

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2017

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.30420 of 2008

N.Chinnasamy

.... Petitioner

Vs.

- 1.The Chairman
Tamil Nadu Electricity Board
Mount Road, Chennai-600 002.
- 2.The Superintendent Engineer
Tamil Nadu Electricity Board
Udumalpet, Coimbatore District.
- 3.The Assistant Executive Engineer
Tamil Nadu Electricity Board,
Mulanur.
- 4.The Junior Engineer
Tamil Nadu Electricity Board,
Kannivadi.

.... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling upon the records of the 4th respondent bearing Proceeding K.No.JE/EP/K.Vadi/K Kt/No.497/08 dated 26.03.2008 and K.No.JE/EP/K.Vadi/K Kt/No.045/08 dated 09.05.2008 pertaining to the rejection of the electricity connection to the petitioner under the Scheme and quash the same thereby directing the respondents to extend the electricity connection to the petitioner by erecting the electricity post at the adjacent land belonging to Mr.Nachimuthu, S/o.Kuppusamy by accepting the No Objection letter of Mr.Nachimuthu submitted by the petitioner.

For Petitioner : Mr.B.Eswaran

For Respondents : Mr.S.K.Rameshuwar

O R D E R

The petitioner seeks for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 4th respondent bearing Proceeding K.No.JE/EP/K.Vadi/KKt/No.497/08 dated 26.03.2008 and Proceedings K.No.JE/EP/K.Vadi/KKt/No.045/08 dated 09.05.2008, pertaining to the electricity connection to the petitioner and quash the same and direct the respondents to

extend the electricity connection to the petitioner by erecting the electricity post at the adjacent land belonging to one Mr.Nachimuthu, S/o.Kuppusamy, by accepting the "No Objection" letter of the said Nachimuthu submitted by the petitioner.

2. The petitioner had applied to the respondents for getting electricity service connection for his agricultural purpose. The said application of the petitioner having been received and registered, seems that since it is not on priority basis, it has been placed in the routine seniority row.

3. When the petitioner was awaiting for a communication from the respondents about the valuation of the land to be made for drawing Electricity line by erecting poles, the fourth respondent issued a communication dated 24.01.2008, stating that the adjacent land owner one Mr.Ayyasamy raised an objection for erecting post in his land for drawing the line to supply electricity to the petitioner's land.

4. Since the said adjacent land owner, namely Mr.Ayyasamy had objected for erecting post, the petitioner tried and got a No Objection Certificate from the other adjacent land owner Mr.Nachimuthu, S/o.Kuppusamy. According to the petitioner, the said "No Objection Certificate" dated 29.01.2008, given by the said Nachimuthu, S/o.Kuppusamy, was given to the respondents' office.

5. However, by the impugned communication dated 26.03.2008, the fourth respondent has informed the petitioner that both the said adjacent land owners of the petitioner i.e. Ayyasamy, S/o.Vemban Gounder and Nachimuthu, S/o.Kuppusamy Gounder, who have since objected the lines drawal by erecting poles in their respective lands for providing electricity service connection to the petitioner, the petitioner was asked to explore an alternative route and submit another application afresh by paying Rs.500/- once again.

6. On receipt of the said impugned communication dated 26.03.2008, the petitioner has once again, through his lawyer, made a request that since "No Objection Certificate" obtained from the said Nachimuthu had already been given to the respondents Department, as was requested, based on the said "No Objection Certificate", processing of drawing lines to the petitioner's land can be initiated by the Department. However, on receipt of the request through his Advocate from the petitioner, the fourth respondent, has once again issued a communication on 09.05.2008, stating that the petitioner has claimed to have obtained "No Objection Certificate" from the said Nachimuthu, S/o.Kuppusamy and produced the same to the

Department which amounts to a mis-information, as no such letter was submitted by the petitioner to the Department prior to the earlier communication of the Department dated 26.03.2008.

7. Aggrieved by both the communications dated 26.03.2008 as well as 09.05.2008 issued by the fourth respondent, the petitioner has filed the present writ petition, challenging both the communications, with the aforesaid prayer.

8. Heard Mr.B.Eswaran, learned counsel appearing for the petitioner, who submits that, even though initially Nachimuthu, S/o.Kuppusamy seems to have raised some objections, subsequently, at the request of the petitioner, he had agreed to give "no objection" for erecting the poles to draw lines to supply electricity to the petitioner's lands. In this regard, the "No Objection Certificate" given by the said Nachimuthu dated 29.01.2008 was produced before the respondent's office.

9. In this regard, the learned counsel appearing for the petitioner would submit that inspite of the "No Objection Certificate" having been produced before the respondents office, subsequent impugned communication dated 09.05.2008 was issued by the respondents. According to the learned counsel for the petitioner, without considering the said "No Objection Certificate" submitted by the petitioner, the respondents have issued the communications, which are impugned herein and therefore, he would submit that these communications are liable to be interfered with by this Court and suitable direction may be given to the respondents Department to consider the "No Objection Certificate" submitted by the petitioner obtained from his adjacent land owner and act accordingly.

10. Per contra, the learned standing counsel appearing for the respondents, on instructions from the respondents Department, has produced a communication dated 22.03.2017 given by the Assistant Engineer, OM/UEDC/TANGEDCO, Kannivadi. According to the said communication, the particulars of pending applicants, who are in the row of seniority to get service connection for agricultural purpose along with the petitioner's name, have been given. As per the said communication, out of 18 persons, the petitioner's name is found at "S.No.4". As per the said communication, those whose seniority has already been registered as on 29.06.2011, had been cleared and only from such seniority from 30.06.2011 alone are pending consideration.

11. For better appreciation, the relevant portion of the communication dated 22.03.2017 produced by the learned counsel appearing for the respondents is extracted hereunder:

Particulars required for pending ready parties Normal Scheme from 01.05.2011 to 28.02.2017 in AE/Kannivadi

S. No	Section	Name of Party	SF No.	Village	Appln Reg. No.	Date of Readiness	Sanction No.	Present Stage	Requirement of Materials					
									Police 9.1 4M	Police 8M	Police 7.5M	ACSR 7/2 .59	ACSR 7/3 .35	D T
1	Kannivadi	M.P.Selvaraj	265/B	SN Palayam	98 dt. 17.08.93	30.06.2011								
2	Kannivadi	T.Selvaraj	1004/2	AK Valasu	128 dt. 11.06.96	30.06.2011								
3	Kannivadi	S.Ramasamy	420/1	P.T. Halaiyur	260 dt. 25.01.95	30.06.2011								
4	Kannivadi	N.Chinnasamy	365/4	S.N. Palayam	479/90-91 dt. 31.12.90	30.06.2011								

12. According to the above table given along with the communication dated 22.03.2017, the date of readiness given to the petitioner, falls on 30.07.2011. Before the petitioner, only three persons are there and as per the seniority dated 30.06.2011, they are awaiting in the queue. In this regard, the learned counsel appearing for the respondents, on instructions, submitted that only after clearing the other three persons who are placed above the petitioner, the application of the petitioner would be taken up, and once the time of taking the petitioner's application, as per his seniority reaches, it would be communicated to him. At that time, the petitioner must be ready and willing to provide all necessary particulars including the controversial "No Objection Certificate" obtained from his adjacent land owner.

13. The learned counsel appearing for the respondents would also submit that the respondents Department have been strictly following the seniority as per the guidelines given by the Government from time to time and only based on the said guidelines, agricultural service connection applications which

are in the waiting list, are cleared. Therefore, no time frame can be fixed within which the petitioner can reach his seniority for getting readiness. The learned counsel appearing for the respondents however stated that, at any rate, soon, in a couple of months, the petitioner may reach his seniority and when he reaches the seniority, the above formalities set out, would be followed scrupulously by the respondents Department.

14. This Court has considered the submissions made by both the learned counsels and perused the materials placed before this Court.

15. The learned counsel appearing for the respondents submitted that the petitioner's seniority, as on 28.02.2017, in "Kannivadi Division", is in the fourth place, before whom, already three persons are waiting in the queue. When the petitioner reaches his seniority, as submitted by the learned counsel for the petitioner, necessary communication would be sent to him. Once the said communication is received, it is for the petitioner to submit all necessary documents, including "No Objection letter", from the adjacent land owner. If such formalities are complied with, this Court finds that there could be no further impediment would stand in the way to the respondents Department, to provide electricity service connection, for agricultural purpose, to the petitioner.

16. In view of the said factors, the following orders are passed in this writ petition:

(i) The impugned orders are quashed.

(ii) The respondents Department shall make a communication to the petitioner as and when the petitioner reaches his seniority as per the communication provided by the respondents Department dated 22.03.2017.

(iii) Once such a communication is received from the Respondent Department, the petitioner shall produce all necessary documents as required by the Department, including "No Objection Certificate" obtained from his adjacent land owner.

(iv) Once all these formalities are complied with by the petitioner, strictly in accordance with the terms and conditions of the respondents Department, it is open to the respondents Department to proceed further for providing agricultural service

connection to the petitioner, within a reasonable time.

With these directions, this writ petition is disposed of.
No costs.

Sd/-

Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

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To

- 1.The Chairman
Tamil Nadu Electricity Board
Mount Road, Chennai-600 002.
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Tamil Nadu Electricity Board,
Mulanur.
- 4.The Junior Engineer
Tamil Nadu Electricity Board,
Kannivadi.

+1cc to M/S.Swaraj Associates, Advocate Sr. 44491

+1cc to M/S. S.K.Raameshuwar, Advocate Sr. 45117

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VR(14/07/2017)