

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2019

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.NO.8621 OF 2013

AND

M.P.NO.2 OF 2013

Muniratna Mudaliar

.. Petitioner

-vs-

1. The Tamil Nadu Electricity Board,
Rep. by the Executive Engineer,
Gudiyattam, Vellore District.
2. The District Collector of Vellore,
Vellore District, Vellore.
3. The Village Administrative Officer,
Pasumathur Village,
Gudiyattam Taluk,
Vellore District.
4. The Revenue Inspector,
K.V. Kuppan Village,
Gudiyattam Taluk,
Vellore District.

.. Respondents

Petition under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in Na.Ka.H.1/3386/99 dated 18.4.2000 and to quash the same and direct the respondents to issue Electricity Service Connection to the 5 H.P. Motor to be used in the agricultural land belonging to the petitioner, for agricultural purposes.

For Petitioner : Mr.N.Murali Kumar
For M/s.McGAN Law Firm

For Respondents : Mr.M.Varun Kumar [R1]

Ms.Sri Jayanthi,
Special Government Pleader [RR2 to 4]

ORDER

Heard Mr.N.Murali Kumar, learned counsel appearing for the petitioner and Mr.M.Varun Kumar, learned counsel appearing for first respondent and Ms.Sri Jayanthi, learned Special Government Pleader appearing for respondents 2 to 4.

2. With consent of learned counsel on either side, this writ petition itself is taken up for final disposal.

3. This writ petition has been filed challenging the proceedings of the District Collector dated 18.04.2000. This writ petition was filed in 2013 i.e., 13 years after passing of the impugned order and the explanation given by the petitioner is that the impugned order was not communicated to the petitioner.

4. The question, which falls for consideration is as to whether the petitioner is entitled to get service connection for his borewell to install a 5 H.P.Motor. Admittedly, the land owned by the petitioner is situated near the Palar river basin.

5. The learned counsel for the petitioner submitted that in terms of G.O.Ms.No. 73, Public Works Department dated 08.01.1982 the distance rule has been fixed as beyond 50 meters up to 100 meters for a 5 H.P. Motor and even as per the impugned order the distance between the palar basin and the petitioner's land is 25 meters and without considering the same, No Objection Certificate has been rejected by the District Collector. It is further submitted that the first respondent Electricity Board is willing to consider the petitioner's application and in fact, has recommended the petitioner's application and if No Objection Certificate had been granted at the appropriate time, the petitioner would have been able to install the 5 H.P. Motor. The learned counsel for the petitioner further submitted that the report sent by the respondents 3 and 4 are also in favour of the petitioner.

6. The learned Special Government Pleader appearing for the second respondent submits that the Palar Basin Rules have been subsequently reviewed and G.O.Ms. 1766, Public Works Department dated 31.10.1998 has been issued by which, the distance rule has been modified as 200 meters from the banks of the river. Therefore, it is submitted that there is no distinction drawn for the distance as so done in G.O.Ms.No.73. On the date, when the petitioner's application submitted, the Rule, which was prevalent and in force was G.O.Ms.No.1766.

7. In the considered view of this Court, the petitioner has approached this Court after a period of 13 years and according

to the petitioner he did not receive the copy of the order and therefore, he had approached this Court at this juncture.

8. Be that as it may, the second respondent has refused No Objection Certificate stating that minimum distance is 200 meters. However, in the order dated 18.04.2000 (impugned order) it has been clearly stated as to which rule applies when the petitioner's application was taken into consideration.

9. Apart from that, the petitioner would contend that his neighbouring land owners have been granted service connection, who are also similarly placed like petitioner and hence, the petitioner should not be discriminated.

10. Since the petitioner did not have any opportunity, this Court is of the view that one more opportunity to be granted to the petitioner. Accordingly, the writ petition is disposed of by directing the petitioner to submit a representation in this regard and also his objection pointing out that which neighbouring owners, who have been granted service connection within the distance of 200 meters and what date those connections have been granted. If such representation is given, the second respondent shall consider the same and pass orders on merits and in accordance with law within a period of four(4) weeks from the date of receipt of a copy of this order. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Executive Engineer,
The Tamil Nadu Electricity Board,
Gudiyattam, Vellore District.
2. The District Collector of Vellore,
Vellore District, Vellore.
3. The Village Administrative Officer,
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Gudiyattam Taluk,
Vellore District.

4. The Revenue Inspector,
K.V. Kuppam Village,
Gudiyattam Taluk,
Vellore District.

W.P.No.8621 of 2013
and M.P.No.2 of 2013

KK (CO)
CS/31/01/2020



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