

In the High Court of Judicature at Madras

Dated :: 15.04.2016

Coram ::

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

Writ Petition Nos: 13448 to 13450 of 2016

C. Rajendran
S/o. Chinnasami
Door No: 9, Bharathi Street
Arasanipalayam Village & Post
Vembakkam Taluk ... Petitioner in W.P. Nos.
Tiruvannamalai District. 13448 & 13449 of 2016

R. Karpagam
W/o. Ranganathan
Door No: 9, Bharathi Street
Arasanipalayam Village & Post
Vembakkam Taluk ... Petitioner in W.P. No.
Tiruvannamalai District. 13450 of 2016

-vs-

1. The Chairman
Tamil Nadu Electricity Board
No: 144 Anna Salai
Chennai - 600 002.

2. The Assistant Executive Engineer
O & M/TEDC/TANGEDCO
Vembakkam - 604 410 ... Respondents in all the
Tiruvannamalai District. three writ petitions

Writ Petitions under Article 226 of the Constitution of India praying for issuance of a writ of certiorari to call for the records relating to order dated 28.03.2016 made in Lr. No: AEE/O & M/Vembakkam/F.Theft/D. Nos: 412 to 414 / 2016 passed by the 2nd respondent and quash the same.

For petitioners :: Mr. R. Thiagarajan
For respondents :: Mr. M. Varunkumar
Standing Counsel for T.N.E.B.

O R D E R

In all these writ petitions, the petitioners have been caught when they were illegally obstructing electricity energy with a direct hook on LT supply fed from Vayalathur SS-IV Distribution Transformer at Pole No: 1492 and the energy used for 3HP motor pumping the water from river for agricultural purpose. It is not in dispute that both these petitioners had been granted agricultural electricity service connection. In respect of one of the petitioner viz. Rajendran supply was originally granted in favour of his father and after his father's demise, he has been enjoying the electricity supply without effecting any name transfer. This is third round of litigation and in the earlier writ petitions, this Court has remanded the matter for fresh consideration by issuing appropriate directions in W.P. Nos: 37043 to 37045 of 2015. Pursuant to such direction, an opportunity was granted to the petitioners and they have appeared in person.

2. From the impugned order it is clear that no material was produced by the petitioners to justify their conduct. The petitioners have been caught while illegally obstructing energy by means of using a direct hook on the LT supply line. Nothing more can be done in the instant cases and the impugned orders required to be confirmed as the incident speaks for itself. However, one aspect of the matter which requires consideration of the respondents is with regard to the calculation adopted for computing the amount payable by the petitioners towards theft of energy.

3. Admittedly, both the petitioners are merely farmers who have been granted agricultural service connection. Therefore, they ought not to have resorted to illegal obstruction of electricity supply by using a direct hook. The petitioners have done so presumably because they wanted to pump water to their field right from the river and the voltage granted to them would not have been in a position to withstand the power required to operate a motor for pumping water directly from the river. The petitioners are not given permission to draw water from the river. That also is illegal. Apart from that they have also obstructed electricity supply from the common source illegally. However, while computing the amount payable by the petitioners, the respondents have calculated as if the petitioners were operating the motor and using electricity supply for 365 days a year. This aspect is beyond anybody's perception. A person cannot draw water from the river for all the 365 days. The learned standing counsel appearing for the respondents submit that this is a standard format which is being adopted in all the cases involving theft of energy. There cannot be a single formula for all the cases involving theft of energy. The facts of each case has to be considered while applying the formula.

Petitioners could not have drawn water for 365 days viz. thought out the year and if that had been done, then the consequence would have been different and by now the petitioners would have been in jail. Therefore, only to that extent the matter requires to be reconsidered.

4. Accordingly, while dismissing the writ petitions upholding the impugned proceedings, the matter is remanded to the 2nd respondent only to consider the aspect as to whether the formula of 365 days could be adopted and taking into consideration the factual scenario. The 2nd respondent is directed to apply appropriate nominator instead of 365 and issue a revised calculation sheet so as to enable the petitioner to comply with the same. The above direction shall be complied with by the respondents within a period of three weeks from the date of receipt of a copy of this order. Connected miscellaneous petitions are closed. There shall be no orders as to the costs.

gp

-s/d-

Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

To

1. The Chairman
Tamil Nadu Electricity Board
No: 144 Anna Salai
Chennai - 600 002.
2. The Assistant Executive Engineer
O & M/TEDC/TANGEDCO
Vembakkam - 604 410
Tiruvannamalai District.

+ 1 cc to Mr.M.Varunkumar, Advocate, SR 23990

+ 3 ccs to Mr.R.Thiagarajan, Advocate, SR 23984 to 23986

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prk5/5

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