

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2017

CORAM

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

W.P.No.19704 of 2003

South Arcot Diocesan Corporation,
Rep by its Secretary,
Father A.J.Philomindoss,
Cuddalore 607 001.

...Petitioner

Vs.

1. Tamil Nadu Electricity Board,
Rep. by its Chairman,
Anna Salai, Chennai.

2. The Junior Engineer,
Operation and Maintenance,
T.N.E.B., Kolianur,
Villupuram 605 103.

...Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the communication dated 02.07.2003 in E.M.Po/EPN/Koli/Ko V Ma/No.97/2003 passed by the second respondent and quash the same and consequently direct the respondents to charge the petitioner as agricultural consumer in respect of service connection bearing number 141, Kolianur, Kolinaur Distribution, Villupuram District.

For Petitioner : Mr.R.Venkatesalu

For Respondents: Mr.M.Varun Kumar
Sanding Counsel.

WEB COPY
O R D E R

The prayer sought for in the writ petition is for a Writ of Certiorarified Mandamus, to call for the records relating to the communication dated 02.07.2003 in E.M.Po/EPN/Koli/KoVMa/No.97/2003 passed by the second respondent and quash the same and consequently direct the respondents to charge the petitioner as agricultural consumer in respect of service connection bearing number 141, Kolianur, Kolinaur Distribution, Villupuram District.

2. I have heard Mr.R.Vekatesalu, learned counsel appearing for the petitioner and Mr.M.Varun Kumar, learned Standing Counsel appearing for the respondents.

3. The issue raised in this writ petition is that, the petitioner is not an individual but representing the South Arcot Diocesan Corporation represented as its Secretary. This petitioner is having some agricultural land, where the petitioner is having the agricultural service connection in S.C.No.141 at Kolianur distribution at the respondent department. Out of the said service connection, water is pumped for the agricultural purpose. However, by impugned communication dated 02.07.2003, the second respondent had stated that since the petitioner is not an individual and the agricultural service connection No.141 stands in the name of the petitioner, and only if it stands in the name of the individual, the concessional tariff for agricultural service connection can be collected from the customers and when it stands in the name of the organization, like the petitioner, it has to be construed only as commercial service connection and commercial tariff alone will be collected from the petitioner. The impugned order further directed the petitioner that the said service connection No.141 shall henceforth be construed as commercial service connection and accordingly, the tariff will be collected from them. Aggrieved over the said communication, the petitioner has filed this writ petition with the aforesaid prayer.

4. I have heard Mr.M.Varun Kuamar, learned Standing Counsel for the respondent. He fairly submitted that, the respondent Board had issued a Board communication dated 25.06.2003, whereby the Tamilnadu Electricity Regulatory Commission had ordered that if electricity is used for agriculture and the service was obtained for agriculture purpose, the service shall be billed under Tariff IV-Agriculture, irrespective of ownership of the land. The said order was taken effect from 01.07.2003. Subsequent upon the said order, some of the consumers approached this Court by filing writ petition, based on which, the respondent department decided to extend the benefits of the agricultural consumer whose service connection stands in the name of the organization shall also be benefited by the notification dated 25.06.2003 not only from 01.07.2003 but also prior to the said date.

5. The learned Standing Counsel would also submit that based on the said Board proceedings, issued by the respondent, the similar issue was resolved by this Court in W.P.No.34272 & 34273 of 2002 in the matter of "St.Michael's Vs. The Chairman, Tamilnadu Electricity Boar and others". In the said writ petition, by order dated 07.02.2012 the learned Judge of this Court has held as follows :-

"The petitioner in both the writ petitions claims to be doing cultivation in their lands and the produce so cultivated is used for distribution to the poor without any profit motive. The petitioner has installed a pumpset of 5 H.P. in their well for the purpose of irrigation of the said lands and are getting free electricity supply provided by the respondents in the service connection mentioned above. However, by the impugned notice, the respondents sought to convert the service connection as one of commercial tariff. Challenging the same, the present writ petition has been filed.

2. Today when the matter is taken up for orders, Mr.G.Vasudevan, learned counsel appearing for the respondents produced the copy of the Board's proceedings in Memo No.CE/Comml.EE.1/ AEE.2/D.400/2004 (Technical Branch) dated 24.07.2004, wherein the concessional tariff has been extended to agricultural operations taken up by the Trust, Companies etc., which included the petitioner church as well. In view of the same, the impugned proceedings are quashed and the writ petitions are allowed as prayed for. No costs."

6. In view of the said position that already the second respondent has issued Board proceedings extending the benefits of agricultural concessional tariff not only to the individual but also to the organization such as the petitioner, I am of the view that impugned order presently made in this writ petition cannot be sustained and therefore the writ petition is liable to be allowed. Therefore, the impugned order is quashed and the writ petition is allowed. The petitioner shall be considered as agricultural consumer insofar as the service connection No.141, Kolianur distribution, Villpuram District, is concerned for concessional tariff.

7. With these directions, the writ petition is allowed. No costs.

Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

rts

To

1. The Chairman,
Tamil Nadu Electricity Board,
Anna Salai, Chennai.
2. The Junior Engineer,
Operation and Maintenance,
T.N.E.B., Kolianur,
Villupuram 605 103.

+1cc to Mr.M.Varunkumar, Advocate SR.No.87529

W.P.No.19704 of 2003

SV(CO)
GN(27/12/2017)



WEB COPY