

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2017

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.35664 of 2016

Rajendran Chingaravelu
rep.by Power Agent Mr.Subramanian

.. Petitioner

Vs

1.The Secretary,
Tamil Nadu Electricity Regulatory Commission,
No.19A, Rukmini Lakshmipathy Salai,
Egmore, Chennai - 8.

2.The Chairman and Managing Director,
TANGEDCO, NPKRR Maligai,
144, Annasalai, Chennai-2.

3.The Assistant Engineer,
TANGEDCO/CEDC/SOUTH,
Madipakkam Section,
Chennai - 91.

.. Respondents

(R3 is impleaded as per order dt.6.1.17
in WMP.No.216/17 in W.P.No.35664/16.

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus to direct the first respondent to pass orders on the Interim Application dated 12.09.2016 filed in Complaint No.107/2016 by granting new electricity service connection to the petitioner's premises situated at Plot No.4074, Metropolis, 3rd cross street, Srinivasan Main Road, Ram Nagar North Ext., Madipakkam, Chennai, as directed by the order of the Tamil Nadu Electricity Ombudsman's dated 06.07.2016 in Appeal No.99/15 within a time frame to be fixed by this Court.

For petitioner : Mr.P.V.S.Giridhar
for M/s.Giridhar and Sai

For R2 & R3 : Mr.S.K.Raameshuwar

O R D E R

By way of filing this writ petition, the petitioner seeks a direction to the first respondent / the Secretary, Tamil Nadu Electricity Regulatory Commission, Chennai, to pass orders on the pending Interim Application dated 12.09.2016 filed by him in Complaint No.107/2016 so as to grant new electricity service connection to his premises situated at Plot No.4074, Metropolis, 3rd Cross Street, Srinivasan Main Road, Ram Nagar North Extension, Madipakkam, Chennai, as directed by the order of the Tamil Nadu Electricity Ombudsman dated 06.07.2016 in Appeal No.99 of 2015.

2. Heard the learned counsel appearing on either side.

3. The petitioner is the owner of the above said premises. He filed an application for availing electricity supply for the building constructed comprising stilt + three floors in the above said place, however, the said application was not processed. Therefore, he preferred a petition dated 02.09.2015 under Regulation 27(16) of the Distribution Code, 2004. Even this application was not processed, therefore, he filed an appeal in A.P.No.99 of 2015 to the Tamil Nadu Electricity Ombudsman under Regulation 7 of the Regulations for Consumer Grievances Redressal Forum and Electricity Ombudsman, 2004. Thereafter, the Ombudsman, upon hearing the parties, passed an order dated 06.07.2016 directing the TANGEDCO to grant electricity service connection to the petitioner's premises. Subsequently, though he made a representation dated 12.07.2016 seeking compliance of the above said order, the TANGEDCO gave a reply stating that the file is pending approval of the CMDA. Thereafter, in spite of his several reminders, he did not receive any reply from the respondents. Thus, the present writ petition with a prayer cited supra.

4. It is further submitted that since the petitioner has constructed the premises comprising stilt floor + three floors in the above said place, there is no need for him to obtain completion certificate from the CMDA to get electricity connection in the above said building. It is further stated that when an appeal was preferred in A.P.No.99 of 2015, the Ombudsman, after hearing the parties, vide order dated 06.07.2016 directed the TANGEDCO to grant electricity service connection to the petitioner's premises, by holding that the premise in question is not to be categorized as a Special Building by taking note of the submission of the respondent that the petitioner has constructed only stilt floor + 3 floors.

5. In support of his contentions, he has also relied upon a decision of this Court in Tamil Nadu Electricity Board and others v. Jayanthi Sundhar and others [AIR 2015 Mad 197],

wherein the Hon'ble Division Bench of this Court has confirmed the order passed by the learned Single Judge in W.P.No.17612 of 2014, dated 19.11.2014 directing the authorities to effect the electricity service connection to the writ petitioner's building therein constructed comprising stilt floor + four floors, that too without insisting upon completion certificate from the CMDA. Thus, it is submitted, in the case on hand, the petitioner has constructed only stilt + 3 floors, that too after getting prior approval from the authorities, therefore, the respondents cannot deny to provide electricity connection to the petitioner's premises.

6. By filing a counter affidavit, learned counsel for the respondents 2 and 3 submitted that though the Ombudsman directed the TANGEDCO to provide electricity connection to the petitioner's premises, the same cannot be complied with in view of Memo dated 23.02.2015 issued by the Superintending Engineer drawing the attention of the Executive Engineers instructing them not to provide electricity connection if the planning permission and completion certificate are not obtained from the authorities to the special building and that the definitions of special building are that (i) a residential or commercial building with more than two floors; or (ii) a residential building with more than six dwelling units or; (iii) a commercial building exceeding a floor area of 300 square meters. Thus, he pleaded, in the case on hand, since the petitioner has constructed a stilt floor + 3 floors, they are unable to provide electricity service connection to the petitioner as it comes under the category of special building.

7. In support of his submissions, he has also relied upon a decision of this Court in S.Prakash Chand Jain v. State of Tamil Nadu and others [(2014) 2 MLJ 551] (W.P.Nos.11194 of 2010 etc., dated 23.01.2014), wherein the Hon'ble Division Bench of this Court held that the Chennai Metro Water Supply and Sewerage Board and Tamil Nadu Electricity Board have no authority to issue electricity, water and sewerage connection without obtaining the completion certificate from CMDA. Therefore, he pleaded, since the petitioner did not obtain completion certificate from the authorities, they are unable to provide electricity service connection to the premises belonging to the petitioner.

8. This Court is unable to find any merit on the above said submissions, for, the very same Division Bench in its subsequent decision in the case of Jayanthi Sundhar (cited supra) (W.A.No.33 of 2015, dated 01.07.2015) directed the authorities to provide electricity connection to a building having stilt floor + four floors. Relevant portions of the said judgment are extracted below:

"2. The appellants / Electricity corporation has come up with this appeal on the ground that once electricity connection is given to the building in question, the writ petitioner / first respondent herein may continue with unauthorised construction and as such, the impugned order, directing the appellants to grant connection without completion certificate be set aside.

3. On the other hand, the learned counsel appearing for the first respondent/writ petitioner would submit that the petitioner has constructed the premises comprising stilt floor + four floors at Door No.5, Old Door No.42, North Usman Road, T.Nagar, Chennai-17 in T.S.No.8678 and 8679, Block No.118 of T.Nagar village, after proper planning permission No.B/Spl.Bldg/317/2012 in letter No.BC1/5189/2012 dated 7.8.2012. However, the same could not be occupied on account of pendency of applications before the authority for completion certificate. It is further contended that the second respondent / CMDA has already been granted liberty to take necessary action for removal of deviation, if any. In that view of the matter, there would not be any prejudice to the appellants / Electricity Board by granting electricity connection, which is the basic amenity, which every one is entitled to.

4. We have examined the appeal from all angles. Indisputably, the writ petitioner was granted permission for construction of stilt floor + four floors of building, as aforesaid and as such, it cannot be held that the construction is fully unauthorised without prior approval. However, if there is some deviation in the construction, the same has to be removed or rectified by the first respondent / writ petitioner, for which the second respondent CMDA is fully authorised to take all necessary steps to secure the premises as per the approved plan, as observed by the learned Single Judge. Thus, the question of completion certificate may not be relevant, at this stage. However, the same may be

submitted after some time as and when it is available.

5. For the reasons mentioned herein-above, we are not inclined to interfere with the order sought to be impugned herein. Accordingly, the writ appeal stands dismissed. No costs. Consequently connected miscellaneous petition is closed."

In the above said case, the respondents therein were directed to provide electricity connection to the writ petitioner therein, who had constructed the building with stilt floor + four floors. Likewise, in the case on hand also, the petitioner herein has constructed only stilt + three floors after obtaining planning permission as well as building permission from the authorities concerned. Such factum was also admitted by the respondents in their counter affidavit filed before this Court. Thus, denial of the respondents in spite of the orders passed by the Ombudsman to provide electricity connection to the petitioner's premises is misconceived.

9. Therefore, though the petitioner sought for a direction to the first respondent to pass orders on his pending Interim Application dated 12.09.2016, in the light of the aforesaid discussions, this Court is inclined to direct the third respondent to provide electricity connection to the petitioner's premises. Accordingly, giving such direction, the third respondent is further directed to complete the same within a period of four weeks from the date of receipt of a copy of this order. The petitioner is permitted to withdraw his pending Interim Application dated 12.09.2016 before the first respondent forthwith.

10. In fine, the writ petition is disposed of to the extent mentioned above. No Costs.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

To

1.The Secretary,
Tamil Nadu Electricity Regulatory Commission,
No.19A, Rukmini Lakshmipathy Salai,
Egmore, Chennai - 8.

2.The Chairman and Managing Director,
TANGEDCO, NPKRR Maligai,
144, Annasalai, Chennai-2.

3.The Assistant Engineer,
TANGEDCO/CEDC/SOUTH,
Madipakkam Section,
Chennai - 91.

+1 cc to Mr.Giridhar Sai, advocate,sr.2759

+2 cc to M/s.S.K.Rameshwar,advocate,sr.2413.

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W.P.No.35664 of 2016



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