

**THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA
RAO**

WRIT PETITION No.20352 OF 2013

ORDER :

Heard Sri P.Subash, Counsel for the petitioner and Smt J.Koteshwari Devi, Standing Counsel for respondents 1 to 4.

2. Petitioner is the owner and possessor of agricultural land admeasuring Acs.9-75 cents in survey No.382 of Kothavuru Revenue Village, B.Kothakota Mandal, Chittoor District. In order to cultivate the said land for wet crops, he got dug a bore well by making application to the 5th respondent along with requisite fee. He also filed an application on 03.10.2011 for obtaining an agricultural service connection from the 4th respondent for providing electricity for using the said bore well.

3. The 4th respondent issued a letter dt.22.10.2011 informing the petitioner that application submitted by him for release of agricultural service connection (LT-V(A)(ii) Category) cannot be considered on account of the objections received from two persons by name R.Prasanna Kumar and R.Gayathri.

4. Petitioner objected to the same and got issued legal notice dt.24.10.2011 to the respondents 2 to 4. Thereafter, legal advice was sought by the respondents 2 to 4 from the

Legal Adviser-cum-Standing Counsel for APSPDCL, who advised the respondents 2 to 4 to ignore the objections made by the above individuals and provide the electricity service connection for agricultural use to the petitioner, since he had complied with all the necessary requirements. In spite of the same, respondents 2 to 4 continued to avoid providing service connection to the petitioner's bore well for agricultural purposes. Petitioner then requested respondents 3 and 4 to provide him a service connection for agricultural purpose since the plantation and processing of seeding of vegetable crop was likely to be damaged.

5. The respondents then unilaterally converted the petitioner's application for service connection in agricultural category LT-V(A)(ii) Category to one for LT CAT-II connection and installed a single phase motor to the petitioner's bore well for temporary use.

6. Petitioner then filed a complaint before the Forum for the Redressal of Consumer Grievances of APSPDCL, Tirupathi, on 29.03.2012. On 28.06.2012 in CG No.510/2011-12/Tirupathi, the said Forum directed to bill the services made available to the petitioner under LT-V (A)(ii) from the date of release of said connection and revise the bills already issued. It also directed respondents 2 to 4 to adjust the amounts to the future bills of the service connection by duly changing the service from LT Cat-II to LT Cat-V (A)(ii) within

15 days and also directed to report compliance.

7 Since this order was also not complied with, petitioner approached the Ombudsman of APSPDCL by filing an appeal under Section 42(6) of the Electricity Act, 2003. The Ombudsman also passed an order in Appeal No98 of 2012 on 17.01.2003 directing respondents 2 to 5 to accept the application of the petitioner for registration for agricultural purposes only after ensuring that the nursery activity is removed from the premises. The petitioner was advised by the Ombudsman to file a fresh application for agricultural purpose in the premises duly removing the nursery or otherwise directed the petitioner to continue the same service connection under LT Cat-II which can be billed under LT Cat-V(A)(ii) instead of LT Cat-II from the date of order, if he prefers.

8 Thereafter, petitioner on 08.02.2013 filed an application before the 3rd respondent to convert the existing LT Category II service as 10 HP three phase agricultural service connection in LT-V (A)(ii) Category.

9 Although the 3rd respondent replied to the same by letter dt.22.03.2013 stating that he had already converted the same into LT Cat-V (A)(ii) in July, 2012 itself, this is a false statement in as much as the bill issued to the petitioner for the month of May, 2014 on 09.06.2014 shows that petitioner is still

being billed in Cat-V Phase III and not Cat-V (A)(ii).

10. Petitioner was therefore constrained to approach this Court seeking a direction to respondents to release supply of electricity under agricultural category LT-V (A)(ii) to his bore well.

11. The respondents filed a counter-affidavit taking the plea that although the petitioner had initially applied for agricultural service connection to his bore well, he himself had applied subsequently for LT Cat-II and therefore his original request was deleted. It is admitted that the Standing Legal Advisor of the respondents on 27.01.2011 had advised the respondents to give agricultural service connection to the petitioner's bore well but the respondents contend that by the time that advice was received, petitioner himself had taken LT Cat-II service.

12. Thus, the entire blame for the delay in providing agricultural service connection under LT Cat-V (A)(ii) is been thrown on the petitioner by the respondents in spite of the fact that it was not denied that the petitioner had applied for agricultural service connection on 03.10.2011 itself, which was kept pending by the respondents in view of untenable objections of third parties forcing the petitioner to take LT Cat-II Service connection to save his agricultural operations. The respondents having admitted about the order passed by the Consumer Grievances Redressal Forum of SPDCL, Tirupathi

directing the respondents to provide LT Cat-V(A)(ii) connection to the petitioner and also the fact that the petitioner approached the Ombudsman and obtained order from Ombudsman too, the respondents are supporting the letter dt.22.01.2013 of the 3rd respondent stating that there was already a conversion of the LT Cat-II Service connection to LT Cat-V (A)(ii) in July, 2012 even though they are fully aware that there was no such conversion.

13. The vexatious conduct of the respondents is also apparent from the plea raised in para 18 of the counter that petitioner is making efforts to get agricultural service under free power category to his bore well, which is already having one LT Cat-V (A)(ii) service for already deleted LT application registered on 03.10.2011 in out of turn priority.

14. In the additional counter, the respondents also take the plea in para 11 that the petitioner applied for electricity connection to raise his nurseries and now he cannot be permitted to take a 'U' turn and seek its conversion for agricultural usage.

15. The respondents overlooked the fact that the petitioner had initially applied for only agricultural connection under free power category i.e., LT Cat-V(A)(ii) and because the respondents did not accede to the petitioner's request, because of complaints made by two neighbours, petitioner was forced to take an LT-II category supply and the

respondents are now trying to take advantage of their own wrong by taking a false plea that the petitioner had done a 'U' turn. Petitioner has categorically contended that he has not done any activity of raising nursery in his land and he requires power connection only for his bore well for agricultural purpose.

16. So, I am of the opinion that the action of the respondents in denying electricity service connection under LT Cat-V (A)(ii) to the petitioner, forcing him to take LT Cat-II connection and subsequently accusing the petitioner of seeking said connection for raising nurseries is a clear violation of mandate of Section 43 of the Electricity Act, 2003 which directs the respondents to provide to an applicant for such service, a connection within one month. The whole conduct of the respondents appears to be vexatious and intended only to harass the petitioner.

17. Therefore, the Writ Petition is allowed; the respondents are directed to release supply of electricity under LT Cat-V (A) (ii) to the petitioner's bore well forthwith. They shall also make revision of his service connection as one under this category from the date on which they have provided LT Cat-II service connection to him. They shall revise the bills already issued accordingly and refund the amount to the petitioner with interest @ 24% per annum. The respondents shall also personally pay costs of Rs.5,000/- to the petitioner within two

(02) weeks from the date of receipt of a copy of this order.

18. Consequently, Miscellaneous Petitions pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

21st January, 2016.
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