



W.P(MD)No.8109 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 25.03.2025

CORAM :

**THE HONOURABLE MRS.JUSTICE J.NISHA BANU
and
THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

**W.P(MD)No.8109 of 2025
and
WMP(MD)No.6087 of 2025**

E.Rajaselvan

... Petitioner

vs.

1. The Chief Engineer,
Distribution/TANGEDCO,
Trichy.

2. The Executive Engineer,
Non Conventional Energy Sources,
Mannarpuram, Trichy.

3. The Assistant Executive Engineer
Generation and Distribution,
Srirangam, Trichy.

4. Everrenew Energy Pvt. Ltd.,
Doxa Business Centre,
OMR, Aneja Towers, Chennai.

5. Sri Balaji Green Power Energy,
14, 11A, C.M.Tower, Rajendra Road,
Udumalpet, Tiruppur.



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6. The Special Officer,
Vengaimandalam Village Panchayat,
Musiri Union,
Trichy District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents 1 to 3 and 6 to stop the operation of Wind Turbine Generators which is installed by 4th and 5th respondents at Vengaimandalam Village, Musiri Union, Trichy District, till the payment of Tax by the 4th and 5th respondent to Vengaimandalam Village Panchayat as per the Tamil Nadu Panchayat Act, 1994, within stipulated time fixed by this Court.

For Petitioner	: Mr.G.Kasinathadurai
For R1 to R3	: Mr.S.Dheenadhayalan, Standing Counsel
For R6	: Mr.P.Thilakkumar, Government Pleader

ORDER

(Order of the Court was made by **J.NISHA BANU, J.**)

The prayer in the writ petition is for issuance of a Writ of Mandamus, directing the respondents 1 to 3 and 6 to stop the operation of Wind Turbine Generators which is installed by 4th and 5th respondents

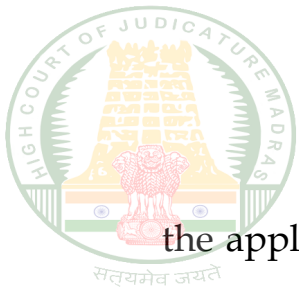


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at Vengaimandalam Village, Musiri Union, Trichy District, till the payment of Tax by the 4th and 5th respondent to Vengaimandalam Village Panchayat as per the Tamil Nadu Panchayat Act, 1994, within stipulated time fixed by this Court.

2. The crux of the contention made by the counsel for petitioner is that without getting permission and paying tax as per Sections 159 and 160 of the Tamil Nadu Panchayat Act, 1994, the respondents 4 and 5 are operating wind turbine generators. Since permission is required to be obtained as per Section 160 of the Act by the respondents 4 and 5 from the village panchayat concerned, the learned counsel prayed for issuance of a Mandamus as stated above.

3. Learned Government Pleader appearing for the 6th respondent would state that the issue raised in this writ petition is no longer *res integra*, in view of the decision of this Court in *Super Sales India Ltd., Coimbatore vs. The President Thappukundu Panchayat, Theni District and two others [W.P(MD)No.3789 of 2013, dated 12.02.2025]*, wherein, the First Bench of this Court while dealing with



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the applicability of Section 160 of the Tamil Nadu Panchayat Act, 1994,

to the wind mills, has categorically held that the wind mills cannot be even termed 'machinery' or 'manufacturing plant' driven by any of the powers given in clause (a) of Section 160 of the Act and therefore, the provisions of Section 160 of the Act will not apply. The relevant passage of the said judgment is extracted hereunder:-

"16. Therefore, under Section 160 of the Act, no person is permitted to construct or establish any factory, workshop or work place, in which it is proposed to employ steam power, water power or other mechanical power or electrical power or install any premises any machinery or manufacturing plant driven by any power as aforesaid without permission of the Panchayat Union Council in panchayat villages. Under Clause (b), when it says 'as aforesaid', it would be 'powers' as in clause (a), namely, steam power, water power or other mechanical power or electrical power. Therefore, the Section is very clear that permission of Panchayat Union Council is required only when a person employ steam power, water power or other mechanical power or electrical power or installs any machinery or manufacturing plant driven by steam power, water power or other mechanical power or electrical power.

17. Therefore, even if a wind mill generates power to be transmitted to the grid of TNEB and that could be termed as manufacturing, still would it be covered under 160 of the Act. The



Answer is 'No'. This is because under Section 160 of the Act to apply in a factory or workshop or work place, steam power, water power or other mechanical power or electrical power has to be employed and wind mill does not and for this to say 'it does not', we rely on paragraph No.18 of Muppidthi's case (supra), which reads as under-

"18.In windmills, the wind passes through the airfoil Section of the blades and the lift produced due to the aerodynamics of the airfoil, generates a torque which is then transformed to electricity in the generator. In simple terms, a windmill converts the wind energy into mechanical energy of the turbine and it is then converted into electricity..."

18.Therefore, in a windmill, wind passes through the airfoil section of the blades and the lift produced due to the aerodynamics of the airfoil, generates a torque, which is then transformed to electricity in the generator. A windmill converts wind energy into mechanical energy of the turbine and it is, then, converted into electricity. It does not employ either steam power or water power or other mechanical power or electrical power to convert wind energy into mechanical energy of turbine or to convert into the electricity. It does not use any of these powers even to generate a torque, which is transmitted to electricity in the generator.

19.While interpreting Section 160 of the Panchayat Act, we have to point out that the reason why the Panchayat Union Council has been empowered under that Section is because the usage of steam



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power, water power or other mechanical power or electrical power could be over the properties under the care of the Panchayat Union Council. To give an example, the electrical lines utilised for the purpose of the factory would run through the area over which the Panchayat Union Council has jurisdiction.

20. Similar would be the situation with respect to the usage of water power in the area. Apart from the above, we have to point out that a reading of Muppithathi's judgment cited supra shows that the learned Judge had laid an emphasis on the term "factory manufacture and manufacturing process". We are of the view that the emphasis as per Section 160(a) is the word "employ".

21. A factory, within the meaning of Factories Act, need not always employ any of the four categories mentioned in Section 160(a) in its manufacturing process. It is not unknown of a factory using other kinds of power for the purpose of coming out with products. To give an example, a soap manufacturer had used bullocks for the purpose of rotating the wooden pestle towards manufacture of the oil cakes.

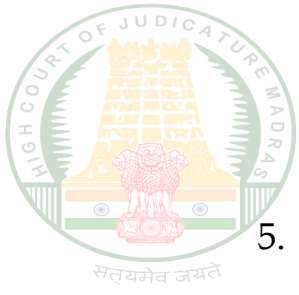
22. Section 160(a) contemplates a factory, workshop or workplace, which employs steam power, water power or other mechanical power or electrical power, to be covered by the Section. In case any factory, workshop or workplace does not utilise any of the aforesaid sources of power, then it is not covered under Section 160 and consequently, need not seek for permission from the Panchayat Union Council.



23.It is clarified by clause (b) of Section 160 of the Act that permission will be required, when machinery or manufacturing plant driven by any power as aforesaid, ie., steam power or water power or other mechanical power or electrical power is installed.

24. Noting as how the wind mill functions, it cannot be even termed 'machinery' or 'manufacturing plant' driven by any of the powers given in clause (a) of Section 160 of the Act and therefore, the provisions of Section 160 of the Act will not apply. If we note parts of the wind mill, as reproduced in paragraph No.18 of Muppidathi's case (supra), operating and electrical system is also used only to transmit electricity generated to the grid. Therefore, what a wind mill does is to generate wind power and does not employ steam power or water power or other mechanical power or electrical power. Therefore, Section 160 of the Act will not be applicable. Hence, we do not agree with the view taken by Single Judge in Muppidathi's case (supra).''

4. In view of the said judgment holding that Section 160 of the Tamil Nadu Panchayat Act is not applicable to wind mills, we do not find any merits in the contentions of the petitioner.



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5. Accordingly, this Writ Petition is dismissed. No costs.

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[J.N.B, J.] [S.S.Y, J.]
25.03.2025

Index : Yes / No
Neutral Citation : Yes / No
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