

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.09.2015

Coram

THE HON'BLE Mr.JUSTICE N.KIRUBAKARAN

W.P.No.27127 of 2015

V. Krishnamoorthy

[PETITIONER]

Vs

- 1 The Chief Engineer- Distribution
Coimbatore Electricity
Distribution Circle
Coimbatore - 641 012
- 2 The Superintending Engineer
Coimbatore Electricity Distribution Circle (North)
Coimbatore - 641012
- 3 The Executive Engineer
Coimbatore Electricity Distribution Circle (North)
Seeranaickenpalayam Coimbatore.

[RESPONDENTS]

Prayer :-Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus, call for the records of the 3rd respondent vide his proceedings K NO. SE.PO/E&P/CE.NA.PA/THO.NU.VU-1/V.EN.321/2014 dt. nil.01.2014 and subsequent order of the 2nd respondent in No. A.EN.ME.PO/ KO.MI.Pa.Va/Va/U.Se.Po/Ma.Tho.Aa/ Ko.Agri/Aa.No. 406/15 dated 19.06.2015 cancelling the application of the petitioner for agriculture electricity connection and quash the same and direct the respondents to sanction service connection.

For petitioner .. Mr.Yogendher

For Respondents .. Mr.S.K.Raameshwar

O R D E R

The petitioner's father applied for Agricultural Electricity Connection before the third respondent on 15.07.1992 and the same was received by the said authority on 20.07.1992. Subsequently, the petitioner's father died on 22.04.1998. After getting legal heirship

certificate on 15.09.2000, the petitioner applied for name change by an Application.

2. On 20.5.2008, the third respondent issued a notice calling upon the petitioner to be ready with the Motor for electricity connection. Thereafter, the petitioner applied for extension till 21.07.2008. Through communication dated 22.07.2008, the third respondent asked the petitioner to produce the documents. Since the documents were with the Land Development Bank, the petitioner sought for extension of time for five years for producing the required documents through communication dated 28.08.2008. Subsequently, the petitioner after redeeming the property, got the title deeds and filed all the required documents with the second respondent on 10.12.2012. However, no acknowledgement was given by the second respondent for receipt of the documents from the petitioner. When the petitioner is awaiting for the electricity connection, the present impugned notice dated 11.01.2014, cancelling the petitioner's Application for electricity connection was issued. Aggrieved over the said order, the petitioner filed an Appeal before the Chief Engineer and the same was also rejected on 19.6.2015. Now, challenging both the orders, the petitioner has come before this Court.

3. Mr. S.K. Raameshwar, learned counsel appearing for the respondents would submit that though the third respondent issued notice to the petitioner on 20.05.2008, to enter his readiness on or before 21.07.2008. Since the petitioner has not responded to the same, the third respondent issued another notice on 22.07.2008, to submit the required documents. Further, the second respondent on 16.08.2009, issued notice to the petitioner calling upon him to file an application for taking extension of time and to report about his readiness. However, the petitioner has not filed any application for extension of time to enter his readiness. Hence, the third respondent issued a cancellation notice dated 11.01.2014, and the application filed by the petitioner was cancelled. On these grounds, the learned counsel submitted that though opportunities were given to petitioner to enter his readiness, he has not approached the respondents and hence, his Application was cancelled and prayed for dismissal of the Writ Petition.

4. Heard Mr. Yogendher, learned counsel appearing for the petitioner and Mr. S.K. Raameshwar, learned counsel appearing for the respondent Board.

5. It is true that the petitioner sought for extension of time for five years. But, even after completion of five years, the petitioner could not produce the required documents. Therefore, the petitioner's application has been cancelled. However, it is seen that the petitioner's father applied for the electricity connection as early as on 15.07.1992 and after his death, the petitioner is following up with the matter. It is seen from the records, that the

petitioner immediately replied to the notice issued by the third respondent to show his readiness, by stating that since the documents are with the Bank and after redeeming the property, the documents could be released and immediately thereafter he would produce the required documents. In this regard, the petitioner had also sought for five years time.

6.The extension sought for by the petitioner is clear from the reply given by the second respondent dated 16.08.2008. The petitioner redeemed the property in October, 2012. Eventhough, there is no acknowledgement, this Court believes the version of the petitioner, since the petitioner has been sincerely following up the matter in order to get agricultural electricity connection. When the petitioner received the notice from the third respondent to show his readiness through the communication dated 20.05.2008, immediately the petitioner sent a reply seeking extension of time. The effort of the petitioner to get extension of time is evident from the communication dated 16.8.2008.

7.If the documents are available with him, definitely the petitioner would have submitted the same to the authorities concerned for getting electricity connection. There is no purpose for the petitioner to keep the documents with him, especially when the said documents are required for getting electricity service connection. Moreover, the petitioner is a villager and he cannot as a matter of right ask for acknowledgment from the respondents for submission of the documents and even if it is insisted, generally, the respondents or any other Officers would not give any acknowledgment and therefore, this Court believes the version of the petitioner.

8.At this juncture it is represented by Mr.Raameshwar, learned counsel for the respondents that in Seeranaickenpalayam Division, no target is fixed during the year 2015 under normal priority and already more than five agricultural applicants have entered their readiness in the year 2014 and 2015.

9.Under such circumstances, if the documents submitted by the petitioner are not available with the third respondent, the third respondent is directed to issue notice to the petitioner, calling upon him to produce the required documents within a period of two weeks. If such notice is received from the third respondent, the petitioner is directed to produce the required documents, within a period of two weeks from the date of receipt of the notice and upon receipt of the documents, if the target is fixed for the year 2015, the respondents are directed to give preferential treatment to the petitioner i.e by giving first service connection to the petitioner and as per the original seniority viz. petitioner's Application dated 15.07.1992.

The Writ Petition is allowed on the above terms. No costs.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

rpa

To

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Coimbatore Electricity
Distribution Circle
Coimbatore - 641 012
- 2 The Superintending Engineer
Coimbatore Electricity Distribution Circle (North)
Coimbatore - 641012
- 3 The Executive Engineer
Coimbatore Electricity Distribution Circle (North)
Seeranaickenpalayam Coimbatore.

+4 cc to Mr.M.Yogendher, Advocate, sr.49535
+1 cc to Mr.S.K.Rameshwar, Advocate, sr.49399

W.P.No.27127 of 2015

gj co
kra 28/09/2015

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