



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 09.11.2018

CORAM

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.13606 of 2018

S.A.Byrose

..Petitioner

Vs

1. The Executive Engineer(Distribution),
Tamil Nadu Electricity Board(TANGEDCO),
Manamadurai,
Sivagangai District.

2. The Assistant Executive Engineer(Distribution),
Tamil Nadu Electricity Board(TANGEDCO),
Ilayankudi,
Sivagangai District.

3. The Assistant Engineer(Rural),
Tamil Nadu Electricity Board(TANGEDCO),
Ilayankudi,
Sivagangai District.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned communication of the third respondent in க.எண்/உ.மி.ச.ப./ஊ.ர/இறை / கோ.கட்டு/அ.எண்/80/ 17-18, dated 22.3.2018 and to quash the same and consequently to direct the respondents to give agricultural electricity service connection for the Survey No.175/10 situated at Melaiyur Village, Ilayankudi Taluk, Sivagangai District within the time stipulated by this Court.

For Petitioner :M/s. B. Prahlad Ravi

For Respondents :Mr.M.Rajeswari
for Mr.S.M.S.Johnny Basha
Standing Counsel for TNEB

ORDER

The Petitioner prays for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned communication of the third respondent in க.எண்/உ.மி.ச.ப./ஊ.ர/இறை / கோ.கட்டு/அ.எண்/80/17-18, dated 22.3.2018 and to quash the same and consequently to direct the respondents to give agricultural electricity service connection for the Survey No.175/10 situated at

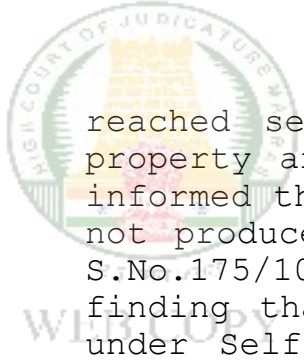


Melaiyur Village, Ilayankudi Taluk, Sivagangai District within the time stipulated by this Court.

2.The case of the Petitioner is that he has purchased a porperty in S.No.175/10 and 175/7A2, measuring about 0.69.00 hectares, situated in Melaiyur Village, Ilayankudi Taluk, Sivagangai District in the year 2005. The Revenue Authorities have granted patta in Patta No.829 and he has been enjoying the property and also dug a bore-well in S.No.175/10. He applied for agricultural electricity service connection with the third respondent on 20.7.2006. The first respondent had directed the Petitioner to remit Rs.50/- towards registration charges and the same was paid. In the meanwhile, the Petitioner received a communication in the year 2007 from the first respondent stating that the Petitioner has to remit a sum of Rs.500/- to the third respondent within 30 days for getting electricity service connection under the Self finance scheme recommended by the Government of Tamil Nadu. The Petitioner has also remitted the same to the third respondent. Thereafter, the respondents have not taken any steps to give electricity service connection based on the application submitted by the Petitioner on 20.7.2006 and the Petitioner was driven from pillar to post for so many years, wherein, the petitioner get information that 40 agricultural electricity service connections have been given to the general public by the respondents and on enquiry, it was found that persons who applied much behind the Petitioner was given the agricultural electricity service connection. Thus, the Petitioner was left out in lurch. When he enquired about his application which is pending for more than 13 years, the third respondent told that he should do the needful immediately and to his shock and surprise, the Petitioner is not provided with agricultural electricity service connection. Hence the Petitioner made a representation to the respondents. On receipt of the said representation, the impugned communication, dated 22.3.2018 was sent to the Petitioner stating that the said bore-well is not in existence in S.No.175/10 and also has not taken any steps to SF change by submitting revenue records and hence, the Petitioner's application is recommended for rejection, to the first respondent. Aggrieved over the said order of rejection recommended by the third respondent, the Petitioner has filed the present Writ Petition raising various grounds.

3.The Petitioner has denied the receipt of any communication by the third respondent asking him to take steps to SF change along with revenue documents within 15 days from the date of receipt of such communication. Only after the receipt of representation, the impugned communication has been passed.

4.The learned counsel for the first respondent has filed a counter denying all the allegations and would submit that the Petitioner has applied for free agricultural electricity service connection on 25.7.2006 under the Self Finance Scheme and he has also paid the necessary registration fees. When the Petitioner



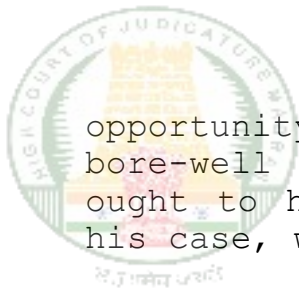
reached seniority in the year 2012, the respondents visited the property and found that there was no bore-well in S.No.175/10 and informed the same to the Petitioner herein. Since the Petitioner has not produced any document to prove the existence of bore-well in S.No.175/10 in the year 2012, when the seniority has reached, on finding that there is no bore-well, the Petitioner's application under Self Finance Scheme was cancelled and the application was reversed back to the ordinary scheme. As and when the Petitioner has reached the seniority under the ordinary scheme, the respondents would provide a free agricultural electricity service connection. They would also deny that there is existence of bore-well in S.No.175/10.

5.The learned counsel for the first respondent would vehemently argued that at the time of registration of application in the year 2006, FMB sketch produced by the Petitioner states that bore-well is situated in south-west direction, but now the bore-well is situated in the south direction.

6.Heard the submissions made on either side and perused the materials placed before this Court.

7.Admittedly, on 20.7.2006, the Petitioner has submitted his application before the concerned authority stating that the bore-well is situated in S.No.175/10, in Patta No.829 and a sum of Rs.50/- has also been paid towards registration fees on 20.7.2006. There is a receipt for the payment made by the Petitioner, which is found at Page No.6 of the typed-set of papers filed by the Petitioner. The respondents have issued a communication in the year 2007 stating that the Petitioner has to pay a sum of Rs.500/- to the third respondent within thirty days from the date of receipt of such communication, is also found in the typed-set of papers. The Petitioner has also produced the patta which stands in his name along with Chitta and Adangal,, dated 15.7.2006 stating that there is a bore-well to an extent of 0.01.0. The order impugned herein dated 22.3.2018 has been passed stating that in S.No.175/10 there is no bore-well in existence and when an inspection was conducted, it was found that there is no bore-well in S.No.175/10 and the same was also communicated to the Petitioner and the Petitioner was directed to approach the authorities concerned within 15 days and take steps to SF change and a letter was also given to the Petitioner, to that effect. But no such date of inspection and letter communicated is found in the averments. There is also no other document filed by the respondents which shows that there is no existence of bore-well in S.No.175/10.

8.It could be seen from the impugned order that there was no bore-well in existence in S.No.175/10, which was said to have been communicated to the Petitioner by a letter, was also not produced before this Court and there is no other documents to show that the Petitioner was present at the time of inspection made by the respondents. Further, there is no document produced to show that an



opportunity was given to the Petitioner to prove that there is bore-well in existence in the said survey number. The respondents ought to have given an opportunity to the petitioner to put-forth his case, when they have denied the existence of bore-well.

9. Hence, based on equity and by following the principles of natural justice, this Court is inclined to interfere with the impugned order and the Petitioner is given opportunity to approach the authorities concerned within 15 days from the date of receipt of a copy of this order by producing necessary documents to establish his case and the authorities concerned is directed to consider the case of the Petitioner and pass necessary orders giving him preference, since the Petitioner has already submitted his application on 20.7.2006 with relevant documents to show the existence of bore-well and the respondents have slept over the matter for nearly 13 years from the date of receipt of such application and thereafter passed the order impugned herein only on 22.3.2018, when the Petitioner is not at fault.

10. Accordingly, the Writ Petition is allowed and the order impugned herein dated 22.3.2018 is set aside and the respondents are directed to pass necessary orders afresh on the application submitted by the petitioner on 20.7.2006 in accordance with law, after obtaining the indemnity bond and other fees. The respondents/Board is also directed to consider the Petitioner's request for service connection in terms of Clause 27(2)(4) of the Tamil Nadu Electricity Distribution Code and grant electricity supply after obtaining the indemnity bond in the statutory form and required fees, within a period of six weeks from the date of receipt of a copy of this order, if his application is otherwise found to be in order. It is made clear that mere grant of electricity supply would not confer any right over the Petitioner in respect of the land in question. No costs.

Sd/-

Assistant Registrar(crl side)

/True Copy/

Sub Assistant Registrar(CS-I)

To

1. The Executive Engineer(Distribution),
Tamil Nadu Electricity Board(TANGEDCO),
Manamadurai,
Sivagangai District.
2. The Assistant Executive Engineer(Distribution),
Tamil Nadu Electricity Board(TANGEDCO),
Ilayankudi,
Sivagangai District.



3. The Assistant Engineer(Rural),
Tamil Nadu Electricity Board(TANGEDCO),
Ilayankudi,
Sivagangai District.

+1cc to Mr.B. Prahlad Ravi, Advocate Sr.No.94852

VSN

VB/BK/SAR1/06.12.2018/5P/5C

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