

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.05.2018

CORAM: THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

W.P.No.11726 of 2018
and WMP.No.13695 of 2018

Kannan

... Petitioner

Vs

1.The Member Secretary
Tamil Nadu Pollution Control Board
No.76, Anna Salai, Guindy
Chennai - 600 032.

2.The District Environment Engineer
Tamil Nadu Pollution Control Board
No.8, First Floor, 5th Cross Street
Appavu Nagar
Dharmapuri District - 636 701.

3.The Superintending Engineer
Tamil Nadu Generation and
Distribution Corporation Limited
Dharmapuri Town
Dharmapuri District.

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the third respondent to restore the TANGEDCO power supply to the petitioner's premises in S.No.56/3, measuring an extent of 6949 sq.ft., Virupatchipuram Village, Dharmapuri Town, Dharmapuri District.

For Petitioner : Mr.V.Sakkarapani

For Respondents : Ms.Rita Chandrasekar [R1 & R2]
Mr.M.Varun Kumar [R3]

ORDER

The short question involved in this case rests on the following facts: The petitioner as a landlord of a certain premises had leased it out to one Sadasivam, where the lessee was running a water service station. While so, some of those who live close by had approached the National Green Tribunal alleging that the said service station had raised pollution issues, and the

National Green Tribunal Vide its order dated 28.04.2015, had directed both the lessor and the lessee not to run any service station without obtaining permission from the Pollution Control Board. While the matter stood thus, on the instructions the District Environment Engineer, Hosur, the third respondent has disconnected the power supply to the petitioner's premises on 17.06.2015.

2. Stating that the lessee is since ceased to be a tenant, and that the operation of the service station in the premises of the petitioner has stopped, the petitioner seeks restoration of service connection. As his efforts did not materialise, he has now approached this Court.

3. Heard Mr.Sakkarapani, learned counsel appearing for the petitioner, Ms.Rita Chandrasekar, learned counsel appearing for the respondents 1 and 2 and Mr.M.Varun Kumar, learned counsel for the third respondent.

4. The learned counsel for the petitioner submitted that the respondents herein require a NOC from the Pollution Control Board, which stricto sensu is not required inasmuch as the current use to which the petitioner puts his property does not require any clearance from the Pollution Control Board. In spite of it, the petitioner did obtain a No objection Certificate from the Pollution Control Board, and yet the respondents show no anxiety to restore the electricity service connection.

5. The only issue is whether the petitioner is entitled to have the power connection restored. The reading of the order of the National Green Tribunal, a copy of which is made available in the typed set of papers herein, only discloses the fact that the National Green Tribunal has injuncted fourth and fifth respondents before it, who are stated to be the present petitioner and his former lessee, from operating the service station without the permission of the Pollution Control Board. Within about two months, the power connection has been disconnected and as on today, there is no service station operating in the said premises. If the present use to which the property is put to does not require a "No Objection Certificate" from the Pollution Control Board as per law, then it is not necessary for the respondents to insist on it. However, as rightly contended by the counsel for the petitioner, even de hors it, the petitioner has produced it.

6. Now the hesitation is on the part of the TANGEDCO. To the extent, this Court has appreciated the submissions of the learned counsel for the respondents, it points to confusion and hesitation of the respondents to restore electric service

connection because of the pendency of the proceedings before the National Green Tribunal. There is no material produced by the counsel for the respondent or for that matter the counter available on record to indicate that there is an order of National Green Tribunal to the respondents herein to disconnect electricity power supply.

7. In the absence of any direction by any Court of law or any authority having authority to issue directions to disconnect electricity service connection, it is only imperative that the same is restored. At this juncture, the counsel for the respondents would contend that as per the Rules now in existence, a customer has to apply for restoration of electricity supply within two years of disconnection. This aspect may not appear to apply to the facts before the Court since disconnection herein appears to have taken place not due to a default committed by the petitioner, nor even based on any direction by the National Green Tribunal, a lawful authority. However, this aspect is left open for the authority concerned to look into when restoration is made.

8. Subject to the statement herein made in the previous paragraph, the third respondent herein is directed to restore electricity connection to the petitioner, following such necessary procedure contemplated by law. This petition is accordingly disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Asst.Registrar (Vaction Officer)

/true copy/

Sub Asst. Registrar

ds

To:

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Dharmapuri Town
Dharmapuri District.

+1cc to Mr.M.Varunkumar, Advocate, S.R.No.33139

+1cc to Mr.V.Sakkarapani, Advocate S.R.No.33021

W.P.No.11726 of 2018

SKV(CO)

RRK(17/05/2018)



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