

TAMIL NADU ELECTRICITY REGULATORY COMMISSION
(Constituted under section 82 (1) of the Electricity Act, 2003)
(Central Act 36 of 2003)

PRESENT:

Thiru M.Chandrasekar Chairman
Dr.T.Prabhakara Rao Member
and	
ThiruK.Venkatasamy Member (Legal)

M.P. No.3 of 2020

N.Alagu Narayanan
47/97, Oriental Building
3rd Floor
Armenian Street
Parrys
Chennai – 600 001.

... Petitioner
(Party-in-Person)

Versus

The Chief Engineer / Civil / Transmission
TANTRANSCO
144, Anna Salai
Chennai – 2.

.... Respondent
(Thiru V.Anil Kumar,
StandingCounsel for TANTRANSCO)

Dates of hearing : 28-01-2020 and 11-02-2020

Date of Order : 01-12-2020

The M.P.No.3 of 2020 came up for final hearing on 11-02-2020. The Commission upon perusal of the petition and connected records and after hearing the submissions of the petitioner hereby makes the following:-

ORDER

1. Prayer of the Petitioner in M.P. No.3 of 2020:-

The prayer of the petitioner in this petition is to quash with immediate effect the CE/Civil/Transmission/TANTRANSCO's Letter No. CE/C/TR/SE/CI/EE-I/F.T.SEPC/ LOA/D292/19, dated 05-03-2019 by which the work of supply, erection, testing and commissioning of 48.8 km 400 kV DC transmission line between M/s. SEPC Generating Station to Thenampatti 400 kV Substation (SS) through Ottapidaram 400 kV SS is awarded to M/s. SEPC Power Private Limited on reimbursement basis by TANTRANSCO and to impose the maximum penalty on TANTRANSCO under section 142 of the Electricity Act, 2003 for having violated section 10 and section 2 (16) of the Electricity Act and causing Rs.127 crores to the Government Company namely the TANTRANSCO.

2. Facts of the Case:-

This petition has been filed seeking quashing of CE/Civil/Transmission/TANTRANSCO's Letter No.CE/C/TR/SE/CI/EE-I/F.T.SEPC/LOA/D292/1, dated 05-03-2019 by which the work of supply, erection, testing and commissioning of 48.8 km 400 kV DC transmission line is awarded to M/s. SEPC Power Private Limited on reimbursement basis by TANTRANSCO and imposing of penalty on TANTRANSCO under section 142 of the Electricity Act, 2003.

3. Contentions of the Petitioner:-

3.1. TANTRANSCO has awarded the work of Supply, Erection, Testing and Commissioning of 48.8 km 400 kV DC transmission line to M/s. SEPC Power Private limited on reimbursement basis vide his Order No.CE/C/TR/SE/CI/EE-

I/F.T.SEPC/LOA/D292/19 dated 05-03-2019. The 400 kV line is meant for exporting the 525 MW power from the Generating Plant of M/s. SEPC Power Private Limited to Thenampatti 400kV Substation (SS) through Ottapidaram 400 kV SS. M/s. SEPC Power Private Limited is an Independent Power Producer and it has proposed to export its power from their 525 MW Generating Station to Thenampatti 400kV Substation (SS) through Ottapidaram 400 kV SS.

3.2. Section 2(16), the point to point transmission line required to connect the Generating station to the substation has been defined as "dedicated transmission line". Section 2(16) has been reproduced below.

(16) "dedicated transmission lines" means any electric supply-line for point to point transmission which are required for the purpose of connecting electric lines or electric plants of a captive generating plant referred to in section 9 or generating station referred to in section 10 to any transmission lines or sub-stations or generating stations, or the load centre, as the case may be;"

3.3. A "generating company" shall establish, operate and maintain the "dedicated transmission lines" as specified in section 10 of the Electricity Act, 2003 which is reproduced below:-

"Section 10. (Duties of generating companies):----(1) Subject to the provisions of this Act, the duties of a generating company shall be to establish, operate and maintain generating stations, tie-lines, sub-stations and dedicated transmission lines connected therewith

in accordance with the provisions of this Act or the rules or regulations made thereunder.”

3.4. M/s. SEPC Power Private Limited is the Generating Station and the transmission line between the generating Station and Thenampatti 400kV SS (through Ottapidaram 400 kV SS) constitutes the "dedicated transmission line". As specified in section 10 of the Act, it should be constructed by M/s. SEPC Power Private Limited and not by TANTRANSCO. But in its Order No. CE/C/TR/SE/CI/EE-I/F.T.SEPC/LOA/D292/19 dated 05-03-2019, the TANTRANSCO has awarded the construction of the dedicated transmission line work as if their work and also committed to reimburse the cost of the dedicated transmission to M/s. SEPC Power Private Limited instead of M/s. SEPC Power Private Limited bearing the cost of Rs.127.37 Crores to construct the dedicated transmission line, the TANTRANSCO is bearing the cost of the transmission line.

3.5. It is a gross violation of the Electricity Act by TANTRANSCO not only by owning and constructing the dedicated transmission line through M/s. SEPC between M/s. SEPC's Generating Station to Thenampatti 400kV Substation SS (through Ottapidaram 400 kV SS) but also reimbursing an amount of Rs.127.37 Crores to M/s. SEPC Power Private Limited as mentioned in the Respondent's order.

3.6. This capital investment of Rs.127 Crores will reflect in the ARR filing of TANTRANSCO and the TANGEDCO, who is the major client of the TANTRANSCO shall pay back the major constituent of the money as its Transmission Charges. And this transmission Charges will reflect in the TANGEDCO's ARR (Annual

Revenue Requirement) and in turn will result in the increase of tariff to the electricity consumers in Tamil Nadu.

3.7. The action of TANTRANSCO under its Order No.CE/C/TR/SE/CI/EE-I/F.T.SEPC/LOA/D292/19 dated 05-03-2019 not only violated the Act provisions but also caused a considerable loss of Rs.127 Crores to the Government Company, namely the TANTRANSCO. This in turn will increase the tariff to the general public/consumers.

3.8. TANTRANSCO clearly knows these important provisions of the Electricity Act, 2003 on dedicated transmission line and the action of TANTRANSCO provides abundant scope for illegal activities.

4. Findings of the Commission:-

4.1. This petition has been filed with a prayer to quash with immediate effect the CE/Civil/Transmission/TANTRANSCO's Letter No. CE/C/TR/SE/CI/EE-I/F.T.SEPC/LOA/D292/19, dated 05-03-2019 by which the work of supply, erection, testing and commissioning of 48.8 km 400 kV DC transmission line between M/s. SEPC Generating Station to Thenampatti 400 kV Substation (SS) through Ottapidaram 400 kV SS is awarded to M/s. SEPC Power Private Limited on reimbursement basis by TANTRANSCO and to impose the maximum penalty on TANTRANSCO under section 142 of the Electricity Act, 2003 for having violated section 10 and section 2 (16) of the Electricity Act and causing Rs.127 crores to the Government Company namely the TANTRANSCO.

4.2. We have heard the submissions of both sides. The Standing Counsel for TANTRANSCO objected for admitting this petition and urged to dismiss the petitions in the admission stage itself as the petitioner has no *locus standi* to file this petition.

4.3. Per contra the petitioner who appeared as a party-in-person drew our attention to the provisions of section 142 of the Electricity Act, 2003 (C.A. 36 of 2003) which provides as follows:-

“Section 142. (Punishment for non-compliance of directions by Appropriate Commission):

In case any complaint is filed before the Appropriate Commission by any person or if that Commission is satisfied that any person has contravened any of the provisions of this Act or the rules or regulations made thereunder, or any direction issued by the Commission, the Appropriate Commission may after giving such person an opportunity of being heard in the matter, by order in writing, direct that, without prejudice to any other penalty to which he may be liable under this Act, such person shall pay, by way of penalty, which shall not exceed one lakh rupees for each contravention and in case of a continuing failure with an additional penalty which may extend to six thousand rupees for every day during which the failure continues after contravention of the first such direction.”

The petitioner has heavily relied upon the following expression occurring in the said section 142 that

*“in case any complaint is filed before the appropriate Commission by **any** person or if the Commission is satisfied that any person has contravened.....”*

It is the contention of the petitioner that the term “any person” is wide enough to cover any member of the public even if he is not directly affected by any of the contravention of the provisions committed by the licensee. We see some force in the argument of the petitioner.

4.4 Further, the issue raised by the petitioner as to the contravention committed by the licensee requires to be examined in depth and cannot be decided without hearing the submissions of the Licensee.

4.5 We, therefore deem it appropriate to admit the petition. Accordingly, the petition is admitted and the respondent is directed to file its counter within 15 days.

(Sd.....)
(K.Venkatasamy)
Member (Legal)

(Sd.....)
(Dr.T.Prabhakara Rao)
Member

(Sd.....)
(M.Chandrasekar)
Chairman

/True Copy /

Secretary
Tamil Nadu Electricity
Regulatory Commission