 CENTRAL ELECTRICITY AUTHORITY
MINISTRY OF POWER GOVERNMENT OF INDIA
REP BY THE CHAIRPERSON SEWA BHAWAN R.K.
PURAM NEW DELHI- 110 066.
- 3 THE DISTRICT COLLECTOR
TIRUPPUR DISTRICT, TIRUPPUR.
- 4 M/S.TATA POWER RENEWABLE ENERGY LIMITED
REP BY ITS GENERAL MANAGER
CORPORATE CENTRE B BLOCK 34 SANT
TUKARAM ROAD CARNAC BUNDAR
MUMBAI- 400 009.
- 5 K.KUPPUSAMY
- 6 C.CHELLAMUTHU
(R5 AND R6 ARE IMPEADED AS PER THE ORDER
DATED 20.02.2025 IN W.M.P.NO.6729/2025 IN W.P.NO.3202/2025)

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records of the



W.P.Nos.2233, 2673, 3202 and 4084 of 2025

impugned publications of the 2nd respondent to the 4th respondent in i) "English Daily (in English), Coimbatore Edition" dated 10.06.2024, ii) "Dakshin Prakash (in Hindi), Chennai Edition" dated 10.06.2024 and iii) "Dina Seithi (in Tamil), Coimbatore Edition" dated 10.06.2024 and "Impugned Authorization" given by the 2nd respondent to the 4th respondent under Section 164 of the Electricity Act, 2003, published in the Gazette of India dated 22.10.2024 with respect to the Power Transmission Project namely "230 kV transmission line from M/s Tata Power Renewable Energy Ltd., generating pooling station (PS) located in Village Senapathipalayam, Taluk Kangayam, District Tiruppur, Tamil Nadu, to Karur PS (ISTS S/s)" of the 4th respondent to issue Fresh Paper Publications/Notifications with respect to the above Projects with Detailed Description of the Affected Lands & also with the provision of the Hearing Objections of such Affected Land Owners by a Third-Party Competent Authority and pass such other orders.

For the Petitioners : Mr.Nethaji

For the Respondents : Dr.S.Suriya
Additional Government Pleader for R3
Mr.Sathish Parasaran
Senior Counsel
for Mr.Suhael Buttan for R4
Mr.T.L.Thirumalai Swamy
CGSC for RR1 &2
Mr.M.Easan for RR5 & 6

In W.P.No.4084 of 2025:-

PAPPATHI

.. Petitioner

Page No.5/61



W.P.Nos.2233, 2673, 3202 and 4084 of 2025

Versus

- 1 THE DISTRICT COLLECTOR
TIRUPPUR DISTRICT TIRUPPUR - 641 604.
- 2 THE SUPERINTENDING ENGINEER
NON- CONVENTIONAL ENERGY SOURCES TANGEDCO
KOLUMNAN ROAD UDUMALPET 642126 TIRUPPUR
DISTRICT.
- 3 THE GENERAL MANAGER
M/S.TP VARADHAMAN SURYA LTD
C/O. M/S. TATA POWER COMPANY LTD
34 SANT TUKARAM ROAD
CARNAC BUNDER MUMBAI- 400 009.
- 4 M/S.TATA POWER RENEWABLE ENERGY LTD
REP BY ITS GENERAL MANAGER
CORPORATE CENTRE A- BLOCK 34 SANT
TUKARAM ROAD CARNAC BUNDER
MUMBAI- 400 009.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the impugned order dated 31.12.2024 issued by the 1st respondent in Proc.Na.Ka.No.7500/2024/E5 and to quash the same as illegal, arbitrary, and pass such further or other order.

For the Petitioner : Mr.Manjunath Karthikeyan

For the Respondents : Dr.S.Suriya
Additional Government Pleader for R1
Mr.C.S.Vaidyanathan
Senior Counsel
for Mr.Abinav Parthasarathy for RR3 &4
Mr.D.R.Arunkumar for R2



W.P.Nos.2233, 2673, 3202 and 4084 of 2025

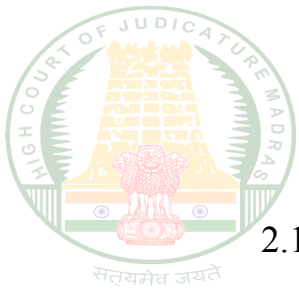
COMMON ORDER

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These four Writ Petitions are connected and as such are disposed of by this common order.

A. The Writ Petitions:

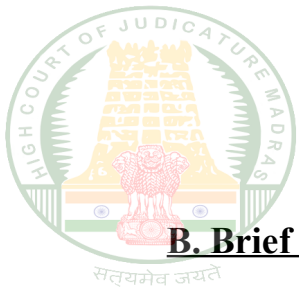
2. W.P. Nos. 2673 and 4084 of 2025 challenge the orders of the District Collector, Tiruppur District, dated 31.12.2024, which granted permission to M/s T.P. Vardhaman Surya Limited (hereafter referred to as 'TPVSL') to enter the survey fields mentioned therein and erect transmission towers, in accordance with Section 16 (1) of the Indian Telegraph Act, 1885. This permission is conditional upon their payment of compensation for damages and adherence to the Indian Electricity Rules, 1956, regarding the distance to be maintained from homes, wells, etc. They are also required to ascertain joint ownership in the case of joint patta, disburse compensation accordingly, and follow the necessary rules and directives outlined in the Government Orders related to this matter, making compensation payments promptly before commencing the erection of towers.



W.P.Nos.2233, 2673, 3202 and 4084 of 2025

2.1. W.P.No.3202 of 2025 is filed to challenge the publications made by the 4th respondent in the Writ Petition, namely, Tata Power Renewable Energy Limited (hereinafter referred to as 'TPREL') dated 10.06.2024, as well as the authorization granted by the 2nd respondent, namely, the Central Electricity Authority, Ministry of Power, Government of India, to the 4th respondent – TPREL under Section 164 of the Electricity Act, published in the Gazette of India dated 22.10.2024. The petitioner seeks to quash these actions and to issue fresh paper publications/notifications regarding the aforementioned projects, including detailed descriptions of the affected lands and provisions for hearing objections from affected landowners by a competent third-party authority.

2.2. W.P.No.2233 of 2025 is filed with a request to implement the order of the 2nd respondent, namely, the Revenue Divisional Officer of Karur, dated 20.12.2024. In this order, the 2nd respondent has directed an inquiry into the objections submitted by the petitioner and to provide a detailed report to the Revenue Divisional Officer, Karur, concerning the entry into the petitioner's land for the installation of high tension electricity transmission lines.

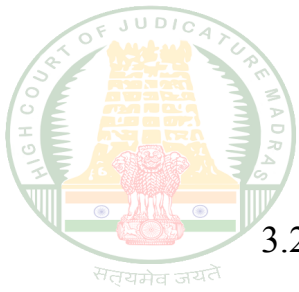


B. Brief Facts:

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3. The factual background in which these Writ Petitions arise is that TPREL planned to establish a 198 MW Wind Power Generating Station in Karur District, Tamil Nadu. TPREL submitted an application for the grant of connectivity for the aforementioned 198 MW at the Karur Pooling Station in Tamil Nadu. On 13.10.2023, TPREL requested the Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO) for in-principle approval to register the locations of wind energy generators.

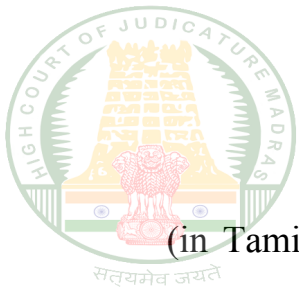
3.1. On 29.11.2023, TPREL once again sent a letter to TANGEDCO, stating that the project will be located in the Tiruppur and Karur Districts. To evacuate power from its wind farms, TPREL proposed establishing a 230/33 KV pooling substation and a 230/33KV power line with connectivity at the 400/230 KV PGCIL substation. Subsequently, the special purpose vehicle formed by TPREL and its parent company, TATA Steel Limited, under the name M/s. TPVSL, received in-principle approval for 55 locations on 14.12.2023.



W.P.Nos.2233, 2673, 3202 and 4084 of 2025

3.2. On 15 May 2024, the Central Transmission Utility of India Limited granted the final connectivity order to TPREL for 198 megawatt at Karur, with the connectivity commencing on 1 June 2023. Subsequently, on 16 April 2024, TPREL submitted an application on the National Single Window System Portal seeking prior approval from the Ministry of Power, Government of India, under Section 68 of the Electricity Act, for the installation of the dedicated overhead transmission lines included in the transmission system to provide connectivity for its project. The dedicated overhead transmission line, measuring 17.75 kilometers in length, was to be erected from the 230/33 KV generation pooling station of TPREL located in Senapathi Palayam Village, Kangeyam Taluk, Tiruppur District, to the Karur P.S (ISTS substation) with a 230 KV S/c line on D/c towers.

3.3. On 06 June 2024, prior approval was granted to TPREL by the Ministry of Power, Government of India under Section 68 of the Electricity Act for the installation of dedicated overhead transmission lines. On 10 June 2024, TPREL published a notice for the transmission scheme in local newspapers, namely 'Afternoon' (an English daily), 'Dakshin Prakash' (in Hindi), 'Dinaseithy'

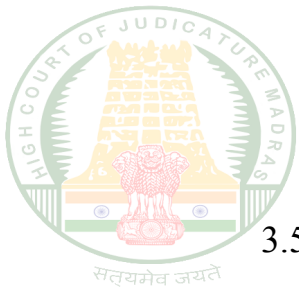


W.P.Nos.2233, 2673, 3202 and 4084 of 2025

(in Tamil), and in the 'Weekly Gazette of India', inviting the general public to

make observations or raise objections regarding the proposed transmission route within two months from the date of publication. On 20 August 2024, TPVSL submitted an application to the District Collector concerning the determination of compensation for landowners and the construction of electrical lines.

3.4. On 21 October 2024, the Ministry of Power conferred TPREL with all powers of telegraph authority under the Telegraph Act, exercising its authority under Section 164 of the Electricity Act, to establish and maintain a dedicated overhead transmission line. This was issued by the Government of India after noting that no representations or objections regarding the aforementioned transmission scheme were received within two months of publication. The approval specifically pertained to the particular locations designated for the construction of this dedicated transmission line as part of the current project. On 21 February 2024, the Power Telecommunication Coordination Committee also approved TPREL for the route of the 230 KV SC EHT line on DC tower with AL 59 Moose Conductor for the proposed Senapathi Palayam 230 / 33 KV PSS to 400 / 230 KV Karur PS.

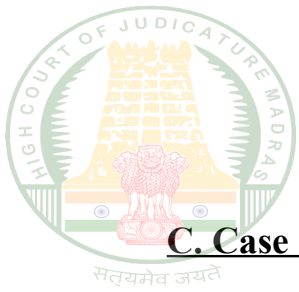


W.P.Nos.2233, 2673, 3202 and 4084 of 2025

3.5. Under these circumstances, when certain landowners objected to the generating company entering their lands to carry out the works, an application was submitted to the District Collector on 24.10.2024. After due inquiry, the Collector considered the fact that due permission had been granted by the appropriate authority and that orders had been passed under Section 164 of the Electricity Act, 2003. Taking into account Section 16 (1) of the Telegraph Act, 1885, the Collector issued an order on 31.12.2024, granting permission to TPVSL to enter the lands, with the survey numbers detailed in the villages of Erisanampalayam, Thattaravalasu, and Thoorampadi, along with the conditions specified therein.

3.6 During these processes, when a representation was made by one of the landowners, the Revenue Divisional Officer, through his communication dated December 20, 2024, also directed respondents 3 and 4 to conduct an inquiry.

3.7 It is at this stage these writ petitions were filed with the aforementioned prayers.



W.P.Nos.2233, 2673, 3202 and 4084 of 2025

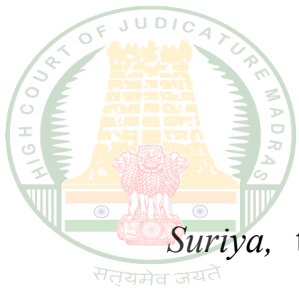
C. Case of the Respondents:

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4. The Writ Petitions are opposed by TPREL and TPVSL through detailed counter affidavits. They argue that the grounds raised in the Writ Petitions lack merit. The landowners are entitled only to the relief of compensation that has been duly paid to them. Even if they are aggrieved, they must approach the District Court for enhancement of compensation. When this alternative remedy is available, the filing of the Writ Petitions is inappropriate. Such an important infrastructural project cannot be delayed by these landowners without any legitimate right. All necessary licenses have been obtained, and the authorities have issued appropriate orders. Therefore, they request that the Writ Petitions be dismissed.

D. The Submissions:

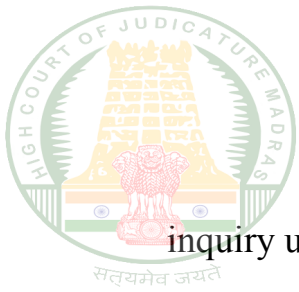
5. Heard, *Mr. Gowtham Kumar*, the learned Senior Counsel appearing on behalf of the petitioner in W.P. No. 2623 of 2025; *Mr. J. Antony Jesus*, learned counsel for the petitioner in W.P. No. 2233 of 2025; *Mr. P. Nethaji*, learned counsel for the petitioner in W.P. No. 3202 of 2025; *Mr. Manjunath Karthikeyan*, learned counsel for the petitioner in W.P. No. 4084 of 2025; *Dr. S.*



W.P.Nos.2233, 2673, 3202 and 4084 of 2025

Suriya, the learned Additional Government Pleader;; *Mr. T. L. Thirumalai Swamy*, learned CGSC; *Mr. C. S. Vaidyanathan*, learned Senior Counsel for TPVSL and TPREL; *Mr. Sathish Parasaran*, learned Senior Counsel for TPREL; *Mr. D. R. Arunkumar*, learned Standing Counsel for TNEB; *Dr. C. E. Pratap*, learned Government Advocate; and *Mr. Easan*, learned counsel for the private respondents in W.P. No. 3202 of 2025.

5.1. *Mr. Gowtham Kumar*, the learned Senior Counsel, would submit that the District Collector passed the order without any notice or opportunity for the landowners. He relied on a report from the RDO, Dharapuram, which cannot substitute for the mandatory inquiry. Furthermore, it is contended that according to Section 164 of the Electricity Act, only TPREL has been conferred with the powers of the telegraph authority. The TPVSL cannot be granted the powers to enter the lands of the petitioners. No delegation of authority is permissible under Section 164 of the Electricity Act or under the Indian Telegraph Act. Only the telegraph authority can be permitted to enter the lands and carry out the work. Therefore, this action amounts to a violation of the petitioners' right to property, guaranteed under Article 300 A of the Constitution of India. Although the

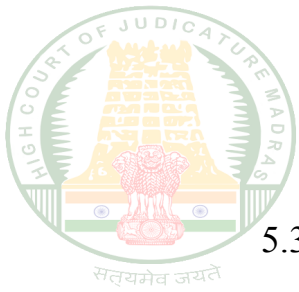


W.P.Nos.2233, 2673, 3202 and 4084 of 2025

inquiry under Section 16(1) does not explicitly provide for the rule relating to the principles of natural justice, it must be read into the provision.

5.2. The learned Senior Counsel contends that the project in question is not public but rather a captive power generation project that is private. There is no involvement of public interest; the focus is solely on the profit and utility of private companies. Arguments concerning public interest and the significant project being questioned, as well as those under Section 20(A) of the Specific Reliefs Act, 1963, cannot be considered in this case. The judgment of this Court in ***K.S. Natarajan and Others vs. Government of India and Others***¹ is cited to support the proposition that the principles of natural justice must be considered within Section 16 of the Indian Telegraph Act, 1885. Additionally, the judgment in ***Dr. M. Gopinath vs. District Collector and Another*** (W.P. No. 8815 of 2019) is referenced to argue that the District Collector is required to issue notices to affected landowners and conduct a fair inquiry before granting permission to enter private lands.

¹ (2018) 8 MLJ 321



W.P.Nos.2233, 2673, 3202 and 4084 of 2025

5.3. The learned Senior Counsel would rely on the judgment in *M/s K.S.*

Wind and Renewable India Private Limited Vs. The Collector and Others

(W.P.(MD).No.6319 of 2020) to argue that the powers conferred under Section 164 of the Electricity Act are non-delegable and cannot be exercised by sub-contractors or third parties. The learned counsel would also refer to the judgment in *Dr. B. Shivakumar Vs. Tamil Nadu Transmission Corporation Limited*² to assert that the Collector must issue a notice to the affected landowners. Furthermore, the learned senior counsel would contend that the judgments relied upon by TPREL and TPVSL are not applicable to the facts and circumstances of this case. Therefore, they request that the writ petitions be allowed.

5.4. Identical arguments were also made by Mr. Manjunath Karthikeyan, the learned counsel for the petitioner in W.P. No. 4084 of 2025. Furthermore, it is also asserted that the petitioner previously filed W.P. No. 19062 of 2024, aggrieved by the action of TPREL in entering the lands to erect electrical towers. In the said Writ Petition, TPREL was served with notice on 15.07.2024 and entered appearance on 12.08.2024. Even afterwards, when TPREL filed an

² (2016) 1 CTC 669



W.P.Nos.2233, 2673, 3202 and 4084 of 2025

affidavit, it stated that there were no observations or representations regarding the transmission scheme. It should have mentioned the objections the petitioner raised against the project.

5.5. It is also pleaded that such a misrepresentation would constitute fraud. The judgment of the Hon'ble Supreme Court of India in the ***State of A.P. Vs. T. Suryachandra Rao***,³ is cited to argue that misrepresentation equates to fraud and that orders based on fraud cannot be upheld. The judgment of the Hon'ble Supreme Court of India in ***Pancham Singh v. State of Himachal Pradesh***⁴, and ***Baldev Singh v. State of Himachal Pradesh***⁵, is also referenced for the assertion that the impugned order of the District Collector violated the principles of natural justice. The other judgments cited by the learned counsel for the petitioners in W.P.No.2673 of 2025 are also reiterated.

5.6. *Mr. Nethaji*, the learned counsel appearing in W.P. No. 3202 of 2025, submits that the petitioners' grievance in the Writ Petition arises from the impugned public notices issued on 10.06.2024 and the authorization granted

3 (2005) 6 SCC 149

4 (2008) 7 SCC 117

5 (1987) 2 SCC 510



W.P.Nos.2233, 2673, 3202 and 4084 of 2025

under Section 164 of the Electricity Act, published in the Gazette of India on 22.10.2024. He contends that the petitioners are agriculturists whose families depend solely on their agricultural lands for livelihood. When the Ministry of Power approved the project on 06.06.2024, it was incumbent upon TPREL to issue public notices. The public notices were published in the 'Afternoon' English daily, Coimbatore Edition, 'Dakshin Prakash' Hindi daily, Coimbatore Edition, and 'Dinaseithi' Tamil daily, Coimbatore Edition. These newspapers are largely unheard of; they are tiny organizations claiming to be newspapers. There is virtually no circulation, particularly in the Tiruppur District, where the project is being executed. TPREL was obligated to publish in newspapers with wide circulation in the area. Numerous Tamil and English newspapers are well-circulated in the region. TPREL chose to publish in these newspapers solely to maintain secrecy. The absence of any objections would itself demonstrate the type of publication made by TPREL. Therefore, the final license issued suffers from non-compliance with the mandatory procedure.

5.7. Furthermore, the publication should provide specific details about the affected lands and landowners. If only the survey numbers are mentioned, the



W.P.Nos.2233, 2673, 3202 and 4084 of 2025

landowners will realise that the project will pass through their land, allowing them to submit objections to the Ministry of Power. The entire publication is fraudulent and lacks any details whatsoever. It is virtually equivalent to not making a publication at all. When the Rules require that a publication be made, the purpose is to inform likely affected persons about the project so they can raise objections.

5.8. The learned counsel submits that the impact of the project on the petitioners is significant. It restricts their cultivation and will lead to a considerable decrease in land value. The lands will lose their marketability, and financial institutions, such as banks, will not provide loans against such property. This will create substantial problems in family partition. Certain borewells, water tanks, and other resources will become unusable. Individuals wishing to build residential houses or create pathways will be prevented from doing so, resulting in the fragmentation of agricultural lands. The loss of agricultural land amounts to a loss of livelihood, devaluation, and encumbrances on land use. Given the grave consequences, the entire process denies a fair hearing, disregards environmental and health concerns, and causes financial insecurity due to the



5.9. The project also poses health hazards. The electromagnetic field generated around high-tension electricity lines presents significant health risks due to exposure and its effects on both human beings and cattle. There are short-term and long-term health risks associated with this exposure. Various studies have revealed these effects. Prolonged exposure to electromagnetic fields contributes to cellular damage, disruptions in neural function, and imbalances in biological rhythms in humans. The primary concern arises from corona ions, which attach to airborne carcinogenic pollutants, increasing their deposition in human lungs.

5.10. Studies indicate that dairy cows experience a 5% reduction in milk yield and a 13.8% decrease in fat. This impacts reproductive health in livestock, resulting in poor motility and underdeveloped heifers. Plant growth is also affected. Reduced growth and physiological parameters occur due to the impact on cell division and cell enlargement. Vehicles parked near these transmission lines are also affected. In light of all these serious effects, landowners should be



W.P.Nos.2233, 2673, 3202 and 4084 of 2025

given an opportunity to present their ideas for alternative routes.

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5.11. The learned counsel contends that the entire exercise violates the principles of natural justice and represents an arbitrary use of power. There is absolutely no fairness in the publications. Selective publications are made to keep information secret. Even these secret publications lack specific details regarding the lands and survey numbers that will be affected. The Government of India, without even verifying the newspaper publications, issued the license without properly considering the matter.

5.12. The counsel would rely on the Judgment of the Hon'ble Supreme Court of India in ***Om Prakash Sharma Vs. M.P. Audyogik Kendra Vikas Nigam***⁶, to argue that the failure to provide specific land details in the acquisition notification renders the process invalid. The learned counsel would reference the Judgment of the Hon'ble Supreme Court of India in ***Menaka Gandhi Vs. Union of India***⁷, which states that any action affecting individual rights must be evaluated based on fairness, reasonableness, and procedural

⁶ (2005) 10 SCC 306

⁷ AIR 1978 SC 597



propriety. The learned counsel would also cite the Judgment of the Hon'ble

Supreme Court of India in ***Kedarnath Yadav Vs. State of West Bengal and***

Others⁸ to assert that the present project cannot be considered for public purpose.

The Judgment of this Court in ***K. Ramayi Ammal Vs. Special District Revenue***

Officer⁹, is cited to argue that private projects lacking public interest are invalid

and that rights to notice of hearing and reasoned decisions have been established.

The judgment of the Hon'ble Supreme Court of India in ***Delhi Development***

Authority Vs. Tejpal and Others¹⁰ is invoked to emphasize the necessity of

adhering to the principles of natural justice. The learned counsel would further

submit that Section 20 A of the Specific Relief Act 1963 cannot be invoked, as

the project is not public and does not involve public interest, which violates the

rights conferred on the petitioners under Article 300 A of the Constitution of

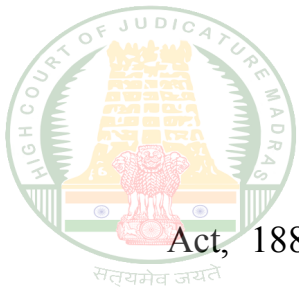
India.

5.13. The learned counsel would also file a chart comparing the provisions contained in the Petroleum and Mineral Pipeline (Acquisition of Right of User in Land) Act with those of the Electricity Act, 2003, read with the Indian Telegraph

8 (2017) 11 SCC 601

9 (2024) 5 MLJ 257

10 2024 (4) SCC 433



W.P.Nos.2233, 2673, 3202 and 4084 of 2025

Act, 1885, to argue that these acts are more draconian and lack even the procedures present in the other acts. Furthermore, the minimum procedures that should be followed are not adhered to by the TPREL.

5.14. *Mr. C.S. Vaidhyanathan* and *Mr. Sathish Parasaran*, the learned Senior Counsel appearing on behalf of TPREL and TPVSL, submit that while establishing such transmission lines, the generating companies must abide by the procedures outlined in the Electricity Act, 2003 and the Telegraph Act, 1885. Under Section 68 of the Electricity Act, 2003, prior approval must be obtained. According to Section 10(1) of the Electricity Act, 2003, the generating company is required to establish, operate, and maintain the dedicated transmission lines in accordance with the provisions of the Electricity Act, 2003. To execute this, an application must be made under Section 164 of the Electricity Act, 2003, whereby the Central Government, upon examining the application, grants the powers of a telegraph authority to the entity. Consequently, Section 10 of the Telegraph Act, 1885, bestows the telegraph authority with the power to establish and maintain the telegraph. By exercising this power, the telegraph authority does not become the owner of the property; it merely acquires the use of the



W.P.Nos.2233, 2673, 3202 and 4084 of 2025

property. It also creates an obligation for the authority to pay full compensation

to the affected persons for any damages they may incur as a result of exercising

such power. No notice of hearing is contemplated before exercising this power to

establish or maintain a telegraph line, and what is envisaged is only the payment

of compensation. The Hon'ble Supreme Court of India in ***Power Grid***

Corporation of India Ltd. Vs. Century Textiles & Industries Ltd.¹¹ has clarified

that unobstructed access to lay such infrastructure is essential for the public

interest, and Section 164 of the Electricity Act, 2003, supersedes local

constraints. The remedy for landowners lies under Sections 16 and 17 of the Act.

A person whose property sustains damage can approach the District Magistrate

for compensation. Therefore, Sections 10, 16, and 17 provide a fair procedure for

partial deprivation of the right to property. The judgment in ***R. Raja and Others***

Vs. District Collector and Others¹² is referenced. This judgment clarified the

broad and extensive scope of powers under Sections 10 and 16 of the Telegraph

Act, 1885, stating that Section 10 empowers the authority to erect towers and

overhead lines without issuing prior notice to landowners, as the exercise of

these powers is undertaken in the public interest and does not constitute land

¹¹ (2017) 5 SCC 143

¹² 2019 SCC OnLine 29327

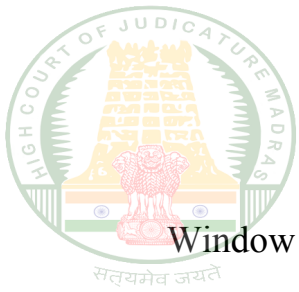


W.P.Nos.2233, 2673, 3202 and 4084 of 2025

acquisition, despite any potential decrease in property value. Section 16 offers a mechanism for compensation to address any resulting grievances. Consequently, landowners cannot raise objections solely based on property devaluation since compensation provisions are established. The District Magistrate's intervention under Section 16 will be necessary only if there is any resistance or obstruction, and the District Magistrate cannot assess the merits of the objections or consider the realignment of the transmission route. The Division Bench judgment of this Court in ***Shri Vignesh Yarn Private Limited Vs. S. Subramaniam and Others***¹³ is also referred to. The work undertaken by TPREL/TPVSL does not fall within the Works of Licensee Rules 2006. Rule 3(4) explicitly makes it inapplicable to entities granted powers under Section 164 of the Electricity Act, 2003. The judgment of this Court in ***C. Selvi Vs. Chairman and Managing Director, Tamil Nadu Generation and Distribution Corporation Limited and Others*** (W.P. No. 11345 of 2020 etc.) is also relied upon.

5.15. The learned Senior Counsel contends that the procedure for obtaining approval under Section 164 of the Electricity Act has been duly followed. On 16.04.2024, an application was submitted on the National Single

¹³ (2013) 1 LW 170



W.P.Nos.2233, 2673, 3202 and 4084 of 2025

Window Systems Portal seeking prior approval under Section 68 of the Electricity Act, 2003. The application included details regarding the villages and districts through which the proposed 17.75 km length of overhead lines will pass, and a topographical map was also uploaded. On 06.06.2024, prior approval was granted to TPREL under Section 68 of the Electricity Act, 2003. The Government of India has established a revised procedure for obtaining approval under Section 164 of the Electricity Act. According to the Standard Operating Procedure that has been framed, the following steps must be taken,

“(a) The approved transmission scheme shall be published in the GoI Gazette.

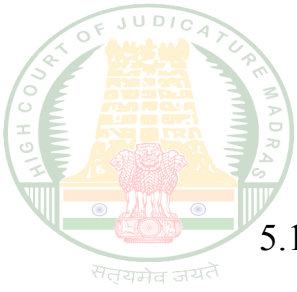
(b) It shall publish a public notice in at least two local daily newspapers the approved transmission scheme.

(c) The objections pursuant to the public notice published in the local daily newspaper, can be raised only up till two months after the date of such publication.

(d) The generator shall take into consideration the objections/representations raised before it before finalizing the optimal route alignment.

(e) The SoP also inter alia provides a check list in which the requirement is that the public notice must be published in Hindi as well as English Newspapers which are widely circulated in the area from which transmission line is passing through.

(f) Once the above procedure is complete, the generator can apply for approval under Section 164 of Electricity Act on the NSWS with the documents such as angle schedules of the route, topographical sheet, comparison statement of all routes etc.”



W.P.Nos.2233, 2673, 3202 and 4084 of 2025

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5.16. It is further submitted that, as per procedure, a Gazette publication was made on 06.07.2024 by TPREL in the Government of India Gazette. Newspaper publications were also made in English in the newspaper 'Afternoon', in Hindi in the newspaper 'Dakshin Prakash', and in Tamil in the newspaper 'Dinaseithi'. In fact, the newspapers 'Afternoon' and 'Dinaseithi' have issued communications detailing their circulation in the relevant districts. Even after two months, no objections were received. Although approval was granted to TPREL, it can be seen that TPVSL is not an independent third party but rather a subsidiary wholly controlled by TPREL. It is a special purpose vehicle formed for the present project. Furthermore, the objections regarding the order of the District Collector, which permitted TPVSL, stands resolved due to the communication dated 12.02.2025 addressed by TPVSL to the District Collector, requesting him to issue an addendum to the order to transfer the entry permission to TPREL.

5.17. The learned Senior Counsel submits that there is no requirement for the issuance of notice to the landowners. The Judgment of the Hon'ble Supreme Court of India in ***Power Grid Corporation of India Ltd.'s case*** (cited supra) is



W.P.Nos.2233, 2673, 3202 and 4084 of 2025

relied upon. The individual details of survey numbers, etc., need not be included

in the publication; it is sufficient that a copy of the route alignment is available in

the office. The Judgment of the Andhra Pradesh High Court in ***V. Prabakar Vs.***

Transport Corporation of AP Limited,¹⁴, and the Judgment of the Hon'ble

Supreme Court of India in ***Mukund Bhai Baldev Bhai Patel Vs. Chief***

Engineer, SLP (Civil) No. 3444 of 2011 are also relied upon. Regarding the

contention concerning the publication, the Hon'ble Supreme Court of India in

Special Deputy Collector, Land Acquisition, CMDA Vs. J. Sivaprakash and

others (C.A. No. 9740 of 2010) held that it is not necessary for a publication to

be made in a newspaper with the widest circulation; it suffices that the

publication is made with reasonably wide circulation in the concerned locality.

Therefore, since the Tamil newspaper 'Dinaseithi' has reported a circulation of

70,000 copies in the affected district, this should be deemed sufficient. In fact,

this Court in ***Mrs. Mary and Others Vs. Tamil Nadu Generation and***

Distribution Corporation Limited and Others (W.P. No. 18633 of 2014) ruled

that objections, such as prior notices to the landowners and purely technical

objections, cannot be grounds for interference by the Courts. In matters of this

¹⁴ 2024 SCC OnLine AP 2406



W.P.Nos.2233, 2673, 3202 and 4084 of 2025

nature involving procedural violations, the Court should not interfere, as public welfare would suffer, and in support of these propositions, the following

Judgments are relied upon:-

- (a) Judgment of the Andhra Pradesh High Court in ***K.Subramanyam Vs. State of Andhra Pradesh*** (W.A.No.303 of 2021 dated 17.09.2021)
- (b) ***Jarnail Singh Vs. Maharashtra State Electricity Transmission Company Limited*** (2015) SCC OnLine Bom 6325
- (c) ***M.Mohamad Kaja Maideen Vs. Tamil Nadu Transmission Corporation Limited*** (W.P.(MD). No.19118 of 2019)
- (d) ***SNM Developers Private Limited Vs. Union of India*** (W.P.No.8333 of 2022)
- (e) ***M/s Sri Vignesh Yarns Pvt. Ltd. Vs. S.Subramaniam and Others*** (2013-1-LW 170)

5.18. Therefore, neither the consent of the landowners nor prior notice is essential. The petitioners, even before this Court, have not presented any alternative alignment or specific allegations that any excess has been committed by the generating company while confirming alignment. The substantial remedy



W.P.Nos.2233, 2673, 3202 and 4084 of 2025

for the petitioners would only be in relation to compensation, and they have an alternative remedy for that. Since the project is at an advanced stage, with 39 out of a total of 66 towers already erected, the Court should not interfere at this point. In infrastructure projects like this, court interference should be avoided, as it goes against the development of the Nation. The principles enshrined in Section 20(A) of the Specific Relief Act, 1963, would also apply to the writ proceedings. Although it is a captive generation plant, clean energy is being generated for a significant industry, such as TATA Steel Limited, which will ultimately benefit the public. In view of this, these Writ Petitions are liable to be dismissed.

5.19. I have considered the opposing submissions from both sides and examined the case records.

E. The Questions:

6. The following questions would arise in the instant case,

(i) Is the order of the District Collector dated 20.01.2024 in order?

(ii) Is the order of the Government of India published in the Gazette dated



22.10.2024 under Section 164 of the Electricity Act, 2003, in order?

WEB COPY (iii) To what relief are the parties entitled?

F. Question No.(i):

7. The necessity and purpose of a power generating company or telegraph authority to approach the District Collector for an order under Section 16 (1) were considered and explained by this Court in ***R. Santhanaraj and Others Vs. Chief Engineer, Non-Conventional Energy Source and Others***¹⁵. It is essential to extract paragraphs No. 58 (vi) to 58 (viii) of the said Judgment:

“(vi) Section 10 of the Telegraph Act, 1885, does not contemplate "consent" or "permission" of the owner or occupier of a property, for the purpose of placing and maintaining a supply line, under, over, along or across and posts in or upon any immovable property. The only case where Section 10 contemplates permission is in respect of a property vested in or under the control or management of any local authority.

(vii) Though Section 10 of the Telegraph Act, 1885, does not make it incumbent upon the licensee to obtain permission of the owner or occupier, it does not also reduce his ownership or right of possession into something farcical. The right of the owner or occupier to resist or obstruct any act undertaken under Section 10, is recognised indirectly in Section 16(1), which requires the licensee to obtain an order of the District Magistrate, in such circumstances. A careful reading of Section 16(1) would show two things viz., (a) that the District Magistrate exercises his power under this Section, in his discretion and (b) that what the District Magistrate does under Section 16(1) is akin to the removal of obstruction as ordered by an Executing Court in terms of Order 21, Rules 97 & 98 of the Code.

¹⁵ (2012) 1 CTC 504



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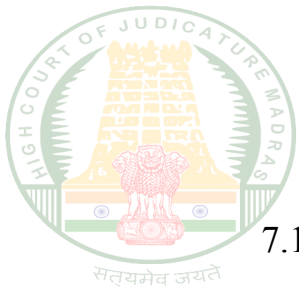


W.P.Nos.2233, 2673, 3202 and 4084 of 2025

Any resistance on the part of the owner or occupier after an order is passed by the District Magistrate becomes a punishable offence under Section 188 of the Indian Penal Code, by virtue of Section 16(2) of the Telegraph Act, 1885.

(viii) The words "resisted or obstructed" appearing in Section 16(1) of the Telegraph Act, 1885 have to be given their ordinary meaning. They have to be understood as defensive acts as pointed out by the Apex Court in Santosh Kumar (cited supra). Actual physical acts of omission and commission at site or on the spot, is not necessary to constitute resistance or obstruction, as held by the Supreme Court in C.C.E. v. Paradip Port Trust. The method of resistance/obstruction adopted by people, vary from person to person depending upon their status, level of education, mental orientation and social upbringing. Therefore, any kind of objection or protest by the land owner would tantamount to obstruction/resistance. Such an interpretation is necessary in view of the fact that the Telegraph Act is a colonial Act of pre-Constitutional days, which came to be adapted after the Constitution and which has come to be borrowed by the Electricity Act, 2003 to interfere and infringe upon the rights of owners of private property to their unhindered enjoyment. The Supreme Court pointed out in Dev Sharan v. State of U.P., 2011 (4) SCC 769, that even the Land Acquisition Act, 1894, is "a pre-constitutional legislation of colonial vintage and is a drastic law, expropriatory in nature" Therefore, any interpretation to such enactments should conform to the Constitutional goals and rights. Despite the fact that the right to property is no more a fundamental right after the 44th Amendment to the Constitution, it is nevertheless a constitutional right under Article 300-A. In several decisions, the Supreme Court has held that to hold property is not only a Constitutional right but also a human right. {see Lachhman Dass v. Jagat Ram, 2007 (10) SCC 448; Vimlaben Ajitbhai Patel v. Vatslaben Ashokbhai Patel, 2008 (4) SCC 649; N. Padmamma v. S. Ramakrishna Reddy, 2008 (15) SCC 517; Chandigarh Housing Board v. Major General Devinder Singh, 2007 (9) SCC 67. Therefore, a dignified protest, even in the form of a formal letter, notice or telegram, would amount to obstruction within the meaning of Section 16(1) of the Telegraph Act, 1885. Once such a protest is lodged, the licensee should seek an order from the District Magistrate.”

(Emphasis supplied)



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7.1. Furthermore, the very nature of power exercised by the District Collector and the factors he must consider while granting permission under Section 16(1) have already been examined and established by this Court in ***K.S. Wind and Renewables India Pvt. Ltd. vs. The Collector and Others*** W.P.(MD) No. 6319 of 2020. It is essential to extract paragraphs 11 to 13 of the aforementioned judgment.

“ 11.The question is whether the first respondent can deny permission to the licensee even after the issuance of notification under Section 164 of the Electricity Act, 2003. Such an issue arises because of the use of the expression “in his discretion” in Section 16(1) of the Indian Telegraph Act, 1885. No interpretation of Section 16 (1) can render the expression “in his discretion” otiose.

12.By virtue of Section 164 of the Electricity Act r/w Section 10 of the Indian Telegraph Act, 1885, the licensee is conferred with certain powers of the telegraph authority. But, this power is hedged with some limitations. The licensee must exercise the power in a manner that he would cause as little as damage as possible. He shall also pay full compensation to all persons interested for any damage sustained by them. The District Magistrate is obliged to ensure that these twin duties are fulfilled. If the licensee is not ready to comply with the same, then the District Magistrate will exercise his discretion to decline permission. Any power has to be exercised in a reasonable manner. The licensee must bear the following words of Kahlil Gibran :

“since you must kill to eat, and rob the newly born of its mother's milk to quench your thirst, let it then be an act of worship...”

Merely because the licensee has been clothed with the statutory powers, he cannot barge in or bulldoze his way through or make an unannounced-entry. The land owner or the occupier must be given a reasonable time.



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W.P.Nos.2233, 2673, 3202 and 4084 of 2025

13. One important aspect has to be noted. The person who has been granted the powers of the telegraph authority under Section 164 of the Electricity Act is only M/s. Spring Renewable Energy Private Limited. The writ petitioner is only a sub-contractor. Therefore, the application before the first respondent has to be necessarily made only by M/s. Spring Renewable Energy Private Limited. The petitioner is only acting on behalf of the licensee. The licensee can sub contract the works but he cannot delegate or sub delegate the statutory powers. The petitioner has no independent authority. He is only acting for and on behalf of his principal.”

(Emphasis supplied)

7.2. Thus, it is evident that the power exercised by the District Collector involves the removal of obstruction, and the limited discretion exercised aims to ensure that the licensee must act in a manner that causes minimal damage and pays full compensation to all interested parties. The order can only be issued concerning the individual who granted the license under Section 164 of the Electricity Act, 2003, specifically the telegraph authority, and there can be no further delegation of these statutory powers. Therefore, it is clear that the nature of this power resembles that of the executing authority, and there is no provision for issuing show cause notices to individual landowners and hearing them before passing orders. It is to be borne in mind that Section 10 of the act does not contemplate the issue of show cause notice and hearing before entering into the land and erecting towers/drawing lines. However, it is held that once there is an



W.P.Nos.2233, 2673, 3202 and 4084 of 2025

objection, then the procedure under Section 16 has to be resorted to. Within the

limited scope of his inquiry, if any landowner raises a complaint about an attempt

to erect towers without compensating them or if the proposed damage is

excessive, the Collector can certainly consider those concerns. However, beyond

that, the entire exercise does not foresee any issue of show cause notice and

hearing of all the landowners. The District collector cannot also at that stage

decide on the alignment of route. Furthermore, it is also pertinent to refer to the

Judgment of the Division Bench of this Court in **Ponnusamy and Others vs.**

Union of India and Others (W.A. No. 1178 of 2021), and paragraph No. 9 of the

said Judgment extracted below:-

“9. On the scope and applicability of Sections 10 and 16 of the Indian Telegraph Act, the Division Bench of this Court after taking note of the earlier decisions rendered, has held as follows:-

"9. We do not wish to reproduce various judgments on the interpretation of the provisions governing. They have been dealt with in extenso by this Court and the Apex Court in numerous cases. Suffice it to refer to the recent judgment of the Apex Court in Power Grid Corporation (India) Limited Vs. Century Textiles and Industries Limited and Others ((2017) 5 SCC 143), wherein it has been held as under:

“23. Section 10 of the Indian Telegraph Act, 1885 empowers the Telegraph Authority place and maintain a telegraph line under, over, along or across and posts in or upon any immovable property. The provision of Section 10(b) of the Indian Telegraph Act, 1885 makes it abundantly clear that while acquiring the power to laydown telegraph lines, the Central Government does not acquire any right other than that



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W.P.Nos.2233, 2673, 3202 and 4084 of 2025

of user in the property. Further, Section 10(d) of the Indian Telegraph Act, 1885 obliges the Telegraph Authority to ensure that it causes as little damage as possible and that the Telegraph Authority shall also be obliged to pay full compensation to all person interested for any damage sustained by them by reason of the exercise of those powers.”

Thus, Section 10 of the Act confers powers to the second respondent to place and maintain telegraphic lines and posts. We have no difficulty in holding that there is an adequate authorisation given to the second respondent by the Government of India in exercise of power under Section 164 of The Electricity Act, 2003 by the order dated 24.12.2003.

10. On the scope of Section 16 of the Act visa-vis Section 10, the Division Bench of this Court in (ii)C.Ram Prakash and Another Vs. Power Grid Corporation (India) Limited and Others (2011-4 L.W. 924) in which one of us (MMSJ) is a party and author has held as follows:

“22. Scope of Sections 10 and 16 of the Indian Telegraph Act, 1885: The power under Section 10 of the Indian Telegraph Act, 1885 is rather wide and extensive. While exercising the power, it is not necessary for the Respondent No. 1 to put the individuals, who owned the land on notice. Admittedly, the Respondent No. 1 has got power under Sections 10 and 16 of the Indian Telegraph Act, 1885. Such a power has been conferred upon the Respondent No. 1 in public interest. The exercise of the said power by erecting the towers with overhead lines would not amount to an acquisition. It is true that such an action would diminish the value of the property of an individual, but at the same time it cannot be termed as an acquisition. Since Section 16 of the Indian Telegraph Act, 1885 provides mechanism of compensation, the Appellants can have no grievance.

23. Section 16 of the Indian Telegraph Act provides for a mechanism by which the Respondent No. 1 can approach the second Respondent, if there is an obstruction or resistance. It is not necessary that in each and every case the Respondent No. 1 will have to approach the second Respondent whenever there is an



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W.P.Nos.2233, 2673, 3202 and 4084 of 2025

objection. The word objection has got a different connotation than the words resistance or obstruction. A resistance or obstruction would mean preventing the statutory body from carrying out the public duty. Whereas an objection is merely a form of protest. Further, under Section 16 of the Indian Telegraph Act, the Respondent No. 2 has got no power to go into the merits of the case and find out as to whether the alignment proposed is correct or not and there is any possibility of realignment. The prescription of Section 16 of the Indian Telegraph Act is very specific to provide aid to the Respondent No. 1 to perform its statutory duty. Considering the scope of Section 10 of the Indian Telegraph Act vis-a-vis Section 16 of the Indian Telegraph Act, it has been held by the Division Bench of the Delhi High Court in *Scindia Potteries v. Purolator India Ltd.* MANU/DE/0189/1980 : AIR 1980 Delhi 157 as follows: 9... The exercise of power under Section 10 is not conditional on compliance with the provisions of Section 16(1) of the Act. The power given under Section 10 is absolute. It is only when there is a resistance or obstruction in the exercise of that power that the occasion to approach the District Magistrate arises. If there is no resistance or obstruction, there is no occasion for the telegraph authority to approach the District Magistrate. The alleged oral protest relied upon by the Appellant appears to us to be a made up story. Two telegraph poles were affixed on the Appellants' property in February, 1974. The telephone lines and connections were thereafter given from time to time. Till the landlord-tenant dispute arose between the Appellant and M/S. Purolator India Ltd., no objection was raised by the Appellant. No doubt in April, 1978 the Appellant gave notice to the telegraph authority under Sections

17 and 19A of the Act and may be that the telephone connections in May, 1978 can be treated as the ones objected to but then Sections 17 and 19A have a different purport. The resistance and obstruction envisaged by Section 16(1) of the Act is different. This



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W.P.Nos.2233, 2673, 3202 and 4084 of 2025

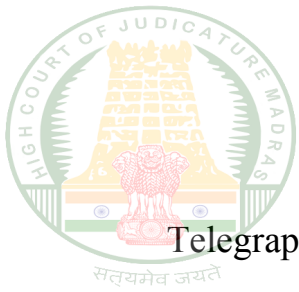
will be clear on a reading of Sub-section (1) of Section 16 of the Act. It is for the purpose of Section 188 I.P.C. that an application is to be given under Section 16(1) of the Act to the District Magistrate. Section 188, I.P.C. makes the disobedience of an order duly promulgated by the public servant an offence. Section 16 is really in aid of the discharge of statutory duty and exercise of statutory power postulated by Section 10. We are in respectful agreement with the ratio laid down therein.”

11. Thus, in view of the same, nothing more is to be stated. In fact, we have also called the officer concerned and perused the records. We also permitted the learned counsel for the appellants to do so. The officer has also explained the procedure which we have recorded supra. We do not find any malice in law or fact. The second respondent is carrying out its statutory duty.

Now the entire project is over insofar as the appellants are concerned. We may note that two of the writ petitioners also joined the other in filing the writ petitions after receiving compensation, which cannot be appreciated. Similarly, one of the appellants has also received the compensation amount. It is the appellants who approached the first respondent and for the reasons known, they did not appear for hearing. They have asked

for numerous documents, which is for the purpose of dragging on the proceedings. Order under Section 16(1) of the Act was passed not only on the request of the appellants but also that of the second respondent. The role available to first respondent is rather limited. It is neither a supervisory nor an adjudicating authority over the second respondent. When the element of expertise is involved and the same is undertaken by the statutory body as per law, the power of judicial review will have to be entertained with extreme caution. We cannot interfere with the matter on some apprehension expressed by the appellants.”

7.3. Thus, it can be concluded that (i) there is no requirement for the issuance of a show cause notice and hearing for the telegraph authority before entering onto one's land for its purposes as per Section 10 of the Indian



W.P.Nos.2233, 2673, 3202 and 4084 of 2025

Telegraph Act, 1885; (ii) land owners are entitled to protest or object, and such

protests may take any form, including sending a representation or objection; (iii)

once there is a protest, the procedure outlined in Section 16 must be followed;

(iv) once an application is made under Section 16, the District Collector must act

in a manner that removes the obstruction, enabling the telegraph authority to

enter the land and carry out its purposes; (v) while doing so, the District

Collector does not have the power to deny or direct alterations to the route itself,

but has limited discretion to consider (a) whether the authority seeking

permission is the telegraph authority; (b) whether it is carrying out its purposes

with minimal damage possible; and (c) whether compensation for the damage has

been paid before entering and undertaking the work; (vi) whenever an

application is made, it is not necessary to issue a show cause notice to all land

owners who may be affected, nor hear them, but there is a duty to consider the

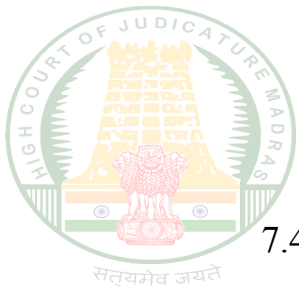
objections and obstructions raised by landowners who have objected and come

forward, with reference to the limited extent of ensuring the twin objectives

stated in (v) above, and it must apply its mind and conclude with a reasoned

order regarding how the objector's objection is tenable or untenable, thus

granting permission with appropriate conditions.



W.P.Nos.2233, 2673, 3202 and 4084 of 2025

7.4 Considering the matter from the above perspective, it is evident that the District Collector should have recognized that only TPREL is the telegraph authority. Therefore, permission under Section 16 (1) can only be granted to the telegraph authority, and there is no power to sub-delegate this authority. Even if TPVSL is a special purpose vehicle created for this purpose, in which TPREL holds a majority stake, it remains a separate entity. A plain reading of Section 164 of the Electricity Act clarifies that this power is non-delegable. This was specifically established in the case of *K.S. Wind Pvt Ltd* (cited above). Consequently, to that extent, the order of the Collector dated 31.12.2022 cannot be upheld.

7.5. *Mr. Sathish Parasaran*, the learned Senior Counsel, has acknowledged that to rectify the order, a communication dated 12.02.2025 was addressed to the District Collector, and this can be remedied by issuing an addendum to the order. The aforementioned arguments cannot be upheld. Permission is granted to TPVSL, thus the order dated 31.12.2024 must be revoked. The communication from TPVSL can only be seen as an amendment to the original application submitted by TPVSL as if it were submitted by TPREL.



W.P.Nos.2233, 2673, 3202 and 4084 of 2025

Considering the urgency expressed by the learned counsel on behalf of the power generating company, the Collector can at most be instructed to treat the application as one made by TPREL and to reconsider the entire matter, issuing orders accordingly. It can be directed that this be reconsidered in a timely manner to alleviate the power generating company's concerns about potential delays.

G. Question Nos.(ii) & (iii):

8. It can be seen that to install and maintain dedicated transmission lines, the power generating company must obtain prior approval from the Government of India under Section 63 of the Electricity Act. Section 10(1) of the Electricity Act, 2003, casts a duty on companies to establish, operate, and maintain the dedicated transmission lines. To do this, they must obtain a license under Section 164 of the Electricity Act from the Government of India. Once the license is granted, the company will be deemed a 'telegraph authority' as defined by the Indian Telegraph Act, 1885, and, subsequently, pursuant to Section 10 of the Indian Telegraph Act of 1884, it has the authority to enter any land and install towers and draw lines. The only obligation placed on the authority is to compensate affected persons for any damage they may suffer. To grant a license,



W.P.Nos.2233, 2673, 3202 and 4084 of 2025

the Government of India has framed rules establishing a procedure for obtaining approval under Section 164 of the Electricity Act. The revised procedure is in Annexure 2 of the Ministry of Power O.M. No. 25-10/27/2023-PG dated 09.06.2023. Clause 3 of the said OM reads as follows:

“3. In order to process the request from private transmission companies as well as generating companies who are required to construct, maintain and operate dedicated transmission lines, the following procedure has been prescribed :

a. The licensee / applicant shall cause such transmission scheme to be published in the Official Gazette of the State concerned or in Government of India Gazette in case of

i. Inter- State Schemes

ii. Cross Border Schemes (India portion)

iii. Generating company dedicated transmission line connecting to ISTS substation;

and in at least two local daily newspapers along with a notice of the date, not being less than two months after the date of such publication, before which any interested person may make a representation on such scheme.

The licensee/ applicant shall take into consideration the objections/ representations, before finalizing the optimal route alignment. Thereafter licensee/ applicants shall submit a certificate along with application under Section 164 to this effect. The licensee/ applicant will apply the application on National Single Window System (NSWS) portal with the documents as per attached Checklist at Annexure-I.”

(Emphasis supplied)

8.1. In fact, the checklist included in the Annexure states the following regarding the public notice in the newspaper, which is extracted below:



Sl.No.	Name of Document	Remarks
2	Public Notice in Newspaper	As per Public notice format attached.
a	Hindi	Public Notice should be published in at least 2 nos. of daily local Newspapers, 1 no. in Hindi Newspaper and 1 no. in English Newspaper which are widely circulated in the area from which Transmission line is passing through.
b	English	
c	Other or Regional Language	

8.2. The contents of the publication is also given. It is also extracted hereunder for ready reference:

“Format for publication of the transmission scheme in local daily Newspapers and Gazette inviting observations /representation from public

Public Notice

.....(Name of the company) having its registered office at (.....address) intends to apply /has applied to the Government of India to confer upon him all the powers under Section 164 of the Electricity Act, 2003 for the placing of electric lines or electrical plant for the transmission of electricity or for the purpose of telephonic or telegraphic communications necessary for the proper coordination of works which telegraph authority possess under the Indian Telegraph Act, 1885 with respect to the placing of telegraph lines and posts for the purpose of a telegraph established or maintained, by the Government or to be so established or maintained and will undertake the survey, construction, installation, inspection, erection and other works to be followed by commissioning, operation, maintenance and other works for the following transmission schemes.

.....Name of the transmission scheme.....

.....Works covered under the scheme

The transmission lines covered under the scheme will pass through, over, around, and between the following villages, towns and cities

... Name of the villages .. Tehsil..... District

1.....



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W.P.Nos.2233, 2673, 3202 and 4084 of 2025

2.....

Copy of the route alignment is available in the office of the undersigned. Notice is hereby given to the general public to make observation/ representation on the proposed transmission system within two months from the date of publication of this notice before.. (date) to the office of the undersigned in writing. For further particulars and clarifications please contact :

Name

Designation

Office Address

Email Address

Email Address Phone

No. /Fax No.

(of the contact person designated by the Agency)”

8.3. The petitioners contend that the survey numbers of the lands that will be affected are not mentioned in the publication, and thus, the procedure has not been followed. A combined reading of the procedure and Sections 68 and 124 of the Electricity Act makes it clear that the very purpose of publication is for the licensee/telegraph company to receive objections and consider them with reference to the optimal route alignment. Since the Electricity Act, in conjunction with the Indian Telegraph Act, grants the telegraphic authority unfettered powers to enter any land, erect towers, and draw lines, the entire exercise of power is not aimed at hearing objections from every landowner regarding avoiding their land or about the damage that may be caused to them; rather, it is focused on considering the optimal route alignment to minimise damage. Therefore, at this



W.P.Nos.2233, 2673, 3202 and 4084 of 2025

stage, it is required to keep only a copy of the proposed route alignment available

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to the public, allowing them to make observations or representations on the transmission system within two months. It is noteworthy that at the publication stage, it is only the route alignment that is finalised, and during the execution of the work, the survey number or location of towers may even change. Only the overall route alignment will be readily available at the time of applying for a license under Section 164 of the Electricity Act, and therefore, the petitioners' contention that individual survey numbers should be mentioned cannot be supported. The decisions relied upon by the learned Counsel for the petitioners were related to acquisition proceedings, and it is laid down by the Hon'ble Supreme Court of India in ***Power Grid Corporation of India Ltd(cited supra)*** that in erecting the tower or drawal of line, the telegraph authority does not acquire any right over the land except the user of the land(Paragraph 23). In light of this, I hold that the publication format is in order.

8.4 The question is whether the publication was duly made. The learned counsel for the petitioners collectively argue before this Court that they have never heard of the English newspaper 'Afternoon' or the Tamil daily. Hindi



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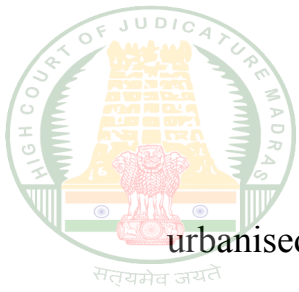
newspaper neither has any circulation in Tiruppur nor can be read by the landowners. In this regard, it can be observed that checklist extracted supra mentions clearly that the newspapers shall be of wide circulation in the area. Furthermore, the Hon'ble Supreme Court of India in ***Special Deputy Collector, Land Acquisition, CMDA Vs. Sivaprakasam and Others***¹⁶, which is relied upon by Mr. Sathish Parasaran, the learned Senior Counsel holds in paragraph No.20 (2) as follows:-

“20.2) If the two newspapers carrying the publication of the notification have reasonably wide circulation in the locality, (apart from the publication of the notification in the Gazette and causing public notice of the substance of the notification to be given at convenient places in the locality), then the requirements of section 4(1) are complied with and all persons concerned in the locality shall be deemed to have notice of the notification. (For this purpose, the publication need not be in newspapers having the widest or largest circulation, but it is sufficient if the publication is in newspapers having reasonably wide circulation). In that event, neither the notification under section 4(1), nor the consequential acquisition proceedings would be open to challenge, on the ground of violation of Section 4 of the Act.”

(Emphasis supplied)

8.5. It is evident that the area where the project takes place is within Tiruppur District. The newspapers from the Coimbatore Edition are circulated within this district. Coimbatore District itself is a large metropolitan area. The combined districts of Coimbatore, Erode and Tiruppur are a densely populated,

16 AIR 2011 SC 922



W.P.Nos.2233, 2673, 3202 and 4084 of 2025

urbanised and highly industrialised belt of Tamilnadu. At the same time, the fertile lands, availability of water also make it an area of intensive farming. The literacy rate is huge and distribution of newspapers is high.

8.6. The learned counsel appearing on behalf of the petitioners submits that none of them have even come across with the said newspapers, 'Afternoon' or 'Dinaseithi'. According to them, straightaway the publication in the said newspapers have to be rejected, as these newspapers are unheard of.

8.7. This Court cannot go on the personal knowledge of the Court or that of the members of the Bar who are present in the Court. Therefore, *Mr.Prasad Vijayakumar*, the learned Senior Central Government Standing Counsel was directed to obtain appropriate information from the authorities regarding the circulation details of newspapers, as these are maintained by the relevant authorities.

8.8. In response thereof, the learned counsel would produce the details. It is submitted that there are two sets of details are available. There are newspapers

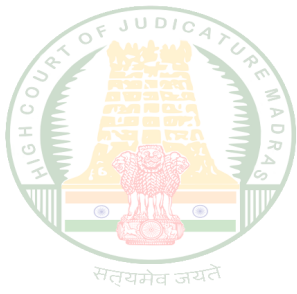


W.P.Nos.2233, 2673, 3202 and 4084 of 2025

which are registered with the Press Registrar General of India and as per the procedure, upon production of the proof, the self claimed average circulation statements were maintained by the said authority. The newspapers are also empanelled with the Central Bureau of Communication (CBC), Government of India, which has its own procedure in determining the daily circulation and the data from the said CBC is also provided with reference to Coimbatore editions. The following tabular column depicts the circulation of the newspapers for the relevant period of the year 2024, in respect of the english daily is as follows:-

<i>Sl.No.</i>	<i>Name of the Newspaper</i>	<i>Self claimed average circulation (per day)</i>
1.	The Hindu	51,597
2.	The Times of India	30,688
3.	Deccan Chronicle	8,609
4.	The New Indian Express	7,558
5.	Athirstam	61

8.9. The following are the details with reference to the tamil dailies that are available:-



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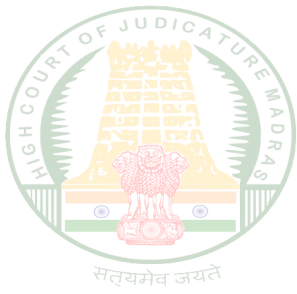


W.P.Nos.2233, 2673, 3202 and 4084 of 2025

<i>Sl.No.</i>	<i>Name of the Newspaper</i>	<i>Self claimed average circulation (per day)</i>
1.	Dinakaran	1,39,343
2.	Dinamalar	1,36,819
3.	Daily Thanthi	76,386
4.	Namadhu Puratchithalaivi Amma	29,970
5.	Malai Murasu	15,565
6.	Maalai Malar	11,224
7.	Dinamani	10,546
8.	Thamizh Murasu	3,685
9.	Udaga Malar	2,750
10.	Thina Bhoomi	1,542
11.	Dhina Nalan (Bilingual)	1000
12.	Tamil Sudar	1000
13.	Thennaga Suder	400
14.	Kovai Malai Murasu	291

8.10. Similarly, the following is the tabular column which depicts the daily circulation details in respect of english newspapers empanelled with the CBC:-

<i>Sl.No.</i>	<i>Name of the Newspaper</i>	<i>Self claimed average circulation (per day)</i>
1.	The Hindu	37,643
2.	Deccan Chronicle	25,000
3.	The Times of India	25,000



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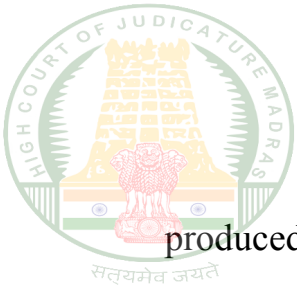
W.P.Nos.2233, 2673, 3202 and 4084 of 2025

<i>Sl.No.</i>	<i>Name of the Newspaper</i>	<i>Self claimed average circulation (per day)</i>
4.	The New Indian Express	7,756

8.11. The tamil newspapers empanelled with the CBC are tabulated as follows :-

<i>Sl.No.</i>	<i>Name of the Newspaper</i>	<i>Self claimed average circulation (per day)</i>
1.	Dinamalar	1,32,614
2.	Dinakaran	1,26,319
3.	Thanthi	75,420
4.	Dinamani	11,258
5.	Malai Malar	8,861

8.12. Thus, it can be seen that the english daily - 'Afternoon' newspaper is not at all registered with the authorities and did not even furnish any self claimed circulation with the authorities and its name is not at all in the list. No other proof was also submitted in respect of circulation with reference to the said english daily 'Afternoon'. Similarly with reference to 'Dinaseithi', it can also be seen that it is not registered with both the authorities and a communication is



W.P.Nos.2233, 2673, 3202 and 4084 of 2025

produced, as if it is circulating 70,000 copies in the Coimbatore edition. It can be

WEB COPY observed from the data provided above that, even popular newspapers do not

claim such circulation and the said daily has not made any claim with the appropriate authority. The name of the said newspaper is not mentioned at all.

The letter which is claiming 70,000 copies in circulation on par with the extremely popular newspaper such as Daily Thanthi, is on the face of it

unbelievable. In any event, in the absence of any data that is given either to the

Press Registrar General of India or the CBC, especially when it is complained

that the newspapers are unheard of, the same cannot be believed. It can be seen

that even though the publication need not be made in the highest circulating

newspapers, it can be seen that in english, the newspapers such as, the Hindu,

Times of India, Deccan Chronicle and the New Indian Express are widely in

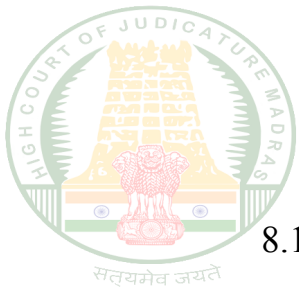
circulation. In tamil, Dinakaran, Dinamalar, Daily Thanthi are in wide

circulation. The newspapers in which the publications have been made does not

even make it to the top 10. Thus, it cannot be held that the newspapers called

'Afternoon' and 'Dinaseithi' have wide circulation in the area concerned, i.e.,

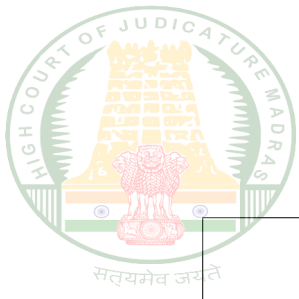
Tiruppur District.



W.P.Nos.2233, 2673, 3202 and 4084 of 2025

8.13. It is appropriate to extract the comparative statement made by the learned counsel for the petitioners, comparing the Petroleum and Mineral Pipelines (Acquisition of Right of User in Land) Act with the Electricity Act, read in conjunction with the Indian Telegraph Act. The same is extracted hereunder:-

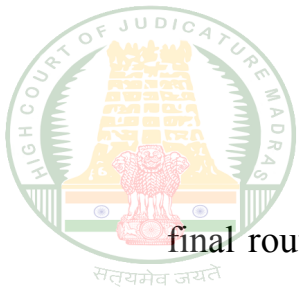
	<i>The Petroleum & Minerals Pipelines (Acquisition of Right of User in Land) Act</i>	<i>The Electricity Act, 2003 r/w The Indian Telegraph Act, 1885</i>
Notification Provisions	Section 3 Official Gazette:Section: 3(1) with brief description of the land: Section:3 (2)	No Provision
Survey	Section: 3	No Provision
Compensation for Damages during Survey	Section: 10	No Provision
Hearing Objections	Section: 5	Section:16
Declaration of Acquisition of Right in the Property	Section: 6	No Provision
Compensation for Acquisition	Section: 10	No Provision
Compensation for Damages	Section: 10	Section: 10
Gos for Compensation for the Land and Crops, Trees, etc.	G.O.(Ms) No.54 Industries (MIA.1) Department dated 14.02.2020	G.O.(Ms) No.63, Energy (A1) Department dated 22.11.2017 G.O.(Ms) No.86, Energy (A1) Department dated 30.10.2019
Ascertainment of Compensation	10 % of the 10 times the Market Value	For Tower Base Area : 100 % of the Guideline Value For Right of Way Corridor: 20% of the Guideline Value



W.P.Nos.2233, 2673, 3202 and 4084 of 2025

	<i>The Petroleum & Minerals Pipelines (Acquisition of Right of User in Land) Act</i>	<i>The Electricity Act, 2003 r/w The Indian Telegraph Act, 1885</i>
Applicability of RFCTLARR Act 2013	Yes	No

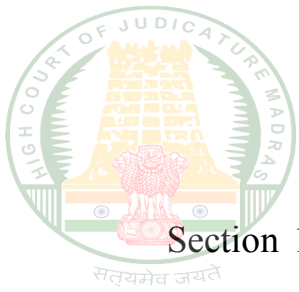
8.14. It can be seen that many of the safeguards available under the Petroleum Act are not available under the present Acts. The overarching and draconian power is granted to the telegraphic authority. At the relevant time, it must be noted that it is only the State or Statutory Boards that are the telegraphic authorities. Now, any private company establishing these captive generating units is granted a license as a telegraph company. It determines the route, sets the compensation, and enters the land to erect towers for itself. The minimum expected of these private companies is to publish a notice in newspapers widely circulating in the area and to consider representations by themselves regarding the optimal route alignment. This is not a formality but is an important and substantial step that is prescribed. The more the power is vested in the telegraph authorities, the stricter the requirement for adherence to the mandatory procedure. The matter relates to the finalisation of the optimum route alignment. Any interested party is entitled to make observations or representations, and it is incumbent upon the telegraphic authority to consider these before arriving at the



W.P.Nos.2233, 2673, 3202 and 4084 of 2025

final route alignment. It is to be noted that there is no further opportunity for a hearing at any later stage. No procedure is contemplated for a hearing at any prior stages, that is, when granting permission for overhead lines under Section 68 of the Electricity Act, 2003, etc. This is the only opportunity for those likely to be affected to suggest that there may be another optimal route alignment. The grids and distribution network may be available in all directions of the proposed sites of wind energy-generating stations. There may be a more optimal route that causes less damage. Therefore, it is crucial for the telegraphic authority to consider the objections received.

8.15. It's a solemn public duty. It is concerned with sustainable development, avoiding potential hazards, and forming a route that will be optimal. Not realising this, the private corporate entity TPREL has chosen to keep the entire process secretive. The lurking danger of overwhelming self-interest led private entities sweeping the mandate of law under the carpet to march ahead quickly is demonstrated in this case. It is absolutely unfair. TPREL misrepresented to the Government of India an ostensible make-believe compliance of the procedure that has resulted in the impugned license under



W.P.Nos.2233, 2673, 3202 and 4084 of 2025

Section 124 of the Act being granted. Thus, the impugned order is liable to be quashed.

8.16. Two submissions are made by *Mr. C.S. Vaidyanathan*, the learned Senior Counsel representing the power generating company. Firstly, it is argued that in such infrastructure projects, especially when the project is underway, the Court should not interfere. Section 20(A) of the Specific Relief Act, 1963, is cited. Secondly, it is argued that TPREL has already completed the erection of 39 towers. The arguments made by the landowners, at best, are merely procedural discrepancies, and therefore, the Court should not interfere.

8.17. Section 20-A of the Specific Relief Act, 1963 reads as follows :

“20A. Special provisions for contract relating to infrastructure project.—(1) No injunction shall be granted by a court in a suit under this Act involving a contract relating to an infrastructure project specified in the Schedule, where granting injunction would cause impediment or delay in the progress or completion of such infrastructure project.”

8.18. Though it applies to suits, even extrapolating the principles to the writ jurisdiction, it can be seen that no injunction can be granted that will have the effect of delaying the process. The same is intending to avoid delay in



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executing the infrastructural projects. This cannot be read to perpetrate statutory violations. Further, it can be seen that action of the 'telegraph authority' does not amount to acquiring the land, but it certainly interferes with the right to use and enjoyment of the land to a limited extent. That is why compensation is paid. Therefore, those rights cannot be impinged upon except by way of due process of law, which is the mandate of Article 300-A of the Constitution of India. Violation of Article 300-A can never be termed as 'merely procedural, ' nor it can give way to the cause of delay as contained under Section 20(A) of the Specific Relief Act, 1963. The provision under Section 20(A) is to avoid unnecessary delays in litigation leading to escalation of costs thereby making the project itself impossible by grant of injunctions by Courts and is not an absolute bar against reliefs against infrastructural projects and is not aimed to perpetrate violations of law that are made by proponents of infrastructure projects. Secondly, for the submission relating to towers that are already erected, appropriate safeguards can ensure the protection of their existence. If ultimately, after making a fresh publication, the generating company considers the representations received and again decides to finalise the same route, and the Government of India grants a license under Section 164 of the Electricity Act,



W.P.Nos.2233, 2673, 3202 and 4084 of 2025

2003, that route and the towers can be utilised. In the event of a route change or

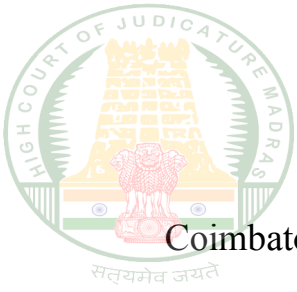
if the license is refused, the towers can be appropriately removed and reinstalled along the altered routes. Therefore, the partial erection of 33 towers alone will not alter the overall position.

H. The Result:

9. In view thereof, these Writ Petitions are disposed of on the following terms,

(i) The order issued by the 2nd respondent in W.P.No.3202 of 2025, namely, the Central Electricity Authority, Ministry of Power, Government of India, published in the Gazette of India dated 22.10.2024, being as the licence under Section 164 of the Electricity Act, 2003, shall stand quashed;

(ii) The fourth respondent in W.P.No.3202 of 2025, namely TATA Power Renewable Energy Limited (TPREL), shall be entitled to continue from the stage of effecting publications as mandated under the procedure in English Newspaper (In one issue of anyone of the news papers viz., The Hindu, The Times of India, Deccan Chronicle in Coimbatore Edition) and in Tamil Newspaper (In one issue of the anyone of the news papers viz., Dinakaran, Dinamalar, Daily Thanthi in



W.P.Nos.2233, 2673, 3202 and 4084 of 2025

Coimbatore Edition), in the same approved format they had previously used,

within two weeks from the date of receipt of the website-uploaded copy of this order. They shall observe the mandatory period of 60 days, consider any observations or representations that may be received from any individual, and finalise the optimal route alignment.

(iii) With the certificate mandated in the procedure, they shall reapply to the second respondent, The Central Electricity Authority, Ministry of Power, Government of India, to grant a license. The 2nd respondent shall consider the application and issue an order in accordance with the law within four weeks from the date of receipt of such application from TPREL; If the license is granted under Section 264 of the Electricity Act, 2003, then accordingly it has a right to enter into the lands and complete the erection of towers and drawal of the lines in accordance with the route finalised;

(iv) If necessity arises, they shall apply the name of TPREL, to the District Collector, Tiruppur, under Section 16 of the Indian Telegraph Act, 1885, and when such application is made, the same shall be disposed of as indicated supra within four weeks from the date of application;

(v) The towers already erected by TPREL/TPVSL shall not be interfered



W.P.Nos.2233, 2673, 3202 and 4084 of 2025

with by anybody and shall stand protected until the above exercise is carried on

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afresh, and the user or removal thereof will depend on the ultimate result of the

above exercise. Due protection shall be ensured by the Tahsildar, Dharapuram

Taluk and the Superintendent of Police, Tiruppur.

(vi) No costs. Consequently, the connected miscellaneous petitions are closed.

17.03.2025

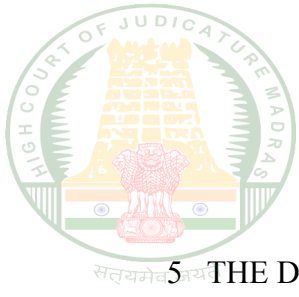
Neutral Citation:Yes

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To

- 1 THE DISTRICT COLLECTOR,
STATE OF TAMIL NADU, KARUR DISTRICT
COLLECTORATE I FLOOR KARUR- 639 007
- 2 THE REVENUE DIVISIONAL OFFICER
KARUR SUB COLLECTOR OFFICE
N.PRADHAKSANAM ROAD MADAVILAGAM KARUR 639 002
- 3 THE SUPERINTENDING ENGINEER
GENERAL CONSTRUCTION DIVISION, 110 KV SUB
STATION PERIYAMILAGUPARAI TRICHY 620 002
- 4 THE SUPERINTENDING ENGINEER
TAMIL NADU GENERATION AND DISTRIBUTION
CORPORATION LIMITED, KARUR ENGINEERING
DIVISION CIRCLE, TNEB COMPLEX, KARUR 639 002

Page No.59/61

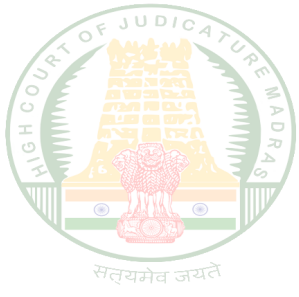


W.P.Nos.2233, 2673, 3202 and 4084 of 2025

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- 5 THE DISTRICT COLLECTOR
TIRUPPUR DISTRICT TIRUPPUR.
- 6 THE REVENUE DIVISIONAL OFFICER
DHARAPURAM REVENUE DIVISION
TIRUPPUR DISTRICT.
- 7 THE TAHSILDHAR
DHARAPURAM TALUK TIRUPPUR DISTRICT.
- 8 THE SUPERINTENDENT OF POLICE
OFFICE OF THE SUPERINTENDENT OF POLICE
TIRUPPUR DISTRICT.
- 9 THE SECRETARY
UNION OF INDIA, MINISTRY OF NEW AND
RENEWABLE ENERGY, BLOCK -14 CGO COMPLEX
LODHI ROAD NEW DELHI- 110 003.
- 10 THE CHAIRPERSON
CENTRAL ELECTRICITY AUTHORITY
MINISTRY OF POWER GOVERNMENT OF INDIA
SEWA BHAWAN R.K. PURAM NEW DELHI- 110 066.
- 11 THE SUPERINTENDING ENGINEER
NON- CONVENTIONAL ENERGY SOURCES, TANGEDCO
KOLUMAN ROAD, UDUMALPET 642126
TIRUPPUR DISTRICT.

D.BHARATHA CHAKRAVARTHY, J.,



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W.P.Nos.2233, 2673, 3202 and 4084 of 2025

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W.P.Nos.2233, 2673, 3202 and 4084 of 2025
& W.M.P.Nos.3006, 3009, 3552 and 4588 of 2025

17.03.2025