

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2018

C O R A M

THE HONOURABLE Mr.JUSTICE S.M.SUBRAMANIAM

WP.No.9112 of 2014
and
MP.Nos.1 & 2 of 2014

A.Kaliappan

...Petitioner

Vs.

- 1.The Superintending Engineer,
Tamil Nadu Electricity Board,
Tirupur Distribution Circle,
Kumaran Nagar,
Tirupur - 604 602
- 2.The Tamil Nadu Electricity Generation,
And distribution corporation,
Rep. by its Assistant Engineer,
Tirupur Electricity Distribution Circle,
South/Sevur - 641 655,
Tirupur District

... Respondents

PRAYER

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari and Mandamus calling for the record pertaining in Ka.No.E,Me.Po/The/Sa/Ka/manu/A74/14 dated 17.03.2014 and quash the same and consequently direct the 1st respondent not to disconnect the service connection bearing No.126 situated in survey No.470/4, Thandukarapalayam, Avinashi. TK., Tirupur District.

For Petitioner : Mr.P.Tamilavel

For Respondents : Mr.S.K.Rameshuwar

O R D E R

The show cause notice issued by the second respondent in proceedings dated 17.03.2014 is under challenge in this writ petition.

2. In respect of the common well situated in Survey No.470/3 with service connection No.126, the petitioner claims that the said land belongs to his father one Mr.Arumuga Gounder. After the demise of his father, the writ petitioner and his brother and the sons and daughters of one Avinashi Gounder namely Natarajan, Ganesan, Barameswaran and Poongodi are in possession of the said property. On account of certain irregularities in respect of the usage of the free electricity connection, the second respondent has issued a show cause notice dated 17.03.2014. On inspection, it was found that the petitioner himself has indulged in misuse of electricity. The petitioner had unauthorizedly extending the electrical supply to another bore well other than that was originally approved and effected on 03.04.1988.

3. However, the learned counsel for the writ petitioner opposed the contentions by stating that the writ petitioner has not committed any such irregularities in respect of the usage of free electricity.

4. May that it be. No writ can be entertained in a routine manner against a notice. Judicial review against a show cause notice is certainly limited. The writ petition can be entertained in the event, when the show cause notice issued by the authority is without jurisdiction and if there is an allegation of malafides are raised or if the same is in violation of the statutory rules in force. Even in the case of raising an allegation of malafides, the authority against whom the allegation is raised, is to be impleaded as respondent party in his personal capacity in the writ proceedings. In the absence of any one of these legal grounds, no writ proceedings can be entertained against the show cause notice.

5. However, in the present case on hand, the show cause notice was issued on account of certain allegations against the writ petitioner in respect the usage of the free electricity. The free electricity provided by the Board has to be utilised in accordance with the terms and conditions and in the event of any violation, the authorities competent are empowered to initiate action in accordance with the procedures contemplated.

6. This being the principles, there is no irregularity in respect of the show cause notice issued by the second respondent. If at all the writ petitioner is innocent, he has to submit his explanations to the competent authority and establish his innocence or otherwise in respect of the irregularity now stated in respect of usage of free electricity in the notice.

7. In this view of the matter, it is left open to the writ

petitioner to submit his explanations / objections on the show cause notice dated 17.03.2014 and thereafter, the respondents are bound to take a decision and pass order on merits and in accordance with law as early as possible without causing undue delay.

8. With these observations, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

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To

- 1.The Superintending Engineer,
Tamil Nadu Electricity Board,
Tirupur Distribution Circle,
Kumaran Nagar,
Tirupur - 604 602
- 2.The Assistant Engineer,
The Tamil Nadu Electricity Generation,
And distribution corporation,
Tirupur Electricity Distribution Circle,
South/Sevur - 641 655,
Tirupur District

+1cc to Mr.S.K.Rameshuwar, Advocate in sr.no.31611

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nr 16/05/2018

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