

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.04.2016

Coram

The Hon'ble Mr. Justice T.S. Sivagnanam

Writ Petition No.11385 of 2016

S.Ramanathan

...Petitioner

Vs.

1. The Chief Engineer,
Tamil Nadu Electricity Board,
EVN Road, Power House,
Erode - 9.
2. The Superintendent Engineer,
Tamil Nadu Electricity Board,
EVN Road, Power House,
Erode - 9.
3. The Executive Engineer (Distribution South)
Tamil Nadu Electricity Board,
949, EVN Road,
Erode - 9.
4. The Assistant Executive Engineer, (Distribution South)
Tamil Nadu Electricity Board,
Salaipudur Power House,
Kodumudi, Erode.
5. The Assistant Engineer
Tamil Nadu Electricity Board,
Operation and Maintenance
Erode Electricity Distribution Circle,
Thamaraipalayam - 638 154,
Erode District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for records pertaining to the proceedings of the fifth respondent in Ka.No.U.Mi.Po/Ea & Pe.Tha.Pa/Ko.V.V/A.No.330/1/2015, dated 31.12.2015, and to quash the same as illegal incompetent and consequently, to direct the fifth respondent to give electricity connection to the petitioner's bore well situate in very same S.F.No.348, Punjai Kolanalli Village, Erode District.

For Petitioner : Mr.M.Guruprasad
For Respondents : Mr.S.K.Raameshwar
Standing Counsel

O R D E R

Heard Mr.M.Guruprasad, learned counsel appearing for the petitioner and Mr.S.K.Raameshwar, learned Standing Counsel for respondents, and perused the materials placed on record, as well as the counter affidavit filed on behalf of respondents.

2. The petitioner has filed this Writ Petition, challenging the proceedings of the fifth respondent, dated 31.12.2015, in and by which, his application for grant of free agricultural electricity service connection came to be rejected on the ground that necessary documents have been produced by him.

3. The petitioner's father, late A.P.Samiappan, had applied for free agricultural electricity service connection for the Well, situate in S.F.No.348, Punjai Kolanalli Village, Erode District, by application No.178/89-90, dated 06.07.1989. The application was taken up on seniority basis, and by notice, dated 29.12.2009, the petitioner's father was intimated that he should be ready to accept service connection and procure necessary equipments. It is not in dispute that the petitioner's father did not take immediate action on the said notice, and, it is stated that on account of age related ailments, he could not pursue the matter further, and ultimately, he died on 12.03.2011. The petitioner, who is his son, approached the Authorities, and informed about the demise of his father, and requested for necessary corrections to be done in their records, so that, the application, which was registered in the name of the petitioner's father, could be changed over. This request appears to have been accepted, since all further correspondence has been addressed to the petitioner.

4. The reason for passing the impugned order of rejection is by stating that the petitioner has not been able to produce necessary documents, even after expiry of five years and ninety days. Though at the first instance, the period of five years and ninety days appear to be a very long period, at the first blush, it gives an impression that the petitioner was not diligent in prosecuting the matter, however, on a closure scrutiny of the fact, a different picture appears. The

petitioner's request for change over of the application to his name has been accepted, and the third respondent, by proceedings, dated 31.03.2015, informed the petitioner that the time limit for production of documents is to expire on 06.04.2015, and directed the petitioner to appear before the fifth respondent. Accordingly, the petitioner appeared before the fifth respondent, and submitted documents on 04.04.2015, as could be seen from the acknowledgment from the Office of the fifth respondent. It is, thereafter, the fifth respondent has sent another communication to the petitioner, dated 09.04.2015, seeking certain clarifications. According to the petitioner, he got frustrated, because, inspite of production of all required documents, piecemeal queries were raised by the fifth respondent. The representation, dated 19.10.2015, which was submitted by the petitioner to the first respondent, has ultimately worked prejudice to the petitioner, resulting in passing of the impugned order.

5. From the counter affidavit filed by the second respondent, which has been adopted other respondents, it is seen that the impugned order has been passed based on the direction issued by the Chief Engineer/First respondent, which appears to have been on the ground that for five years and ninety days, the petitioner has not produced necessary documents.

6. As observed by this Court in earlier part of this order, i.e., in para No.4, though the period is 5 years and 90 days, earlier notices cannot be given effect to, in the light of the fact that the third respondent, himself, has granted time till 06.04.2015 to the petitioner to comply with all requirements, and within the said period, the petitioner has promptly appeared before the fifth respondent, and produced necessary documents on 04.04.2015, and this cannot be disputed, since acting on the said representation, dated 04.04.2015, onceagain, the fifth respondent has sought for further queries.

7. In the light of the above, the cancellation of the petitioner's application for the grant of free agricultural electricity service connection, (which was actually, made by his father, in the year, 1989) on the ground stated in the impugned order is not tenable and deserves to be set aside.

8. Accordingly, the Writ Petition is allowed, the impugned order stands quashed, and the petitioner is directed to appear before the fifth respondent, and explain as to the manner how lines will be drawn, and if any clarification is required, the same shall be furnished by the petitioner, and if the fifth

respondent is fully satisfied, then, free agricultural electricity service connection shall be granted in favour of the petitioner without any further hassle. No costs.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

To

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Erode - 9.
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Erode Electricity Distribution Circle,
Thamaraipalayam - 638 154,
Erode District.

+1cc to Mr.S.K.Rameshwar, Advocate, S.R.No.27806
+1cc to Mr.M.Guruprasad, Advocate, S.R.No.27826

Writ Petition No.11385 of 2016

lrs (CO)
srg (12/05/2016)