



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 22.12.2016
CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

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W.P.(MD)No.15574 of 2013
M.P.(MD) No.1 of 2013

P.Theda Selvam

... Petitioner

Vs.

- 1.The Tamil Nadu Electricity Ombudsman,
No.19A, Rukmini Lakshmipathy Salai,
(TIDCO Complex), Egmore,
Chennai - 600 008.
- 2.The Superintending Engineer,
Theni Electricity Distribution Circle,
Tamil Nadu Electricity Board,
NRT Nagar Main Road,
Theni.

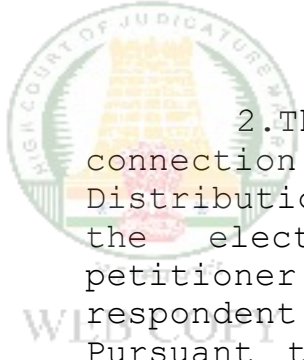
... Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the proceedings of the second respondent in A.No.1943/13 dated 17.08.2013 and to quash the same and consequently, direct the second respondent to treat the reconnection application of the petitioner dated 10.11.2009 as fresh application for the supply of agriculture electric service connection to the agricultural property comprised in S.No.301/2, Vellaiyammalpuram, Uthamapalayam Taluk, Theni District.

For Petitioner	:Mr.C.K.M.Appaji
For 1 st Respondent	:No appearance
For 2 nd Respondent	:Mr.S.M.S.Johnny Basha
	Standing Counsel

O R D E R

The prayer in the writ petition is for a writ of Certiorarified Mandamus, calling for the records pertaining to the proceedings of the second respondent in A.No.1943/13 dated 17.08.2013, and to quash the same and consequently, direct the second respondent to treat the re-connection application of the petitioner dated 10.11.2009, as fresh application for the supply of agriculture electric service connection to the agricultural property comprised in S.No.301/2, Vellaiyammalpuram, Uthamapalayam Taluk, Theni District.



2.The petitioner was having an agricultural electricity connection in S.C.No.1 at Vellaiammalpluram, Odaipatti Distribution Area. The same was disconnected for not having paid the electricity charges of Rs.1,875/-. Subsequently, the petitioner had made a request on 10.11.2009 to the second respondent to reconnect his disconnected service connection. Pursuant to the same, the second respondent passed an order on 13.11.2009, rejecting the request of the petitioner by stating the reason that the said service connection was disconnected on 03.12.2003 itself and for getting the service connection reconnected, the same should have been made within five years from the date of disconnection and since it was not made within five years, the request of the petitioner was rejected and he was directed to file appeal, if he is aggrieved by the said order to the appellate authority i.e., the first respondent.

3.Thereafter, the petitioner filed appeal to the first respondent and the same having been considered elaborately by the first respondent, it has passed an order on 28.01.2010, wherein after considering the rival submissions and the merits of the issue raised by the petitioner, the following conclusion was arrived, which is in the operative portion of the order of the first respondent and the same is reproduced hereunder:

"6. Conclusion:

The plea of the petitioner seems to be very genuine and I find it a fit case for consideration under clause 22(7) and treat him as a new applicant and supply effected after recovering all charges applicable to a new service connection and all other arrears. Subject to the petitioner coming forward to accept the above condition, he is entitled to the relief as stated above. A compliance report shall be submitted within two months. No costs."

4.Pursuant to the said order passed by the first respondent, on 14.02.2010, the petitioner made another request, wherein he has specifically stated that he would be ready and willing to pay the arrears as well as other charges to be collected by the second respondent for giving service connection to the petitioner as fresh connection. Even after the commitment to pay the arrears as well as charges to be incurred for giving connection to the petitioner, and of course after the order passed by the first respondent, the second respondent passed the impugned order dated 07.08.2013.

5.In the said impugned order, the second respondent has once again stated that since the petitioner had not paid the electricity charges, the service connection for agricultural purpose of the petitioner was disconnected on 03.12.2003 and after five years, since the request was made for re-connection the

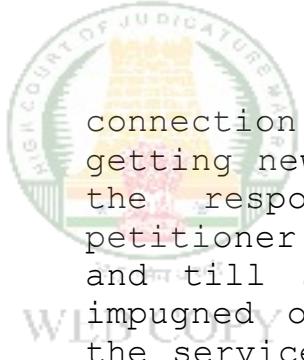


petitioner had to pay all the arrears for the said disconnected service connection and after having paid the same if new application is made, the same would be considered as per the Rules and Regulations of the respondent No.2. Challenging the said order, the petitioner has come out with the present writ petition.

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6.The learned counsel for the petitioner would submit that he is a small farmer, having agricultural land comprised in S.No.301/2, Odaipatti Village, Uthamapalayam Taluk, Theni District, for which he got agricultural electricity connection in S.C.No.1. Due to financial crisis, he could not pay the electricity charges during the relevant period and subsequently the Government of Tamilnadu has taken a decision not to collect electricity charges for agricultural electricity connection. In the meanwhile, on 03.12.2003, the service connection of the petitioner was disconnected. Subsequently, the petitioner made request for re-connection. The same was rejected. As against which, when appeal was filed, the first respondent being the appellate authority has given an order directing the respondent No.2 to treat the petitioner as a new applicant and accordingly effect service connection, of course after collecting necessary charges from the petitioner. This order was passed after having accepted the genuine plea raised by the petitioner. After obtaining order from the first respondent, when the petitioner made a request to the Chairman of the respondent Board with a willingness to pay the arrears and other charges applicable for giving re-connection/fresh connection, once again the second respondent has rejected the plea of the petitioner and passed the impugned order and the reasons adduced therein is nothing but superfluous of the order passed by the first respondent and therefore the same cannot be sustained in the eye of law. Therefore, the impugned order is liable to be set aside.

7.Per contra, the learned Standing Counsel appearing for the respondent would contend that no doubt the service connection stood in the name of the petitioner is an agricultural service connection. Since the petitioner had not paid the charges, the same was disconnected in the year 2003 itself. The disconnected service connection could be reconnected only within a period of five years, if five years period lapsed from the date of disconnection, the same could be considered only as a fresh connection. In this regard the order passed by the first respondent on 28.01.2010 would be to the effect that the petitioner's application shall be treated as an application for new service connection and once the petitioner has come forward accepting the said terms and conditions of a new service connection, then there is no further impediment to consider the said application on its seniority. Only in this regard the respondent's order as passed and therefore, the same cannot be found fault for the reason that at any cause the application of the petitioner shall be considered only as application for new



connection and since number of applications for the purpose of getting new connections for agricultural purposes are pending with the respondent Electricity Board, the application of the petitioner would be considered only on the basis of the seniority and till such time the petitioner has to wait. Therefore, the impugned order giving this reason for not immediately restoring the service connection of the petitioner is fully justifiable, the learned Standing Counsel contended.

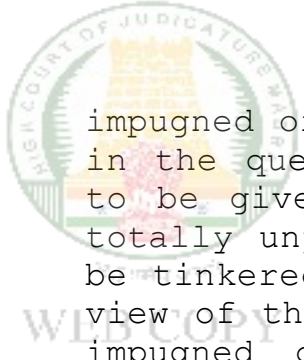
8.This Court considered the rival submissions of the respective learned counsel.

9.No doubt, the petitioner is an agriculturist, that too a small farmer. He was having agricultural service connection bearing S.C.No.1, at Vellalammalpuram, Odaipatti Distribution Area and he was given electricity service connection for agricultural purpose. It is common knowledge that there is no definite income for small farmers. Therefore, considering the plight of the farmers, especially small farmers, the Government of Tamilnadu subsequently come forward to dispense with payment of electricity charges by the agriculturists for their agricultural electricity service connection. Nevertheless, during the relevant point of time, since the petitioner had not paid Rs.1,875/- towards arrears of electricity charges, his service connection was disconnected in the year 2003. Subsequently, when the petitioner made a request for re-connection, the second respondent rejected the same on the ground that the request for re-connection of agricultural electricity connection could not be considered after five years. Subsequently, as against the said order, appeal was filed before the first respondent. The first respondent after having considered the plea of the petitioner has concluded in its order that the petitioner seems to be very genuine and it was a fit case for consideration and directed the second respondent to treat the petitioner as new applicant and to effect supply after recovering all charges applicable to a new service connection and all other arrears.

10.This order of the first respondent has been differently interpreted by the second respondent as if the petitioner has to be treated as a fresh applicant and he has to wait for turn in the seniority. He is not a fresh applicant for purpose of getting fresh connection to wait in the queue as his service connection was already disconnected. Therefore, as per TNERC Supply Code, Chapter 3 Clause 22(7), as rightly pointed out by the first respondent, the petitioner should be considered immediately for service connection, of course, as a new applicant. This new applicant status is only for the purpose of paying arrears as well as charges applicable for giving new service connection to the

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11.Without adopting the procedure as stated in the order of the first respondent, the second respondent has passed the



impugned order, whereby directed the petitioner to once again come in the queue as a fresh applicant. If this interpretation sought to be given by the orders of the second respondent, then it is totally unjust and arbitrary as the order of the first the cannot be tinkered with by the officials like second respondent. In that view of the matter, this Court is of the considered view that the impugned order is liable to be interfered with. Accordingly, interfered with and quashed.

12. Since the petitioner in his repeated requests dated 14.02.2010 and 20.04.2011, submitted to the respondent No.2, by giving an understanding that he would be ready and willing to pay whatever charges incurred by the second respondent for giving new agricultural electricity service connection to the petitioner, there is no further impediment to the second respondent to take up application of the petitioner as a new one for giving agricultural electricity service connection, of course after collecting necessary charges to be incurred.

13. In the result, the Writ Petition is allowed with the following directions:

(i) The impugned order of the second respondent dated 17.08.2013 is quashed.

(ii) The second respondent is directed to collect necessary charges for providing agricultural service connection to the petitioner, of course as a new connection, from the petitioner and on receipt of the same, the service connection for agricultural purpose shall be immediately given to the petitioner without any further delay.

(iii) The aforesaid direction shall be undertaken by the second respondent within a period of two months from the date of receipt of the entire costs to be incurred by the second respondent for giving new service connection to the petitioner.

(iv) In this connection, it is also made clear that once the application is taken up as directed by this Court, the second respondent shall issue a communication to the petitioner informing the charges to be paid by the petitioner and the petitioner shall pay the same within two weeks from the date of receipt of the communication from the second respondent.

No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

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Sub Assistant Registrar



To

1.The Tamil Nadu Electricity Ombudsman,
No.19A, Rukmini Lakshmipathy Salai,
(TIDCO Complex), Egmore,
Chennai - 600 008.

2.The Superintending Engineer,
Theni Electricity Distribution Circle,
Tamil Nadu Electricity Board,
NRT Nagar Main Road,
Theni.

+1 cc to MR.C.K.M.Appaji, ADVOCATE, SR NO:82799

sj

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