

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2016

CORAM

THE HONOURABLE Mr. JUSTICE N.KIRUBAKARAN

W.P.Nos.21051 and 21052 of 2016

and

W.M.P.Nos.18011, 18012, 20573 and 20574 of 2016

The Executive Engineer,
Operation and Maintenance,
Gobi Electricity Distribution Circle,
Bhavani Taluk - 638 302.

.. Petitioner
in both W.Ps.

Vs

1.The Consumer Grievance Redressal Forum,
Gobi Electricity Distribution Circle,
K.No.132-D, Kacheri St.,
Gobi - 638 452.

.. 1st respondent
in both W.Ps.

2.N.Chandrasekar

.. 2nd Respondent in
W.P.No.21051 of 2016

3.S.R.Venkatachalam

.. 2nd respondent in
W.p.No.21052 of 2016

Prayer in W.P.No.21051 of 2016: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records of the 1st respondent in its order dated 10.03.2016 in Complaint No.CGRF/02/2016 dated 08.01.2016 and to quash the same as being illegal and unsustainable in law.

Prayer in W.P.No.21052 of 2016: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records of the 1st respondent in its order dated 10.03.2016 in Complaint No.CGRF/01/2016 dated 08.01.2016 and to quash the same as being illegal and unsustainable in law.

For Petitioner
in all W.Ps. : Mr.S.K.Rameshwar

For Respondents
in all W.Ps. : Mr.A.R.L.Sundaresan
Senior Counsel
for Mrs.A.L.Ganthimathi

COMMON ORDER

The Electricity Board has come forward with these writ petitions against the order passed by the Consumer Grievance Redressal Forum (hereinafter called as “CGRF”). The respective second respondent in the writ petitions made a request for transfer of the respective electricity service connection in respect of the bore wells belonging to the respective second respondent from Bhavani A Village to Varadhanallur Village by application dated 28.04.2014 and 13.05.2014 respectively. The said applications were rejected by order dated 29.12.2015. Aggrieved over the rejection order, the respective second respondent moved Grievance Petitions before the first respondent and the said petitions were allowed. Against which, the present writ petitions are filed by the Electricity Board.

2. Heard Mr.S.K.Rameshwar, learned counsel appearing for the petitioner and Mr.A.R.L.Sundaresan, learned senior counsel appearing for the respective second respondent.

3. The facts of the case is that the second respondent, namely, Mr.N.Chandrasekar in W.P.No.21051 of 2016 obtained electricity service connection No.330-003-428/10HP in respect of his bore well comprised in S.No.,158/3 in Bhavani A Village. Similarly, Mr.S.R.Venkatachalam, second respondent in W.P.No.21052 of 2016 obtained electricity service connection No.330-005-526/10HP in respect of his bore well comprised in S.No.193/1 in Bhavani A Village. Since there is no water available in the bore wells owned by the respective second respondent, they made applications for transfer of the respective service connection to Varadhanallur Village, wherein a well owned by nine persons comprised in S.No.252/10 D-2 is located. The applications filed by the respective second respondent for transfer were rejected on the following grounds;

1. As per the order dated 29.12.2015, the applicant should have minimum of 0.5 acres of land to be irrigated, whereas in these cases the co-owners are having only 0.02 acres of land in SF.No.252/10D2 of Varadhanallur Village.
2. The transportation of water from the existing agricultural

services would be permitted only for agricultural activities for his own land, whereas in these cases, the water from agricultural services would be utilized for other lands.

3. For pumping the water from the Bhavani A Village to Varadhanallur Village, it requires more electricity additional loads.

4.Regarding the first ground for rejection is concerned, it is necessary to consider the instruction given in the letter dated 23.10.2010 issued by the Chief Engineer/Planning & Resource Centre. Point No.1 of the said letter reads as follows:

“1.More than one Agricultural service connection may be effected to the same owner in the same SF to his independent wells with the spacing norms issued by NABARD guidelines and to effect more than one agricultural service connection in the same well to the co-owners, with the condition that the applicant should have minimum of 0.5 acre of land to be irrigated. The copy of the spacing norms issued by CE/PWD/Chennai is enclosed.”

5.The said instruction only speaks about the owning of minimum 0.5 acres of land by the applicant to be irrigated and does not speak about other co-owners. In these cases, in respect of Mr.N.Chandrasekar (second respondent in W.P.No.21051 of 2016) is concerned, he is the co-owner of the

land comprised in S.No.252/10 in Varadhanallur Village and he is an absolute owner of lands to an extent of 2.66.50 hectares of land in Survey No.158/3 and 0.17.00 hectares of land in Survey No.156/3 in Bhavani A Village to be irrigated. Similarly, Mr.S.R.Venkatachalam (second respondent in W.P.No.21052 of 2016) is concerned, he is the co-owner of the land in Survey No.252/10 in Varadhanallur Village and he is an absolute owner of lands to an extent of 1.70.50 hectares of land in Survey No.187/1 and 0.47.00 hectares of land in Survey No.179/8 in Bhavani A Village to be irrigated. Therefore, the stipulation as stated in the communication dated 23.10.2010 which requires the minimum of 0.5 acres of land to be irrigated by the respective applicant stands complied with. Hence, the first ground for rejecting the petitioners applications is not sustainable.

6.As far as the second ground is concerned, the transportation of water from the existing agricultural services would be permitted only for agricultural activities. The reasoning that the respective second respondent is going to use for other lands is concerned, there is no proof and it is only a suspicion on the part of the petitioner. The respective second respondent have categorically stated that the bore wells in the Bhavani A Village got dried up and therefore, to make use of the water available in the well in Varadhanallur Village jointly owned by nine persons, the respective second respondent sought for transfer

of the electricity service connection from Bhavani A Village to Varadhanallur Village. It is a categorical assertion of the respective second respondent that they are seeking the transfer of electricity service connection only for agricultural purposes and not for any other purposes. In the absence of any contra materials, mere suspicion is not enough on the part of the petitioner to deny the transfer of electricity service connection. If it is found in future that the water is used for some other purpose other than agricultural activities, it is always open to the petitioner to take appropriate action.

7. With regard to the requirement of additional loads in case of shifting the electricity service connection from Bhavani A Village to Varadhanallur Village is concerned, it is also based on surmises and conjectures and only if the service connection is shifted, there is a possibility to assess whether the additional load is required or not? Without even shifting it, the petitioner cannot assume and presume that more than 10HP load will be required for pumping the water. Hence, that ground is also not available to the petitioner and therefore, the CGRF has rightly allowed the Grievance Petitions filed by the respective second respondent and there is no perversity or illegality in the order passed by the CGRF and in fact the order passed by the petitioner is against the instruction given by the respective authorities.

8. Therefore, the writ petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed. The petitioner is directed to shift the electricity service connection of the respective second respondent as per the order of CGRF as confirmed by this Court within a period of two weeks from the date of receipt of a copy of this order.

9. Call the matter on 22.08.2016 for reporting compliance.

02.08.2016

cse

Index: Yes/No

Internet: Yes/No

Note: Issue order copy on 03.08.2016

To

The Consumer Grievance Redressal Forum,
Gobi Electricity Distribution Circle,
K.No.132-D, Kacheri St.,
Gobi - 638 452.

N.KIRUBAKARAN, J.

cse

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