

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2016

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P. No.25742 of 2012

M.KRISHNAN

[PETITIONER]

Vs

1 THE ASSISTANT EXECUTIVE
ENGINEER (ENFORCEMENT)
TAMIL NADU GENERATION DISTRIBUTION
CORPORATION LTD
SALEM.

2 THE ASSISTANT EXECUTIVE
ENGINEER TAMIL NADU GENERATION
DISTRIBUTION CORPORATION LTD
THAMMAMPATTY, GANGAVALLI TALUK
SALEM DISTRICT.

[RESPONDENTS]

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue Writ of Certiorari, to call for the entire records relating to the Final Assessment Orders of the 2nd respondent herein in his Letters No.A.E.E./ O&M/ TMT/ F.Camp/12 dated 21.3.2012 issued w.r.t. the Agriculture Service Connections of the petitioner herein in S.C.Nos.97, 98 and 151 in Selvanagar Distribution and Thammampatti Sub-Division and quash the same.

For Petitioner : Mr.V.R.Rajasekaran
For Respondents : Mr.S.K.Rameshuwar

O R D E R

Heard Mr.V.R.Rajasekaran, learned Counsel appearing for the petitioner and Mr.S.K.Rameshuwar, learned counsel, accepting notice for the respondents and with their consent the Writ Petition is taken up for final disposal.

2.The petitioner has filed this Writ Petition praying for quashing the orders passed by the second respondent dated 21.3.2012, which has been communicated to the petitioner on 29.3.2012.

3. Earlier the petitioner has approached this Court by filing a writ petition in W.P.No. 7249 of 2012, challenging the orders passed by the second respondent dated 06.03.2012 and 15.3.2012 and to direct the respondents to restore the power supply to the agricultural service connection of the petitioner in S.C.No.97, 98 & 151, in Selvanagar Distribution circle. The said Writ Petition was disposed of by this Court on 28.3.2012, on the ground that there is nothing to indicate as to how the amount mentioned in the impugned order has been arrived at, no working sheet was available and the petitioner was not afforded an opportunity to raise his objection. In the light of the said factual position, this Court issued the following directions:

"9. In view of the above stated position, I am of the considered view that the impugned proceedings of the 2nd respondent dated 6.3.2012 and 15.03.2012 are liable to be set aside and accordingly, they are set aside and the writ petition stands allowed. The petitioner shall test the proceedings dated 06.03.2012 and 15.03.2012 of the 2nd respondent as a show cause notice and shall offer an explanation for the same to the 2nd respondent within ten days from the date of receipt of a copy of this order and on receipt of such objection from the petitioner, he second respondent shall consider the same and pass final orders within one month thereafter. Since I have set aside the impugned proceedings of the second respondent dated 06.03.2012 and 15.03.2012, it is needless to say that the respondents shall forthwith restore the power supply to the petitioner. However, it is subject to the result of the action to be taken by the 2nd respondent after receiving the objection from the petitioner. Connected miscellaneous petitions are closed. There shall be no orders as to the costs."

4. As noticed above, the aforesaid writ petition was disposed of on 28.3.2012, and on 29.3.2012, the present impugned order has been served on the petitioner and the impugned order has been passed without reference to the directions issued in the earlier writ petition. However, the petitioner has complied with the directions given in the earlier writ petition and submitted their objections on 09.04.2012.

5. The receipt of the said objection has not been denied by the second respondent. Further, it is seen that as against the order passed in W.P.No.7249/2012 dated 28.3.2012, the respondent Board preferred a Writ Appeal in W.A.No.1734 of 2012 and the said Writ Appeal was dismissed, leaving it open to the parties to agitate their claims before this Court in this writ petition.

6. In the light of the fact that the earlier order passed in the writ petition was confirmed by the Hon'ble Division Bench and the fact remains that the petitioner was not afforded an opportunity prior to the passing of the impugned order, referred above, the respondents should consider the petitioner's objection dated 09.04.2012 and pass fresh orders in accordance with law, in the light of the directions issued in the earlier writ petition dated 28.03.2012.

7. Accordingly, the Writ Petition is allowed, the impugned order is quashed and the matter is remanded to the second respondent for fresh consideration, who shall consider the objections filed by the petitioner on 09.4.2012 and pass fresh orders on merit and in accordance with law, after considering all the objections submitted by the petitioner and affording an opportunity of personal hearing to the petitioner or his authorised representative. The above direction shall be complied with by the second respondent, within a period of eight weeks from the date of receipt of a copy of this order. Till final order is passed, the electricity connection shall not be disconnected. No costs. Consequently, connected Miscellaneous Petitions are closed.

rpa

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

1 THE ASSISTANT EXECUTIVE
ENGINEER (ENFORCEMENT)
TAMIL NADU GENERATION DISTRIBUTION
CORPORATION LTD
SALEM.

2 THE ASSISTANT EXECUTIVE
ENGINEER TAMIL NADU GENERATION
DISTRIBUTION CORPORATION LTD
THAMMAMPATTY, GANGAVALLI TALUK
SALEM DISTRICT.

+ 1 cc to Mr.S.K.Raameshuwar, Advocate SR 1868

+ 1 cc to Mr.V.R.Rajasekaran, Advocate SR 1473

svi(co)

prk22/1

W.P. No.25742 of 2012