

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 19/03/2018

Delivered on: 14/09/2018

CORAM:

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

W.P.No.28605 of 2013 &

M.P.No.1 of 2013

Govindan

.. Petitioner

Vs.

1.The Executive Engineer,
(Operation & Maintenance),
T.N.E.B., Lalgudi, Trichy District.

2.The Executive Engineer,
(Operation & Maintenance),
T.N.E.B., Srirangam.

3.The Chairman,
Tamil Nadu Electricity Board,
Anna Salai, Chennai - 2.

4.The Government of Tamil Nadu,
Represented by its Secretary,
Electricity Department,
Fort St. George, Chennai - 9.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the proceedings of the second respondent made in க.எண்.செ. பொ. இ&கா.திரு. கோ.வி.வ.தொழுஉ.அ.எண்.105 நாள் 01.03.2013 and quash the same and direct the third respondent to extend the supply of Electricity on the basis of the application No.4817, dated 22.02.1990.

For Petitioner : Mr.R.Balasubramanian

For Respondents : Mr.P.Gunaraj
Standing Counsel for 1 to 3

Mr.A.Ansar
Government Advocate for R4

O R D E R

The prayer in the Writ Petition is to issue a Writ of Certiorarified Mandamus to quash the order of the second respondent dated 01.03.2013, whereby, the request of the petitioner to provide electricity connection was rejected and for a direction to the third respondent to extend supply of electricity on the basis of application No.4817, dated 22.02.1990.

2. The case of the petitioner is that his father-Perumal applied for electricity service connection to the first respondent on 22.02.1990 and he passed away on 26.10.1994. The further case of the petitioner is that since there was no communication for a quite long time, he enquired with the first respondent in the year 2012 and he was informed that due to bifurcation of the Division, the application was transmitted to Srirangam Division. Pursuant thereto, he has been approaching the second respondent periodically and he was informed that and as and when the service connection is sanctioned, the Office would communicate the same through post forthwith.

3. The specific case of the petitioner is that the second respondent without sending any communication passed the impugned order refusing to give service connection on that ground he failed to inform his readiness pursuant to the letter dated 17.10.2005.

4. A common counter affidavit was filed on behalf of the respondents 1 to 3 stating that the petitioner's father applied for electricity service connection to his land situated at Perakambi Village on 22.02.1990 and his application was registered under No.4817, but the death of the application on 26.10.1994 was not communicated by the writ petitioner and after lapse of 18 years, approached the first respondent. It is further stated that as per TNERC Regulations, the petitioner should have approached with necessary documents within five years from the expiry of 90 days and prayed for dismissal of the Writ Petition.

5. Heard Mr.R.Balasubramanian, learned counsel for the petitioner; Mr.P.Gunaraj, learned Standing Counsel for the respondents 1 to 3; Mr.A.Ansar, learned Government Advocate for the fourth respondent and perused the materials available on record.

6. The learned counsel for the petitioner would urge that the petitioner is a poor agriculturist owning a small extent of land at Perakambi Village in Perambalur District; that though the respondents have admitted that the petitioner's father submitted an application on 22.02.1990, the bifurcation of

Lalgudi Division and transfer of application to Srirangam Division was not communicated to the applicant or writ petitioner and that when a specific averment has been made in the affidavit that he does not receive any communication from the respondents 1 and 2, no records have been produced by the respondents to show that the maturity of the application was informed to the petitioner.

7. Per contra, learned Standing Counsel for the respondents would argue that the petitioner has not informed about the death of his father and approached the respondents after a lapse of 20 years and on the ground of laches, the Writ Petition is liable to be dismissed. It is further contended that in 2005, a communication was sent to the applicant about the maturity of the application and since readiness was not informed to the Board in time, the Writ Petition seeking electricity service connection is not maintainable.

8. This Court had carefully considered the rival submissions.

9. The fact of applying for service connection to the agricultural land on 22.02.1990 is not in dispute. It is to be noted that the original owner of the land died in the year 1994 and except the petitioner, there is no other rival claim. Hence, the contention of the respondents that the death of the petitioner's father was not informed has no relevance to the facts of this case. As rightly contended by the learned counsel for the petitioner, no iota of evidence have been produced by the respondents to show that the bifurcation of Lalgudi Division and communication of the respondents with regard to maturity of the application in the year 2005 to provide electricity service connection to the petitioner and his father was produced. It is true that as per the Regulation, the applicant has to furnish his readiness in a time frame, but in the case on hand, as stated above, no materials have been produced by the respondents regarding the communication of readiness either to the original owner of the land nor to the petitioner.

10. In the light of the above facts, the petitioner is entitled to succeed in this Writ Petition. In that view, the order impugned in this Writ Petition is liable to be set aside and accordingly set aside and a direction is issued to the respondents to provide service connection to the petitioner based on the application of his father dated 22.02.1990, within a period of four weeks from the date of receipt of a copy of this order.

11. With the above observation and direction, the Writ Petition is allowed. There is no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

rns

To

- 1.The Executive Engineer,
(Operation & Maintenance),
T.N.E.B., Lalgudi, Trichy District.
- 2.The Executive Engineer,
(Operation & Maintenance),
T.N.E.B., Srirangam.
- 3.The Chairman,
Tamil Nadu Electricity Board,
Anna Salai, Chennai - 2.
- 4.The Secretary,
Government of Tamil Nadu,
Electricity Department,
Fort St. George, Chennai - 9.

+1cc to Mr.R.Balasubramanian, Advocate, S.R.No.63733

W.P.No.28605 of 2013 &
M.P.No.1 of 2013

EV(CO)

rrs 09/10/2018

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