

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.15233 of 2016

K.Marappa Gounder

...Petitioner

Vs.

- 1.The State of Tamil Nadu,
rep. by Principal Secretary to the Government,
Public Works Department (Irrigation),
Fort St. George, Chennai-9.
- 2.The Chief Engineer,
Water Resources Organisation,
Public Works Department (Irrigation),
Pudukkottai Road,
Toll Gate, Tiruchirappalli.
- 3.The Chairman,
Cauvery Technical Cell,
No.406, Pantheon Road,
Egmore, Chennai-8.
- 4.The Superintending Engineer,
Mettur Electricity Distribution Circle,
Metturdam, Salem District.
- 5.The Divisional Engineer,
Tamil Nadu Electricity Board,
Bye Pass Road, Paramathi Velur,
Namakkal District.
- 6.The Executive Engineer
(Operation and Maintenance),
Paramathi Velur,
Namakkal District.
- 7.The District Collector,
Office of the District Collector,
Trichy Road, Namakkal District.

...Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the first respondent to consider the recommendations made by the respondents 2 and 3 in letter No.244/Arasu/Moo.Va.Aa.1/Tho-24/Pothu/2015 dated 16.10.2015 and in letter No.CTC/12/CAU/2/2003 dated 13.1.2016 respectively for making an amendment in the G.O.Ms.No.1588 Public Works Department dated 3.10.1988 so as to grant individual electricity service connection to the petitioner for taking water from Mohanur Canal for irrigation and issue a direction to the respondents 4 to 6 to keep the application for electricity service connection under the priority and consider the same under the priority quota and to grant electricity service connection.

For Petitioner : Mr.R.Saseetharan

For Respondents : Mrs.M.E.Rani Selvam,
Addl. Govt. Pleader,
for R.1 to R.3 and R.7
Mr.S.K.Rameshwar,
(TNEB), for R.4 to R.6

ORDER

By consent, the main writ petition itself is taken up for final disposal.

2. The petitioner has come up with the present writ petition for a mandamus, directing the first respondent to consider the recommendations made by the respondents 2 and 3 in letter No.244/Arasu/Moo.Va.Aa.1/Tho-24/Pothu/2015 dated 16.10.2015 and in letter No.CTC/12/CAU/2/2003 dated 13.1.2016 respectively for making an amendment in the G.O.Ms.No.1588 Public Works Department dated 3.10.1988 so as to grant individual electricity service connection to him for taking water from Mohanur Canal for irrigation and issue a direction to the respondents 4 to 6 to keep the application for electricity service connection under the priority and consider the same under the priority quota and to grant electricity service connection.

3. The case of the petitioner, in brief, is as follows:-

(a) The petitioner is a farmer, owning agricultural land in Manapalli Village, Namakkal District, in Survey Nos.26/3D, 36/6A and 34/1A Like other farmers, he has been irrigating his lands by lifting water from Mohanur canal which bifurcate from river Cauvery. The farmers of Namakkal District in several villages

are irrigating their lands by lifting water from Kumarapalayam, Mohanur and Raja Canal which bifurcate from river Cauvery. The farmers of Aravankattupudur, Manapalli Village of Namakkal District are irrigating their lands by lifting water from Mohanur Canal.

(b) Though the farmers of the said villages have been irrigating their lands from the year 1960 by lifting water from the said canals, which bifurcate from River Cauvery, the said irrigation is treated as irregular one. They are lifting water by using pump sets, being run either by oil engines or electricity power. All the farmers have not been provided with electricity power supply on the ground that their irrigation is said to be an irregular and unauthorized one.

(c) After protracted correspondence with the Government, the Government has passed an order in G.O.Ms.No.1588 dated 3.10.1988 and a specific direction is issued to regularise the irrigation of the farmers in the said villages, pursuant to which, the farmers in Aravankattupudur formed a cooperative society called Mohanur Lift Irrigation Society and the same has been registered under the Tamil Nadu Cooperative Societies Act.

(d) In view of the fact that the Government had accepted in principle by way of G.O.Ms.No.1588 dated 3.10.1988 for the process of regularisation and in view of the fact that as per the Government Order, the society had been formed and the amount initially estimated by the Engineer, P.W.D., had been deposited, the Government has to initiate the process of regularisation of irrigation of the farmers by submitting further estimate for remodelling and it cannot treat the irrigation as irregular. However, the respondents, for the reasons best known to them, are continuing to treat the irrigation by the farmers in the said villages as irregular and unauthorised merely on the ground that some of the conditions in the said order have not yet been complied with and formal orders of regularisation has not been issued in favour of the Lift Irrigation societies. The farmers and members of the Mohanur Lift Irrigation Society have not been provided with service connection and the members have been using engines to lift the water for irrigation.

(e) Since the order of regularisation of the irrigation has not been issued by the Government pursuant to G.O.Ms.No.1588 dated 3.10.1988, the Revenue Department has considered the irrigation of the farmers from Mohanur Canal as irregular and imposed penal levy on farmers. Challenging the same, a writ petition has been filed before this Court in W.P.No.1847 of 1997 and this Court, by order dated 26.10.2007, directed the

respondents 1 to 4 therein to remodel the Mohanur canal of river Cauvery in Salem and Namakkal District.

(f) While the matter is standing thus, number of farmers have formed Farmers Association and asked for electricity service connection in the individual name instead of the name of Lift Irrigation Societies, which are formed in the name of Canal as per G.O.Ms.No.1588 dated 3.10.1998. In such circumstances, the Chief Engineer, by his proceedings dated 12.3.1999, submitted a proposal to amend the provisions of G.O.Ms.No.1588 dated 3.10.1998 so as to grant electricity service connection in the name of the individual farmers as the lift irrigation societies gave no objection certificate for individual service connection. Subsequently, the Government by letter dated 19.11.2014, sought for certain details to amend the G.O.Ms.No.1588 dated 3.10.1998 and the Chief Engineer, Water Resources Organisation, Trichy, by his letter dated 16.10.2015, has answered all the questions raised by the Government. However, no service connection has been given in individual name. The second respondent by his letter dated 13.1.2016, has endorsed the view of the Chief Engineer in his letter dated 16.10.2015 and recommended for amendment in G.O.Ms.No.1588 dated 3.10.1998. Since the same was also not considered so far, the petitioner has come up with the present writ petition for the relief set out earlier.

4. I have heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader, who has taken notice on behalf of respondents 1 to 3 and 7 and the learned counsel, who has taken notice on behalf of the respondents 4 to 6.

5. Though the petitioner sought for a positive direction, this Court is not inclined to give any such direction. However, considering the facts and circumstances of the case, without going into the merits of the claim projected by the petitioner, this Court is inclined to pass the following order:-

(i) The petitioner is directed to give a detailed representation to the first respondent, along with a copy of this order, within a period of two weeks from the date of receipt of a copy of this order;

(ii) On receipt of the same, the first respondent is directed to consider the said representation and pass appropriate orders / take appropriate action, on merits and in accordance with law and also in the light of the recommendations of the respondents 2 and 3 in

letter No.244/Arasu/Moo.Va.Aa.1/Tho-24/Pothu/2015 dated 16.10.2015 and in letter No.CTC/12/CAU/2/2003 dated 13.1.2016 respectively for making an amendment in the G.O.Ms.No.1588 Public Works Department dated 3.10.1988, within a period of eight weeks thereafter.

The writ petition is disposed of accordingly. No costs.

sbi

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Principal Secretary to the Government,
State of Tamil Nadu,
Public Works Department (Irrigation),
Fort St. George, Chennai-9.
- 2.The Chief Engineer,
Water Resources Organisation,
Public Works Department (Irrigation),
Pudukkottai Road,
Toll Gate, Tiruchirappalli.
- 3.The Chairman,
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- 6.The Executive Engineer
(Operation and Maintenance),
Paramathi Velur,
Namakkal District.

7.The District Collector,
Office of the District Collector,
Trichy Road, Namakkal District.

+ 1 cc to Mr.R.Saseetharan, Advocate Sr 26460

+ 1 cc to the Government Pleader, S.R.No.25852

KR/10/6/16

W.P.No.15233 of 2016



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