

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 13.12.2017

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THE HONOURABLE Mr. JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE Mr. JUSTICE P.VELMURUGAN

W.A.No.114 of 2016 &
C.M.P.Nos.1639 of 2016 & 21563 of 2017

1.The Executive Engineer Operation and Maintenance
Udumalai Distribution Circle,
Tamil Nadu Electricity Generation and Distribution
Corporation Ltd.,
Negamam - 642 120.
Coimbatore District.

2.The Assistant Engineer,
Operation and Maintenance,
Kattampatti,
Tamil Nadu Electricity Generation and
Distribution Corporation,
Coimbatore District.

3.The Chairman,
Tamil Nadu Electricity Board,
Anna Salai, Chennai - 600 002.

... Appellants/Respondents

Vs.

S.Sivasubramaniam

.. Respondent/Petitioner

Prayer : Writ Appeal filed under Clause 15 of Letters Patent to
set-aside the order dated 26.11.2015 made in W.P.No.32673 of
2015, on the file of this Court.

WP.No.32673/2015 : Petition filed under Article 226 of the
Constitution of India praying for the issuance of a Writ of
Certiorarified mandamus calling for the records relating to the
impugned cash demand made in Lr. No. EE/O
&M/Negamam/Tech.1/Self-Finance/Appln. No. 790 dated 22.09.2015
issued by the 1st respondent quash the same and consequently
direct the respondents to grant electricity service connection
to petitioner bore-well in S. No. 349/1C of Malapalayam Village,
Sulur Taluk, Coimbatore District within the time frame fixed by
this Court.

For Appellants : Mr.C.Manishankar
Additional Advocate General
For Mr.S.K.Rameshwar

For Respondent : Mr.N.Manokaran

J U D G M E N T

[Judgment of the Court was made by P.VELMURUGAN, J.]

The appellants for the purpose of giving a service connection to the farmer demanded the cost of a new transformer. The demand was quashed by the Writ Court. The order in W.P.No.32673 of 2015 is under challenge in this appeal.

2. It would be appropriate to notice that the aforementioned Writ Petition has been preferred by the respondent for issuance of Writ of Certiorarified mandamus calling for the records relating to the impugned cash demand made in Lr.No.EE/O&M/Negamam/Tech.1/Self-finance/Appln.No.790 dated 22/9/2015 issued by the first appellant and quash the same and consequently direct the appellants to grant electricity service connection to his borewell in S.No.349/1C of Malapalayam Village, Sulur Taluk, Coimbatore District within the time frame fixed by this Court.

3. Facts culled out in brief for the disposal of the writ appeal are as follows:-

The respondent applied for an agricultural service connection under the self-finance scheme. His application was registered as per Regn.No.13/05-06 on 28/4/2005 for the bore well in the land situated in S.F.No.349/1C, Malapalayam Village under RSFS 25,000/- scheme with payment of Rs.500/-. The respondent given an undertaking to pay the estimated cost under RSFS Rs.25,000/- scheme and on the basis of seniority, his application was considered along with similar other applications during the financial year 2015-2016. The estimate was prepared and a notice was issued to the respondent, vide letter dated 22/9/2015 to pay the estimate charges of Rs.4,38,320/-. The respondent has filed the Writ Petition challenging the notice.

4. After hearing the arguments on either side, the learned Single Judge has allowed the Writ Petition.

5. Aggrieved against the order of the learned Single Judge, the appellants have filed the present Writ Appeal.

6. The learned Additional Advocate General appearing for the appellants would submit that the learned Single Judge erred in law by taking a very narrow meaning and scope to the term

'estimated cost' with respect to RSFS Scheme. The learned Single Judge ought to have seen that the existing transformer capacity of electricity load is 100 KVA in which only upto 100 HP can be loaded and in which service connection has already been given to the consumers. If one more connection is to be given, transformer will fail and power supply to consumers will be affected frequently. It is further submitted that already service connection were given to the consumers for 97.5 HP load and hence the appellants could not make service connection through the above existing transformer to the petitioner for a load of 7.5 HP. Further, when the respondent attained eligibility under his category, an estimate was drawn, which included the cost of a new transformer since the service connection requested by the respondent i.e., 7.5 HP is beyond the load of the existing transformer, erection of a new transformer is the only alternative. Therefore, the estimate was in order. Hence, the learned Additional Advocate General prays for allowing the Writ Appeal.

7. The learned counsel appearing for the respondent would submit that the respondent was ready to pay Rs.25,000/- under the self-financing scheme. But the appellants have conveniently prolonged the issue for the past 10 years and after a decade, all of a sudden, the second appellant has directed the respondent to deposit Rs.4,38,320/- being the estimated cost for the installation of a new transformer as if, he was the cause for the delay in giving service connection. Admittedly, the appellants have given many service connections from the existing transformer, and the appellants have also completed the process to install a new transformer in the same locality. Hence, there is no legal impediment for the appellants to draw the lines from the existing transformers for giving agricultural service connection to the bore well of the respondent erected in S.No.349/1C. He would further submit that the interpretation of the term "estimated cost" is restricted to the costs which could be incurred for the drawal of the lines to the well or bore well from the common facility such as a pole or transformer, and it cannot include the entire costs of the transformer which has been erected for the convenience of all. Hence, the learned counsel prays for dismissal of the Writ Appeal.

8. It is not in dispute that the respondent applied for an agricultural service connection under the self-finance scheme and his application was registered vide Regn.No.13/05-06 on 28.04.2005 for the bore well in the land situated in S.F.No.349/1C, Malapalayam Village under RSFS 25,000/- Scheme. Accordingly, estimate was prepared and a notice was issued to the respondent vide letter dated 22.09.2015 to pay the estimate charges of Rs.4,38,320/-, as per the Rules prevailing in TANGEDCO.

9. The main contention of the learned Additional Advocate General appearing for the appellants is that the existing transformer capacity of electricity load is 100 KVA in which only upto 100 HP can be loaded and service connections have been given to the consumers and if one more connection is given, transformer will fail and power supply to the consumers would be affected frequently. It is the further contention that already service connections were given to the consumers for 97.5 HP load and hence the appellants could not make service connection through the said transformer to the respondent for a load of 7.5 HP.

10. In this connection, it is useful to refer the rejoinder filed by the third appellant mentioning the service connection given by the appellants to other consumers:-

S.C.No.	Date of application	Service effected on	Category	Load
234	14.03.1988	05.12.1988	Normal-agricultural	5 HP
275	25.04.1988	20.08.1992	Normal-agricultural	7.5 HP
287	03.08.1993	21.08.1993	Domestic	600 Watts
669	21.02.2011	07.06.2012	TAHDCO Special Scheme	7.5 HP
743	08.05.2015	15.07.2015	Industrial Service 3A1	7.5 HP

11. Admittedly, the respondent made an application on 28.04.2005 for agricultural service connection under self-financing scheme. From the above tabular column, it is crystal clear that in the year 2011, there was 15 HP load available in the transformer. When the respondent made an application on 28.04.2005, there was 15 HP load very much available in the existing transformer. Without considering the application of the respondent, the appellant has given 7.5 HP load under TAHDCO Special Scheme to another consumer on 21.12.2011 under S.C.No.669. Again on 08.05.2015 under S.C.No.743 connection with 7.5 HP load was given to a consumer under Industrial Service 3A1. The above tabular column itself shows that the appellants passed the impugned demand notice in an arbitrary manner. Without considering the application of a small farmer, having a

small extent of 2.05 acres, the appellants made a demand for a sum of Rs.4,38,320/- for erection of a new transformer, which would be more than the land value of the respondent.

12. The next contention of the learned Additional Advocate General is that the respondent has to pay the estimated cost for getting service connection under self-financing scheme. The term 'estimated cost' was clarified by Office Memorandum dated 01.07.1998, whereby 'estimated costs' was clarified as,

"For any category of service, the estimated cost includes all the works involved, viz., extension, strengthening of conductor, enhancement of transformer capacity, etc., to keep the voltage regulation within the norm and to effect supply. For all categories other than agriculture, Board has to incur the expenditure pertaining to the improvements required to keep the voltage regulation at the required level. Similarly Board has decided to incur expenditure to keep the voltage regulation within limits, in case of agricultural services also, before the extension of agricultural service. Then, to effect the agricultural service, board has to prepare the estimate, as per the procedure."

13. On a perusal of the above Official Memorandum, it is clear that there was no mentioning about the erection of transformer, and in fact it only says that "extension, strengthening of conductor, enhancement of transformer capacity, etc., to keep the voltage regulation within the norm and to effect supply". But, in the impugned order it includes erection of transformer cost also, which is unsustainable.

14. Though the clarification for the term 'estimated costs' in the Official Memorandum dated 01.07.1998, word used 'etc.,' it does not mean the entire cost of erection of a new transformer for giving service connection to a single consumer.

15. The learned Single Judge after considering the entire facts and circumstances, rightly allowed the Writ Petition.

16. Accordingly, the Writ Appeal fails and the same is dismissed. There is no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

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Sub Assistant Registrar

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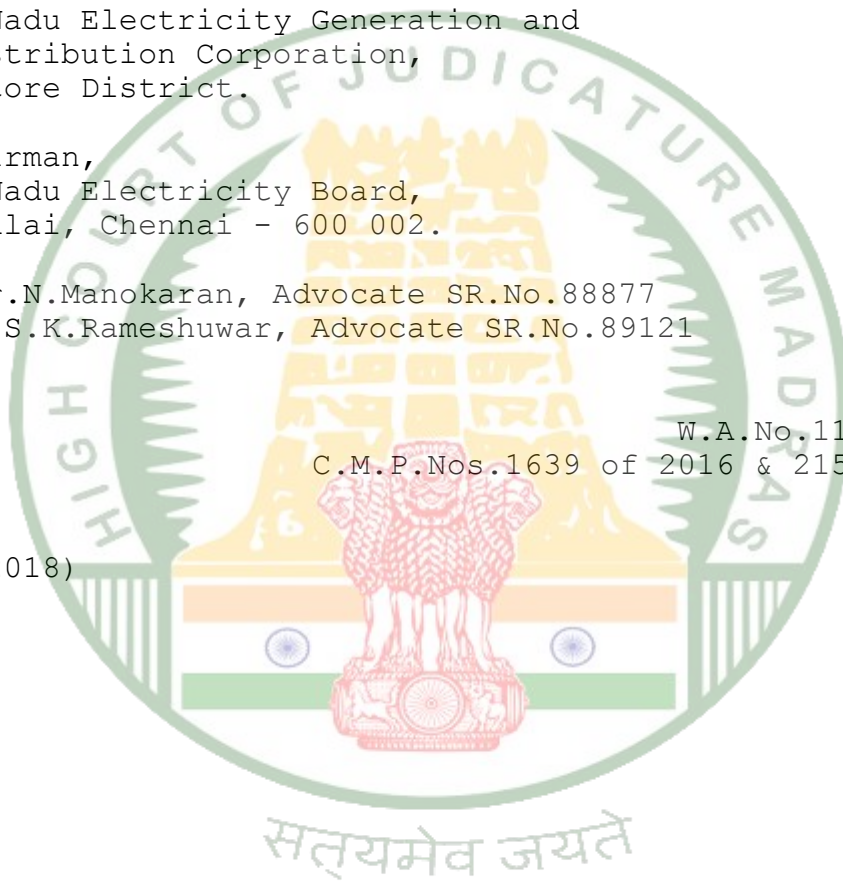
3.The Chairman,
Tamil Nadu Electricity Board,
Anna Salai, Chennai - 600 002.

+lcc to Mr.N.Manokaran, Advocate SR.No.88877

+lc to Mr.S.K.Rameshuwar, Advocate SR.No.89121

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AD(CO)
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