

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2018

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.30639 of 2018

S.Sivasakthi

... Petitioner

Vs.

1.Tamil Nadu Generation and
Distribution company (TANGEDCO),
Rep. by its Assistant Electrical Engineer,
Coimbatore Electricity Distribution Circle (South),
Vadakkipalayam, Pollachi - 642 110.

2. K.Muthuvel

... Respondents

Prayer : Writ 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 order of the 1st respondent dated 01.08.2018 in K.No.Vumi po/va.pa/ko.kattu/A.No.206 and consequently directing the 1st respondent to forthwith give Electricity Service Connection to the petitioner's house situated in S.No.419/25, Sarcar Puravipalayam, Sarcar Puravipalayam Post, Vadakkipalayam Panchayat, Pollachi Taluk, Coimbatore, within a time frame to be fixed by this Hon'ble Court.

For Petitioner : Mr.P.Muthukrishnan

For Respondents : Mr.S.K.Rameshvar
Standing Counsel (TNEB) for R1

O R D E R

The prayer sought for herein is a writ of certiorarified mandamus, to call for the records relating to the order of the 1st respondent dated 01.08.2018 in K.No.Vumi po/va.pa/ko.kattu/A.No.206 and consequently direct the 1st respondent to forthwith give electricity service connection to the petitioner's house situated in S.No.419/25, Sarcar Puravipalayam, Sarcar Puravipalayam Post, Vadakkipalayam Panchayat, Pollachi Taluk, Coimbatore, within a time frame to be fixed by this Court.

2.Heard Mr.P.Muthukrishnan, learned counsel for the petitioner and Mr.S.K.Rameshwar, learned standing counsel, appearing for the 1st respondent TANGEDCO. Since, no adverse order is to be passed against the 2nd respondent, notice to the 2nd respondent is dispensed with.

3.According to the learned counsel for the petitioner, the petitioner has made an application to the respondent TANGEDCO, seeking for electricity service connection. In this regard, it seems that the 2nd respondent also, claiming some right over the property, made an objection.

4.It is to be noted that, the 2nd respondent, in this regard, approached this Court by filling a writ petition in W.P. No.9567 of 2018, wherein, the petitioner herein was also a party and after hearing the parties, the learned Judge of this Court has passed the following order :

"3.During the pendency of the suit, the 2nd respondent has come to this Court by filing a Writ Petition in W.P.No.5368 of 2018 for a mandamus to direct the TANGEDCO to provide electricity connection to her house in 419/25, Sarcar Puravipalayam, Sarcar Puravipalayam Post, Vadakkipalayam Panchayat, Pollachi Taluk, Coimbatore. This Court, without going into the merits of the matter, directed the respondent, viz., TANGEDCO to consider the representation of the petitioner therein viz., S.Sivasakthi and pass orders on merits and in accordance with law.

3.The learned standing counsel appearing for the 1st respondent has submitted that the objection of the petitioner and also the representation of the 2nd respondent already given, will be considered and orders will be passed in accordance with law.

4.Recording the submissions, the Writ Petition is disposed of with a direction to the 1st respondent to consider the objections made by the petitioner and also after affording personal hearing to the parties and thereafter, pass orders on merits and in accordance with law. No costs. Consequently, the connected miscellaneous petition is closed."

5. Like that, the petitioner also already approached this Court by filling a writ petition in W.P. No.5368 of 2018. The learned Judge of this court, after hearing the respondent TANGEDCO, passed an order on 15.03.2018, which read thus :

"3. Heard both sides.

4. This Court, at this stage, it not expressing any view on the merits of the claim made by the respondent as no order is passed by the respondent so far in the application. Thus, the writ petition is disposed of by directing the respondent to consider the application of the petitioner and pass orders on the same on merits and in accordance with law within a period of two weeks from the date of receipt of a copy of this order. No costs."

6. In spite of the disposal of these two writ petitions, now, the impugned order has been passed by the Assistant Electrical Engineer of the respondent TANGEDCO, i.e. the 1st respondent herein, stating that, since the writ petition filed by the 2nd respondent objecting the service connection to be effected in favour of the petitioner, is still pending before the High Court, further action cannot be taken on the application of the petitioner.

7. I have heard Mr. S. K. Rameshwar, learned standing counsel, appearing for the respondent TANGEDCO, who fairly submits that, the order is not justifiable, as it goes against the facts of the issue, since, both the writ petitions have already been disposed of.

8. The fair approach made by the learned standing counsel, appearing for the respondent TANGEDCO, is to be taken note of.

9. Since, the reason cited in the impugned order is absolutely beyond truth, and it shows that the 1st respondent, before passing the impugned order dated 01.08.2018, has not looked into the files concerned, this Court is at loss to understand as on what basis, the 1st respondent has passed such an order.

10. This kind of approach in a cavalier manner by the respondent official of a public utility service like the electricity system cannot be approved or appreciated by the Court.

11.In view of the above, the impugned order, for the very reason stated therein itself, cannot stand in the legal scrutiny. Accordingly, it is liable to be quashed.

12.In the result the following orders are passed.

13.The impugned order is quashed and the matter is remitted back to the 1st respondent for reconsideration. By making such reconsideration, the petitioner's application, seeking service connection, shall be considered, by taking into account the merits of the claim of the petitioner and also the counter claim made or to be made by the 2nd respondent and in this regard, the 2nd respondent shall also be heard by the 1st respondent, before taking a decision. The aforesaid exercise shall be undertaken by the 1st respondent within a period of six weeks from the date of receipt of a copy of this order.

14.With these directions, this writ petition is allowed to the extent indicated above. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

pds/mkn

To

The Assistant Electrical Engineer,
Tamil Nadu Generation and Distribution company (TANGEDCO),
Coimbatore Electricity Distribution Circle (South),
Vadakipalayam, Pollachi - 642 110.

+1 cc to Mr.P.Muthukrishnan, Advocate Sr.No.78932

W.P.No.30639 of 2018

CSL/27.11.2018