

IN THE HIGH COURT OF JUDICATURE AT MADRAS

CAV ON 28/11/2014

DATED: 22/09/2015

CORAM

THE HONOURABLE MR.JUSTICE C.S.KARNAN

W.P.No.33954 of 2013

&

M.P.No.1 of 2013

1.J.Karthikeyan
2.J.Deepak Kumaran

...Petitioners

Vs.

1. Tamil Nadu Electricity Generation & Distribution Corporation Limited (TANGEDCO), Rep. by its Chief Engineer (Commercial), No.144, Anna Salai, Chennai-2.
2. The Superintending Engineer, Villupuram Electricity Distribution Circle, No.10, Old Power House Road, Villupuram - 605 602.
3. The Executive Engineer, TANGEDCO, Marakkanam Road, Tindivanam-604 001.
4. The Assistant Executive Engineer (Town), TANGEDCO, Marakkanam Road, Tindivanam-604 001.
5. The Assistant Executive Engineer (Town II), TANGEDCO, Marakkanam Road, Tindivanam-604 001.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for a Writ of Certiorari, to call for the records of impugned communication in Ka.No.Se.Po/E&Pa/Thivam/

Ko.Electricity Connection /A.No.324/13, dated 06.11.2013 passed by the third respondent and to quash the same.

For Petitioner : Mr.D.Ravichander

For Respondents : Mr.M.Varunkumar (TNEB)

O R D E R

The petitioners submit that they are the owners of Rice Mill and the they have obtained electricity connection with the respondents in connection S.C.Nos.457-009-547 and 457-009-804. The petitioners further submit that the service connection were obtained under Low Tension Commercial Tariff (LTCT) Category. The above service connection were provided by the respondents-authorities after physical inspection of the above mentioned premises and on complete satisfaction of compliance of all requirements and mandates under the Electricity Act, 2003 and other allied laws, more particularly Sub-Section 14 of Section 24 of Tamil Nadu Electricity Distribution Code, 2004, wherein it is mandated that more than one service connection shall be effected for more than one person or more than one establishment in occupation of door number subject to permanent physical segregation of areas for which the service connections are applied for. The petitioners further submit that the respondents after conducting the physical inspection of the petitioners' properties and only after ascertaining the complete permanent physical segregation of the premises, had consented and provided the above mentioned service connections in S.C.Nos.457-009-547 and 457-009-804 . Hence, the respondents are estopped from denying the fact that there is no physical segregation. The use of electricity from the above connections is completely in consonance with the relevant laws. The petitioners further submit that there has been no due from them to the respondents till date with respect to drawl of energy through the above mentioned connections.

2. The petitioners further submit that the Tamil Nadu Electricity Regulatory Commission (hereinafter referred as TNERC) vide its order dated 31.07.2010 made clear that in view of heavy competition of business in the neighbouring states had declined to increase the LT industrial tariff treating the same as additional burden. Further, under the very same order, TNERC had exempted the Rice Mills from Power cuts and also provided for the enhancement of connected load for LT industries from 112 KW and 200 KW. The Rice mill is functioning with the above service connections in S.C.No.457-009-547 and S.C.No.457-009-804 with sanctioned load of 101 KW and 110.41 KW respectively.

3. The petitioners further submit that the third respondent herein had issued the impugned communication dated 06.11.2013, wherein the third respondent had directed the petitioners to obtain single integrated High Tension Service connection instead of LTCT service connections in S.C.Nos.457-009-547 and 457-009-804 within a period of 90 days from the date of receipt of the above mentioned impugned communication. The above direction was issued under the above mentioned impugned communication on the premise that two LTCT service connections were obtained in absence of permanent physical and electrical segregation in the premises and the same being against the Rules of the first respondent, the above communication was issued insisting for conversion existing LTCT service connections in S.C.Nos.457-009-547 and 457-009-804 into Single Integrated High Tension Service. Th petitioners further submit that the above impugned communication was issued without serving any show cause notice enabling the petitioners to show cause about the alleged absence of permanent physical segregation in the premises. The respondents by issuing the impugned communication had denied the petitioners right of opportunity to show cause against the alleged absence of permanent physical segregation in the premises and thus the act of the respondents authorities stands in violation of principles of natural justice. Moreover, the bare reading of the impugned communication would make it clear that no physical inspection has been made to arrive at the conclusion that there has been no permanent physical segregation in the premises. In the absence of any physical inspection of the premises, the act of the authorities in concluding that there has been no permanent physical segregation in the premises is materially irregular, baseless, arbitrary and against law. Hence, the petitioners entreat the Court to allow the above writ petition.

4. The respondents have filed a counter affidavit and resisted the above writ petition. The respondents submit that the petitioners being agreement holders are bound by the terms and conditions of Electricity, the Electricity Act 2003, the Tamil Nadu Electricity Distribution Code 2004 and the Tamil Nadu Electricity Supply Code 2004 and as such, estopped from disputing the demand. The respondents further submit that the notice dated 06.11.2013 issued by the third respondent to the petitioners is in accordance with the Tami Nadu Electricity Regulatory Commission. The extract of Tamil Nadu Electricity Regulatory Commission Code Regulation 27 Sub Clause (14) which reads as follows:

"Where more than one person or more than one establishment is in occupation of a door number of sub door numbers, more than one service connection will be given only if there is permanent physical segregation of

area for which different service connections are applied for"

As there is no permanent physical segregation of area in the petitioners' premises, the notice was issued to them for merging the service connection. Hence, the notice issued by the third respondent to the petitioners is not in any way affecting their fundamental rights guaranteed under the Constitution of India. The respondents further submit that there is no physical permanent segregation was found in the petitioner's premises. The two services located inside the same premises. The respondents further submit that as per Regulation 27(14) of the Tamil Nadu Electricity Distribution Code 2004, two different service connections can be given only when there are more than one person or establishment in a single door number or sub door numbers. But, in this case, the same persons are the joint owners of the single door number and hence, not entitled to separate service connection. Hence, the respondents entreat the Court to dismiss the above writ petition.

5. The highly competent counsel Mr.D.Ravichander appearing for the petitioners submits that the petitioners are the owner of the Rice Mill and they have obtained electricity service connection. The petitioners are regularly remitting the electricity consumer charges. The petitioners had spent a sum of Rs.3 Crores for modernizing the rice mill. The petitioners had approached the respondents to increase the electricity consumption and the same was sanctioned to the petitioners after due verification. Due to heavy increase in the operational activities of the rice mill, another electricity connection was applied and the same was given. The highly competent counsel further submits that the TNERC had exempted the Rice Mills from Power cuts and also provided for the enhancement of connected load for IT industries from 112 KW and 200 KW. The Rice mill is functioning with the above service connections in S.C.No.457-009-547 and S.C.No.457-009-804 with sanctioned load of 101 KW and 110.41 KW respectively. The respondents, every month, is taking meter reading and they never pointed out any defect and need for any revision. Under the circumstances, the respondent had issued notice dated 06.11.2013 and called the petitioners by merging both service connections into one within 90 days in order to continue the supply of electricity. The petitioners have also sent a representation to the Chief Engineer of the Board. Hence, the highly competent counsel entreats the Court to quash the respondent's circular.

6. The highly competent counsel Mr.M.Varunkumar appearing for the respondents submits that the petitioner, being an agreement holder, is bound by the terms and conditions of the supply of electricity. The circulation notice was issued to the

petitioners in accordance with the Tamil Nadu Electricity Regulatory Commission as per Section 27 (14). If a person has more than one service connection, the same has to be made into one connection. The notice has been issued for merging the two connections. As such, the petitioner's personal rights and fundamental rights will not be affected. In the instant case, two service connections are located inside the same premises. Therefore, two separate connections are not permitted to be used.

7. On considering the facts and circumstances of the case and arguments advanced by the highly competent counsels on either side and on perusing the typed-set of papers, it is seen that the service connection Nos.457-009-547 and 457-009-804 are established in the same location. Now, the respondents want to merge two connections as one as per Regulation 27(14) of the Tamil Nadu Electricity Distribution Code 2004. As such, the respondent's communication dated 06.11.2013 is fit to be operated upon further and no prejudice will be caused to the petitioner. Hence, the above writ petition is dismissed. There is no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

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To

1. The Chief Engineer (Commercial),
Tamil Nadu Electricity Generation &
Distribution Corporation Limited (TANGEDCO),
No.144, Anna Salai,
Chennai-2.
2. The Superintending Engineer,
Villupuram Electricity Distribution Circle,
No.10, Old Power House Road,
Villupuram - 605 602.
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TANGEDCO,
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4. The Assistant Executive Engineer (Town),
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Marakkanam Road,
Tindivanam-604 001.

5. The Assistant Executive Engineer (Town II),
TANGEDCO,
Marakkanam Road,
Tindivanam-604 001.

1 CC to Mr.M.Varunkumar (TNEB), Advocate SR.No. 52059

W.P.No.33954 of 2013 &
M.P.No.1 of 2013

SVI (CO)
PSI (30.09.2015)



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