

(2008) 04 MAD CK 0068

In the Madras High Court

Case No : Writ Petition No. 19676 of 2007

Vignesh Kanniyaram rep. by its mother and natural guardian, Dr. T. Chandrakala

APPELLANT

Vs

Power Grid Corporation of India Limited

RESPONDENT

Date of Decision : 04-04-2008

Acts Referred:

Constitution of India, 1950 — Article 136, 14, 226, 227
Electricity (Supply) Act, 1948 — Section 45
Electricity Act, 1910 — Section 12, 13, 14, 15, 16
Electricity Act, 2003 — Section 14, 164
Electricity Rules, 1956 — Rule 233
Telegraph Act, 1885 — Section 10, 16, 16(1), 35

Citation : (2008) 04 MAD CK 0068

Hon'ble Judges : V. Dhanapalan, J

Bench : Single Bench

Advocate : R. Thyagarajan for P. Srinivas, for the Appellant; Jayesh Dolia, for Aiyar and Dolia for respondents 1 to 3 and Hasan Fazal, Government Advocate for Respondent 4, for the Respondent

Judgement

V. Dhanapalan, J.—This Writ Petition has been filed by one Minor Vignesh Kanniyaram represented by his mother and natural guardian

Dr. T. Chandrakala, challenging the proceedings of the District Magistrate and District Collector, Coimbatore, dated 09.05.2007, in and by which

the objections of the petitioner for erection of High Tension Transmission lines over the lands of the petitioner were overruled.

2. The petitioner's case is as follows:

i Petitioner is the owner of the lands in S. Nos. 504, 506/1, 507/1, 508, 509 and 516/1 of Karumathampatti Village, Palladam Taluk, Coimbatore

District which were to be used for the purpose of starting an educational institution and which are highly valuable lands. While so, the respondents

1 to 3, through their subordinates, started to trespass upon the petitioner's lands, took measurements and made preparations for the erection of

high towers for high tension transmission line. On enquiry, the petitioner came to know that the lines were not originally passing through his lands

but were due to pass over other lands to the north west of the petitioner and due to their influence and stature, the lines were shifted to come

across his lands. Hence, he raised his objections but the same were not considered nor his consent was sought. Thus, when the respondents were

about to take up the works of erecting the towers across the petitioner's lands, finding no other alternative, the petitioner moved this Court in W.P.

No. 1404 of 2007 which was disposed of with directions to the District Collector, Coimbatore, the fourth respondent to hear and pass orders on

his objections. Accordingly, the fourth respondent conducted hearings but failed in the hearings to go into the detailed objections and suggestions

of the petitioner and accepted the claim of the respondents 1 to 3 treating the economic viability of the transmission line alone and forgetting that

the petitioner would be put to grave loss and lose the right over the lands. Added to this, the fourth respondent did not even go into the question of

compensation or damages for laying of the lines and passed an order on 09.05.2007 against which this writ petition has been filed on various

grounds that:

ii the fourth respondent has not taken into consideration the loss and damage caused to the petitioner and has not exercised the power under the

provisions of the Indian Telegraph Act, 1885;

iii the rights of the citizens have not at all been considered and the petitioner's legitimate rights cannot be taken away in such a callous manner;

iv the fourth respondent has erred in taking into account the techno-economic feasibility of the transmission line project alone ignoring the loss and

damages caused to the petitioner;

v the alignment has been deviated in order to avoid the lands of some influential persons and this deviation in alignment has resulted in the severing

of the petitioner's lands and if the transmission line is taken through the petitioner's lands, they cannot be used for any other purpose.

3. Respondents 1 to 3 have filed their counter, stating that:

a. After taking into consideration their statement of defence and after hearing

the objections of the petitioner, the fourth respondent, by his order dated 09.05.2007, exercising his power u/s 16(1) of the Telegraph Act, overruled the petitioner's objections and directed them to proceed with the line through the petitioner's lands as planned pursuant to which they have started executing the work;

b. on 19.05.2007, the petitioner's mother came to the site and prevented them from proceeding with the work and hence, they lodged a complaint at Karumathampatty Police Station against the petitioner's mother and despite the same, the henchmen deployed by the petitioner's mother interfered with their execution of work everyday with a view to delay the progress in work and once again, a police complaint was lodged on 23.05.2007;

c. there is no possibility for damage and danger with regard to high tension transmission line which would not have any impact on human beings, animals, plants, etc. or on the geological or ecological system beyond the statutory clearance/norms provided by the Electricity Rules, 1956; and

d. Inasmuch as the transmission line requires only a clear corridor of 48 metres i.e. 24 metres on either side from the centre of the transmission line, all crops can be cultivated and fruit-bearing trees of short height can be grown and building put up by maintaining sufficient safety electric clearance as per the Electricity Rules and as such, the writ petition has to be dismissed considering the national importance involved in the project.

4. Mr.R.Thyagarajan, learned Senior Counsel appearing for the petitioner, has contended that the line over the land of the petitioner, as seen from the sketch shows that the line has been deliberately taken in a zig zag manner and it has been unnecessarily bent for the sole reason of taking it over the boundary of his lands, thereby denying the right to the property for which appropriate damages have to be paid. He has also argued that since the Power Grid Corporation has ignored the damages that would be caused to the petitioner, mere payment of compensation alone will not protect him from damages and loss and accordingly prayed for restraining the Power Grid Corporation from entering into the petitioner's lands. He further contended that the District Collector has not independently considered all the objections of the petitioner and also the existence of temple and therefore the impugned order is liable to be set aside.

5. In support of his contentions, learned Senior Counsel for the petitioner has cited the following decisions:

(i) State of Mysore Vs. S.S. Makapur, :

3...For a correct appreciation of the position, it is necessary to repeat what has often been said that tribunals exercising quasi-judicial functions are

not Courts and that therefore they are not bound to follow the procedures prescribed for trial of actions in Courts nor are they bound by strict rules

of evidence. They can, unlike Courts, obtain all information material for the points under enquiry from all sources and through all channels, without

being fettered by rules and procedure which govern proceedings in Court. The only obligation which the law casts on them is that they should not

act on any information which they may receive unless they put it to the party against whom it is to be used and given him a fair opportunity to

explain it. What is a fair opportunity must depend on the facts and circumstances of each case but where such an opportunity had been given, the

proceedings are not open to attack on the ground that the enquiry was not conducted in accordance with the procedure followed in Courts.

ii. Orient Paper Mills Ltd. Vs. Union of India (UOI), :

8. If the power exercised by the Collector was a quasi-judicial power-as we hold it to be-that power cannot be controlled by the directions issued

by the Board. No authority however high placed can control the decision of a judicial or a quasi-judicial authority. That is the essence of our

judicial system. There is no provision in the Act empowering the Board to issue directions to the assessing authorities or the appellate authorities in

the matter of deciding disputes between the persons who are called upon to pay duty and the department. It is true that the assessing authorities as

well as the appellate authorities are judges in their own cause; yet when they are called upon to decide disputes arising under the Act they must act

independently and impartially. They cannot be said to act independently if their judgment is controlled by the directions given by others. Then it is a

misnomer to call their orders as their judgments; they would essentially be the judgments of the authority that gave the directions and which

authority had given those judgments without hearing the aggrieved party. The only provision under which the Board can issue directions is Rule 233

of the Rules framed under the Act. The rule says that the Board and the

Collectors may issue written instructions providing for any supplemental matters arising out of these Rules. Under this rule, the only instruction that the Board can issue is that relating to administrative matters; otherwise that rule will have to be considered as ultra vires Section 35 of the Act.

(iii) S.N. Mukherjee Vs. Union of India, :

34. The decisions of this Court referred to above indicate that with regard to the requirement to record reasons the approach of this Court is more

in line with that of the American Courts. An important consideration which was weighed with the Court for holding that an administrative authority

exercising quasi-judicial functions must record the reasons for its decision, is that such a decision is subject to the appellate jurisdiction of this Court

under Article 136 of the Constitution as well as the supervisory jurisdiction of the High Courts under Article 227 of the Constitution and that the

reasons, if recorded, would enable this Court or the High Courts to effectively exercise the appellate or supervisory power. But this is not the sole

consideration. The other considerations which have also weighed with the Court in taking this view are that the requirement of recording reasons

would (i) guarantee consideration by the authority; (ii) introduce clarity in the decisions; and (iii) minimise chances of arbitrariness in decision-

making. In this regard a distinction has been drawn between ordinary Courts of law and tribunals and authorities exercising judicial functions on the

ground that a Judge is trained to look at things objectively uninfluenced by considerations of policy or expediency whereas an executive officer

generally looks at things from the stand point of policy and expediency.

35. Reasons, when recorded by an administrative authority in an order passed by it while exercising quasi-judicial functions, would no doubt

facilitate the exercise of its jurisdiction by the appellate or supervisory authority. But the other considerations, referred to above, which have also

weighed with this Court in holding that an administrative authority must record reasons for its decision are of no less significance. These

considerations show that the recording of reasons by an administrative authority serves a salutary purpose, namely, it excludes chances of

arbitrariness and ensures a degree of fairness in the process of decisions-making. The said purpose would apply equally to all decisions and its

application cannot be confined to decisions which are subject to appeal, revision

or judicial review. In our opinion, therefore, the requirement that reasons be recorded should govern the decisions of an administrative authority exercising quasi-judicial functions irrespective of the fact whether the decision is subject to appeal, revision or judicial review. It may, however, be added that it is not required that the reasons should be as elaborate as in the decision of a Court of law. The extent and nature of the reasons would depend on particular facts and circumstances. What is necessary is that the reasons are clear and explicit so as to indicate that the authority has given due consideration to the points in controversy. The need for recording of reasons is greater in a case where the order is passed at the original stage. The appellate or revisional authority, if it affirms such an order, need not give separate reasons if the appellate or revisional authority agrees with the reasons contained in the order under challenge.

(iv) Valsamma Thomas Vs. Additional District Magistrate, Alappuzha and Another, :

12. Thus, on review of the authorities of this question, we come to the following conclusions:

- (1) The District Magistrate has to exercise his discretion judicially.
- (2) He has to pass the order u/s 16(1) of the Telegraph Act, after hearing the parties and after taking such evidence as is required with regard to the objections raised.
- (3) The order passed by the court should be a speaking order.
- (4) The order should reflect the objections raised by the parties and the reasons given by the Magistrate for accepting or rejecting the same.
- (5) The order should also reflect the materials relied on by the District Magistrate for arriving at the conclusion.

If the discretion is exercised by the District Magistrate as above, then unless it is shown that the findings are perverse or that the proceedings are vitiated by mala fides this Court will not be justified in interfering with such orders. This Court will not be justified in substituting its own opinion. It is also worth bearing in mind that this Court has not got technical expertise and will be slow to interfere with such matters.

(v) Canara Bank and Others Vs. Shri Debasis Das and Others, :

19. Concept of natural justice has undergone a great deal of change in recent years. Rules of natural justice are not rules embodied always

expressly in a statute or in rules framed thereunder. They may be implied from the nature of the duty to be performed under a statute. What

particular rule of natural justice should be implied and what its context should be in a given case must depend to a great extent on the facts and

circumstances of that case, the framework of the statute under which the enquiry is held. The old distinction between a judicial act and an

administrative act has withered away. Even an administrative order which involves civil consequences must be consistent with the rules of natural

justice. The expression ""civil consequences"" encompasses infraction of not merely property or personal rights but of civil liberties, material

deprivations and non-pecuniary damages. In its wide umbrella comes everything that affects a citizen in his civil life.

6. Per contra, Mr.Hasan Fazal, learned Government Advocate, appearing for the fourth respondent/District Collector, has contended that the

District Collector, who is also a Magistrate under the Act, has considered the entire objections raised by the petitioners independently and rejected

the objections and further directed the Corporation to proceed with the erection of H.T.Power Lines. Therefore, the District Collector has passed

an order u/s 16(1) of the Indian Telegraph Act,1885, overruling the objections of the petitioners, after analysing the technical feasibility for change

of alignment and permitting the Corporation to take the power line through the land owned by the petitioner. He strengthened his submissions on

eminent domain"" and in the interest of greater public purposes, the individual interest cannot be against it and the authorities have every right to

take note of the public interest over the individual interest. Therefore, there is no infirmity in the order passed by the District Collector and the same

cannot be interfered with.

7. On the other hand, Mr.Jayesh Dolia, learned Counsel appearing for the Corporation, has strenuously contended that the Corporation is the

Central Transmission Utility under the Ministry of Power and has been entrusted with the Project to provide quality power at large with greater

reliability particularly to the agricultural, residential and commercial establishments for the State of Tamil Nadu and it is executing the project after

observing all legal procedures under the provisions of the Act and the Rules. He also submitted that in the entire section of the project, foundation

work has been completed at 112 locations and erection of towers is in progress and it is a time bound project to be completed by January,2008

as per schedule and because of the pendency of the writ petitions, they could not proceed further. The learned Counsel made a point that the

Government of India, in exercise of powers conferred by Section 164 of the Electricity Act, 2003, has passed an order dated 24.12.2003 to

exercise all powers vested in the Telegraph Authority in respect of electrical lines and electrical plants established or maintained for transmission of

electricity or for the purpose of telephonic or telegraphic communication necessary for the proper coordination of work. As per Section 10 of the

Indian Telegraph Act, 1885, it is not necessary to issue personal notice or to get prior consent from the private land owners and as per Section

10(c) of the said Act, if the property is vested in or under the control of any local authority, then, it is necessary for the petitioner to get permission

from such authority. He vehemently contended that the transmission line route is as per the experts opinion and the most techno-economically

feasible route is chosen causing least damage after complying with the statutory clearances and avoiding places of inhabitation, worship and densely

populated areas, including the geological or ecological system. Therefore, the whole process undertaken by the Corporation is for a public purpose

and any re-alignment of this line at this advanced stage is not at all techno-economically feasible and any delay in completing the project or

alteration in route will cause heavy loss to the Government exchequer. Hence, in the absence of any valid reasons to object to the erection of

transmission lines and when there is larger public interest involved in the project and also there is no damage to the properties of the petitioner, the

petitioner cannot stall the project by invoking the jurisdiction under Article 226 of the Constitution of India.

8. In support of their contentions, learned Counsel for the respondents have cited the following decisions:

(i) Bharat Plywood and Timber Products Private Ltd. Vs. Kerala State Electricity Board Trivandrum and Others, :

23. It is clear from the wording of Section 16 and particularly from the expression ""the District Magistrate may, in his discretion"", that an order will

not be forthcoming automatically. A District Magistrate may in his discretion in a given case refuse or decline to pass an order that the telegraph

authority shall be permitted to exercise the powers. The wording is significant. The District Magistrate does not grant permission to the authority.

But, he orders that the authority ""shall be permitted."" The discretion conferred by the section on the District Magistrate is certainly a judicial

discretion, and, in cases where the District Magistrate refuses to pass an order that the telegraph authority shall be permitted to exercise the

powers mentioned in Section 10, it is inconceivable that the telegraph authority may, notwithstanding such refusal, continue to exercise such

powers. The wording of the section is thus itself indicative of the fact that in cases of resistance or obstruction the District Magistrate will have to

decide whether the authority should be permitted or not to exercise the powers u/s 16 of the Telegraph Act. This necessarily means that the

telegraph authority cannot override or ignore the resistance or obstruction and continue to exercise the powers u/s 10 notwithstanding such

resistance or obstruction. It follows that, when an owner or occupier resists or obstructs the exercise of the power u/s 10, the telegraph authority

will have to approach the District Magistrate for an order under Sub-section (1) of an order under Sub-section (1) of Section 16 and can exercise

the power u/s 10 only in cases where the District Magistrate deems it fit to pass an order that he shall be permitted to do so. The power conferred

by Section 10 is thus a conditional power; conditional on an order being passed u/s 16(1) by the District Magistrate that the authority may be

permitted, in case of resistance or obstruction, to exercise the power. This is so not only in regard to a telegraph authority but to the public officer

or any other person authorised under the Electricity Act.

(ii) 1994 WLR 445, M.Nithyanandam and two Ors. v. The Chairman, Tamil Nadu Electricity Board, Madras-2 and Ors.:

26. The above section, in my opinion, gives authority for placing the poles or the towers in a private land and Clause (d) referred to above

provides for payment of compensation. Section 16(1) provides for the Board approaching the District Magistrate in case of resistance by the

owner. Section 16(3) provides for the mode for fixing the compensation in case of dispute regarding the sufficiency of the compensation.

27. In the light of the non-obstante clause in Section 42, excluding in categorical terms the applicability of Sections 12 to 16, 18 and 19 of the Indian

Electricity Act, 1910, in any considered opinion, it is not open to the petitioners to rely on Section 12 of the Indian Electricity Act, 1910. As stated

above, the petitioners strongly relied on the decision reported in 1959 (II) MLJ 446. In that case, Basheer Ahmed Sayeed, J., was pleased to deal

only with the scope of Section 12. The scope of Section 42 was apparently not brought to the notice of the learned Judge. Therefore, the

petitioners herein cannot call in aid the said decision.

28. It was argued by Mr.A.Venkatesan, learned Counsel for the petitioners, that the learned Judge had observed in the above decision that only

apparatus and appliances to be placed and high tension wire cannot at all be used or put up. The petitioners cannot rely upon the observations

made by the learned Judge. Provisions of Section 42 are very clear and at the end of the 20th century, it is no longer open to anybody to contend

the high tension towers cannot be put up.

(iii) A.M. Ismail and Others etc. Vs. Union of India (UOI) and Others, :

8. On a survey of these authorities, it is clear that the District Magistrate is discharging an administrative function and the general principle of natural

justice and other procedural regulations would apply. The contention of the petitioners that the District Magistrate is given unlimited power and,

therefore, the said provision is illegal cannot be accepted. The District Magistrate hears objectors and consider whether the objections raised by

the property owners are reasonable. If the District Magistrate is of the view that it is not proper to draw line through the objections" property he

shall decline permission to draw line through their property. If, on the other hand, the District Magistrate, finds that the objectors are raising

frivolous objectors, the District Magistrate is competent to rule out such objections and direct the authorities to draw the proposed line. Therefore,

I do not find that Section 16(1) of the Indian Telegraph Act, 1885 is in any way violative of Article 14 of the Constitution.

10. Coming to the facts of the cases, petitioners" objection is that there are alternate lines and this was not considered by the District Magistrate. It

may be noticed that this line was proposed in 1992 and because of the obstruction it could not be drawn. The proposal is to draw 3 K.M. Long

11 K.V. Line for the purpose of voltage improvement and by the proposed scheme about 400 persons are benefited. There is also proposal to

instal a transformer at Edayirickapuzha. Most of the petitioners are also benefited by the proposed line. It is true that some of the petitioners will

have to suffer a little inconvenience by the drawal of these lines. But considering the benefit that may derive to the consumers, the objections raised

by the petitioners are not weighty and the District Magistrate rightly overruled these objections. The question was elaborately considered by the

District Magistrate rightly overruled these objections. The question was elaborately considered by the District Magistrate and the alternate

suggestion to construct the line along the public road was also found not feasible. It is also pointed out that the route is by the side of a thodu and

the petitioners are not seriously affected in the sense that their trees are not to be cut and removed to a greater extent.

(iv) E. Venkatesan and others Vs. Chairman, Tamil Nadu Electricity Board, Madras and others, :

20. In this case, the fact that there was a notification in 1961 is not a matter in dispute. Subsequently proceedings have been issued by the first

respondent on 18.12.1993 whereby the scheme was approved, and it was also declared that the Board will exercise power of Telegraph

Authority u/s 45 of the Electricity Supply Act, and, therefore, the Electricity Board shall not be bound by the provisions of Sections 12 to 16, 18

and 19 of the Indian Electricity Act, 1910. In view of the notification and also the approved Scheme, no argument can be put forward by the

petitioners that the officers of the Electricity Board are not entitled to enter the property or to draw the electric line. Once the power under the

Telegraphs Act is given to the public officers of the Board, they are also entitled to dig pits and also instal towers over the property. The question

of consent from the petitioners does not arise for consideration, nor is it required under law.

(v) A decision of the Division Bench of this Court in W.A. No. 572 of 2001 in the case of The Chairman, Power Grid Corporation of India Ltd.

and Anr. v. Vivasaya Vizhipunarvu Iyakkam:

4. Mr. Dolia, learned Counsel appearing on behalf of the appellants says that the direction by the learned single Judge is beyond the scope of

Section 10 of the Telegraphs Act. He says that the Act nowhere provides that while erecting the lines, the compensation should be decided in

advance, and then alone the trees should be cut, whereas, the respondents herein and the original petitioners before the learned single Judge very

earnestly point out that once the trees are cut, there would be no question of firstly their identification and secondly about a proper compensation

being decided upon, as in that case, the concerned authorities would not have, anything available to know about the age and capacity of yield, etc.

(vi) An unreported judgment of this Court in W.P. Nos. 49172 of 2006, etc. batch of cases:

22. In at least one writ petition, it is contended that instead of the transmission towers being installed in a straight line, there is a deviation. For this,

there may be perfectly justifiable technical explanation on the side of the Corporation. This project has been conceived by technical experts, and

considering the magnitude of the project and the fact that it covers large extent of land running through many districts, the minor deviations that the

petitioner alleges must be ignored. However, it is the jurisdiction of the District Magistrate to consider the objections, and it will be possible for the

objector as well as the Corporation to explain before the District Magistrate the manner in which the land lies and prove either that the erection of

the transmission towers is improper or that the erection of the towers has been done in the optimum manner possible and that there could be no

other way of doing it.

(vii) A recent judgment of the Supreme Court reported in (2007) 1 SCC 641 in the matter of Daulat Singh Surana and Ors. v. First Land

Acquisition Collector and Ors.:

68. The right of eminent domain is the right of the State to reassert either temporarily or permanently its dominion over any piece of land on

account of public exigency and for public good.

74. The power of compulsory acquisition as described by the term "eminent domain" can be exercised only in the interest and for the welfare of the

people. The concept of public purpose should include the matters, such as, safety, security, health, welfare and prosperity of the community or

public at large.

75. The concept of "eminent domain" is an essential attribute of every State. This concept is based on the fundamental principle that the interest and

claim of the whole community is always superior to the interest of an individual.

9. Heard the learned Counsel for the respective parties and perused the material available on record, the relevant provisions of the Act and the

Rules and also the decisions cited by the counsel for the parties.

10. The Power Grid Corporation of India Limited has been entrusted with the construction of Udumalpet to Arasur 400 KV D/C Power

Transmission Line comprising 189 towers with a length of 65.116 kms. under Neyveli Thermal Station Stage-II expansion project. This project

has been approved by the Government of India to provide quality power at large with greater reliability particularly to the agricultural, residential

and commercial establishments for the State of Tamil Nadu in general and the villages of that area in particular to boost the growth in the State. The

Power Grid Corporation is an authority to execute the project after observing all legal procedures and as per the existing provisions of the

Electricity Act, 2003 and under the provisions of the Indian Telegraph Act, 1885 and also under the relevant rules. It appears that the project work

has commenced and it is a time bound project. Out of 189 towers in the entire area, foundation work has been completed at 112 locations and

erection of towers is in progress and the project is to be completed by January, 2008, as per schedule.

11. As per Section 14 of the Electricity Act, 2003, Central Transmission Utility shall be deemed to be a Transmission Licensee and as per Section

164 of the Act, the appropriate Government may by order in writing for the placing of electric lines or electrical plant for the transmission of

electricity confer upon the Licensee any of the powers which the Telegraph Authority possesses. Accordingly, the Power Grid Corporation has

been entrusted with the power to exercise all the powers in respect of electrical lines and electrical plants established or maintained for transmission

of electricity or for the proper coordination of work. Further, as per Section 10 of the Indian Telegraph Act, it is not necessary to issue personal

notice or get prior consent from the private land owners and as per Section 10(c), if the property is vested in or under the control of any local

authority, it is necessary for the Corporation to get permission from such authority.

12. It appears that the project has been taken over and the route finalised on expert opinion and also taking note of the techno-economically

feasible route and it is causing least damage after complying with the statutory clearances. Further, the viability of erecting such a transmission line takes the most techno-economically feasible route avoiding places of inhabitation, worship and densely populated areas. It is seen that since the transmission line requires a clear corridor of 48 metres only i.e., 24 metres on either side from the centre of the transmission line, all crops can be cultivated and fruit bearing trees of short height can be grown and building put up by maintaining sufficient safety electric clearance as per the Electricity Rules, 1956, and this transmission line would not have any impact on human beings, animals, plants etc. or on the geological or ecological system beyond the statutory clearance. Therefore, the whole process undertaken by the respondent is for a public purpose and any re-alignment of this line at this advanced stage is not at all techno-economically feasible.

13. Earlier, this writ petitioner moved this Court in a batch of Writ Petitions before exhausting the remedy under the relevant provisions of the Act.

On a careful consideration of the matter and upon perusing the entire materials, this Court passed an order on 18.01.2007 in W.P. No. 49172 of

2006 and other connected matters and disposed of all the petitions with the following direction:

The Power Grid Corporation shall, as early as it deems fit, approach the District Magistrate concerned in each case for permission to deal with the

objections raised by the petitioners in each case and the said District Magistrate shall consider the objections and pass orders in accordance with

the provisions which have been extracted above. This project involves huge expenditure and therefore, we cannot permit any avoidable delay. The

petitioners cannot think that by avoiding any notice or summons from the District Magistrate, they can indefinitely delay the matter. Immediately on

receipt of the request by the Corporation for permission, the District Magistrate shall issue notice to the respective objectors and after hearing their

objections, shall pass orders in accordance with law, within a period of six weeks from the date on which the Corporation makes a request for

permission to the District Magistrate.

14. Based on the above directions, the District Collector has proceeded under the provisions of Section 16(1) of the Indian Telegraph Act to hear

the objections of the petitioner along with the submissions of the Power Grid

Corporation. An enquiry was conducted on 26.02.2007 and the objectors filed their written submissions so also the Corporation.

15. The learned District Magistrate, after going through the written submissions filed by both the land owners and the Corporation, held as follows:

I have heard the objections raised by the land owner and gone through the written statement filed by the PGCIL, Coimbatore and the objections of

the petitioner. The request of the petitioner to change the alignment with an angle of 60 degrees at location No. AP.50/0 was analysed and if the

angle on the location No. AP50/0 is increased to 60 degrees, the line could not be proceeded with, in the same direction since the line is passing

on the houses located and several number of trees to be cut at S.F. No. 510 and the line cost will be more and the present alignment is Techno

Commercial viable route as per Tower design and the maximum angle on DD type tower is 60 degrees. These works are being carried out for the

development of industrial growth and power management. The grounds of objection cannot be sustained in public interest. I therefore found no

valid reason to interfere with the Power Grid Corporation of India Ltd., Coimbatore in respect of the objector's land regarding installation of High

tension tower line.

As per the powers conferred u/s 16(1) of the Indian Telegraph Act, 1885, I overrule the objections raised by the land owner and direct the Chief

Manager Power Grid Corporation of India Ltd., Coimbatore to proceed with the line through the lands in S.F. Nos.

504,506/2,507/5,507/6,508/1,509,516/1 of Karumathampatti Village, Palladam Taluk, as planned.

The Superintendent of Police, Coimbatore District, Coimbatore is requested to give suitable directions to the subordinate officers to render

necessary assistance to the officials of PGCIL, Coimbatore for the installation of High Tension Power line in the above fields, if they approached.

The above order of the District Collector is under challenge in this Writ Petition.

16. The main controversy that centres around is, whether the District Collector has considered the objections in the light of the directions of this

Court and also in the manner known to law ?

17. This Court is not an expert body to go into the feasibility or non-feasibility of the transmission lines to be erected and the factual matrix

controverted to by the parties in making alignment of route of transmission lines and also to consider the alternate alignment in the light of the

objections of the petitioner. This Court is duty bound to examine whether the order passed by the District Collector is in accordance with law and

also the manner in which the enquiry was conducted.

18. A strenuous argument was advanced by the learned Senior Counsel for the petitioner that laying of the line over the petitioner's land has been

done in a zig zag manner as seen from the sketch annexed to the typed set of papers in order to avoid the lands of some other influential persons

and, instead, if the line is run straight from tower No. AP50/0 to AP52, it would run along a public pathway, for which there would be no

objection from any quarter.

19. In reply to the said argument, the learned Government Advocate has submitted that no evidence was produced by the petitioner to prove that

alignment was shifted due to external influence and cogent argument and reasons were given by Power Grid Corporation to show the need for

shifting of alignment and therefore there was no ground to interfere on the said aspect.

20. However, the said aspect of the matter has not been given due consideration in the impugned order by the District Magistrate, by taking the

sketch into account. A consistent plea has been made by the petitioner before the District Collector that the deviation is taken only due to the

influence of other persons.

21. It is seen from the sketch that deviation is taken by the Corporation, though there is a straight route. This Court cannot go into the techno-

economical feasibility of the matter and also as to what would be the appropriate route for taking transmission line. However, in the absence of any

convincing material, as it appears that the deviation has been taken because of the influence of other persons, it is for the District Collector, who is

the appropriate authority, to consider that aspect of the matter, by calling upon the Corporation to furnish adequate reasons for taking such a

deviated route. Pursuant to the objections of the petitioner, the Magistrate is duty bound to look into the documentary proof and the sketch

annexed and also the plan and pass a speaking order on that aspect. Though this Court is convinced on all other aspects, the above aspect of the

matter alone has to be reconsidered. Had the said objection been considered by the Magistrate, the petitioner would not have any grievance.

Therefore, while upholding the findings in the impugned order, this Court directs the District Magistrate to reconsider the said objection alone. The

District Magistrate, while giving consideration to this aspect, shall look into the fact of availability of Government poramboke lands and the specific

objection that the petitioner's land is a patta land as well as the material documents furnished by the Corporation. It is also seen from the sketch

that there is a temple in the route and though it is not pleaded by the petitioner it has been argued and the same has also to be considered.

Therefore, the District Magistrate shall also see whether there is any influence for the deviated line, which goes by the patta lands of the petitioner,

when the poramboke lands are available in the straight line, and in that case how the Government poramboke lands have been avoided and the

patta lands of the petitioner have been taken into consideration for the techno-economical feasibility. Reasoning is the heartbeat of every conclusion

and without the same, the conclusion becomes defunct. The rationale behind it is that the affected party can know why the decision has gone

against him. One of the salutary requirements of natural justice is spelling out reasons for the order made. Therefore, I am inclined to interfere with

the impugned order in that respect alone, as it is silent with regard to the above aspects. As such, the impugned order cannot be sustained and is

set aside, remitting the matter back to the District Collector for fresh consideration, in that regard alone.

22. While doing so, this Court is conscious of the importance of the project, involving huge amount, for the benefit of the public at large and its time

boundedness. Therefore, I direct the District Magistrate, Coimbatore, to consider the above issues and pass orders, giving reasonings, within a

period of four weeks from today. It is open to the parties to these proceedings to agitate all other issues, if any, over which they are aggrieved, if

they so desire. The time factor indicated in this order has to be strictly adhered to, taking note of the causing of delay in the project.

23. Writ Petition is disposed of in the above terms. No costs. Consequently, the connected M.P. No. 1 of 2007 is closed.