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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. (MD) No.12688 of 2017

and

W.M.P. (MD) Nos.9797 and 9798 of 2017

R.Palani

... Petitioner

Vs.

1.The Superintending Engineer,
Tamil Nadu Electricity Board,
Virudhunagar Town,
Virudhunagar District.

2.The Assistant Executive Engineer,
Tamil Nadu Electricity Board,
Kottaipatti,
Srivilliputtur Taluk,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorari, calling for the records pursuant to the impugned show cause notice of the second respondent, in his proceedings, dated 05.03.2017, in Lr.No.AEE/RURAL/SVPR/F.DOC/D.No.CAMP/2017 and quash the same.

For Petitioner

: Ms.Lakshmi Gopinathan

for M/s.Polax Legal Solutions

For Respondents

: Mr.G.Kasinathadurai, TNEB

ORDER

The petitioner has questioned the impugned show cause notice, dated 05.03.2017, in and by which, he was given 15 working days time from that date to submit his explanation with sufficient proof of his innocence and he was also given liberty to appear in person or through a representative with relevant documents for an enquiry before the Assessment Officers [EE/SE], on the ground that he is having agricultural service connection, vide S.C.No.269-004-016, for cultivating cotton in his lands.

2.The petitioner has also put up iron fencing around the land in order to save the growing crops. While so, on 05.03.2017, one Muthumayandi and his men came for hunting rabbits, they also tried to use the electricity service connection in an unauthorised manner, as a result, they got electrocuted. The said Muthumayandi died on the spot at 2 a.m. This was informed to the petitioner. In this case, the petitioner went to the spot and took him into Hospital. Subsequently, the Inspector of Police, Vanniyampatti



Vilakku, Taluk Police Station, who visited the Hospital at 9 a.m., has registered a case in Crime No.32 of 2017 against the petitioner and he was also remanded to judicial custody.

3. In view of the same, he was unable to submit his explanation along with requisite documents within the stipulated time as per the impugned show cause notice, dated 05.03.2017. Subsequently, the petitioner was enlarged on bail, vide order dated 06.04.2017, passed in CrI.M.P.No.1131 of 2017 by the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur, on condition to deposit a sum of Rs.25,000/- before the Electricity Board Authorities without prejudice to his rights. The petitioner has also deposited the said amount. Therefore, when the petitioner has already deposited a sum of Rs.25,000/-, he has to pay only a sum of Rs.44,790/-. However, the impugned show cause notice was issued by the second respondent, calling upon the petitioner to deposit a sum of Rs.69,790/-. Since he has already deposited a sum of Rs.25,000/-, the balance amount is only Rs.44,790/-. Now, the respondent Department has not filed criminal case against the petitioner under Section 135 Cr.P.C. Therefore, as per Section 126(6) of the Electricity Act, 2003, the assessment shall be made at a rate equal to twice the tariff applicable for the relevant category of the services specified in sub-section (5).

4. In any event, a personal hearing has to be given and the petitioner has got fair chances of success in the personal hearing to convince the second respondent. Therefore, the learned counsel for the petitioner submitted that an opportunity may be given to the petitioner to submit his detailed explanation along with relevant documents and thereafter, after affording a personal hearing to the petitioner, the respondents may be directed to pass a final order.

5. Mr. G. Kasinathadurai, learned counsel appearing for the respondents submitted that the petitioner may be directed to give reply along with relevant documents to the impugned show cause notice within a period of one week. After receipt of the same, the second respondent after giving personal hearing to the petitioner would pass appropriate orders.

6. In view of the abovesaid submission, the petitioner is directed to submit his explanation along with requisite documents within one week from today and on receipt of the same, the second respondent shall provide an opportunity of personal hearing to the petitioner and thereafter, pass appropriate orders on merits and in accordance with law, as expeditiously as possible, in any event, not later than three weeks therefrom. The respondents shall restore the electricity service connection of the petitioner ~~in services, he can move an application~~, subject to clearance of any amount that will be indicated by the second respondent.



7. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AD-II)

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/True copy/

Sub Assistant Registrar

To

1. The Superintending Engineer,
Tamil Nadu Electricity Board,
Virudhunagar Town,
Virudhunagar District.

2. The Assistant Executive Engineer,
Tamil Nadu Electricity Board,
Kottaipatti,
Srivilliputtur Taluk,
Virudhunagar District.

+1cc to M/s. Polax Legal Solutions, Advocate, SR. 66880

W.P. (MD) No. 12688 of 2017
21.07.2017

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