



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.09.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.8894 of 2020

and

W.M.P.(MD)No.8150 of 2020

WEB COPY

A.Abdul Musjit

... Petitioner

Vs.

1.The Executive Engineer,
TANGEDCO,
Samayanallur Division,
Madurai District.

2.The Assistant Executive Engineer,
Distribution,
TANGEDCO,
Vadipatti,
Madurai District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, by calling the records to the proceedings of 2nd respondent made in க.எண் உசெபொ/வி/வாடி/கோ.நீ.ம. வழக்கு அ/எண்.357/19, dated 21.10.2019 and quash the same and consequently direct the 2nd respondent to shift the Electricity Service Connection No.154-001-358 from S.No.1/8, to 109/2, situated at Keelamathur Village, Madurai District.

For Petitioner : Mr.R.Murali

For Respondents : Mrs.S.Srimaty,

For Mr.S.M.S.Johnny Basha

O R D E R

Heard the learned counsel appearing for the writ petitioner and the learned standing counsel appearing for the respondents.

2.The petitioner is the owner of the property comprised in S.No.1/8, Keelamathur Village, Madurai Taluk. The petitioner is enjoying agricultural supply for the said property. It appears that the petitioner had as a good samaritan permitted the neighbour to water her nursery garden. That resulted in initiation of assessment proceedings against the petitioner. The petitioner was directed to pay a sum of Rs.1,05,884/- vide order dated 31.07.2008. The petitioner challenged the said order by filing W.P.(MD)No.9445 of 2009. The said writ petition was allowed vide order dated 17.12.2018 and the matter was remitted to the file of the second respondent herein.



3. In the meanwhile, the well situated in the said property had gone dry. Therefore, the petitioner wanted to shift the agricultural service connection to the other land comprised in the same village in S.No.109/2. The petitioner requested in this regard. But the second respondent by the impugned order denied the said request. The second respondent took the stand that unless the petitioner pays the earlier arrears together with BPSC charges computed 18% per annum, his request will not be considered.

4. This stand taken by the second respondent is put to challenge in this writ petition.

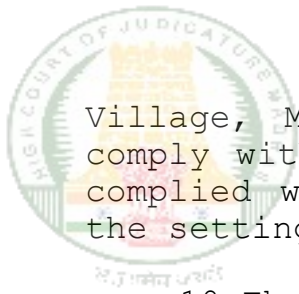
5. The learned standing counsel appearing for the respondents states that no interference is called for with the impugned communication because the second respondent had acted in terms of the statutory regulations issued under the Electricity Act, 2003.

6. I carefully considered the rival contentions and went through the materials on record.

7. The petitioner had already paid a sum of Rs.23,000/-. He has to pay a sum of Rs.82,884/- more. The petitioner's counsel states that within a period of one week, the petitioner would pay the entire amount of Rs.82,884/-. This of course represents the principal portion of the demand. The question is whether the petitioner should also be called upon to pay BPSC charges. As rightly pointed out by the petitioner's counsel, the demand dated 03.03.2008 was set aside by this Court in W.P.(MD)No.9445 of 2009. The petitioner's writ petition was allowed on 17.12.2019. It appears that the respondents have gone an writ appeal. Till date, the writ appeal has not been disposed. The respondents have also not decided the issue after the remand. Therefore, the question of calling upon the petitioner to pay BPSC charges will not arise in these circumstances.

8. I take judicial notice of the fact that when such matters are referred to Lok Adalat and consensus is arrived between the parties, the BPSC charges are waived. Of course, the learned standing would state only for the occurrence taken place before the year 2003, such benefit is conferred.

9. Since the petitioner comes forward to pay the principal amount and since the original demand was set aside by this Court, I am of the view that the question of petitioner being liable to pay BPSC charges will not arise. Therefore, the impugned order is set aside to this limited extent. I record the undertaking of the petitioner that he will pay the balance amount of Rs.82,884/- within a period of one week from the date of receipt of a copy of this order. On such payment, the second respondent is directed to shift the service connection from S.No.1/8 to S.No.109/2, Keelamathur



Village, Madurai District thereafter. If the petitioner has to comply with any other statutory formalities, the same will also be complied with by the petitioner. The only relief that I give is the setting aside of BPSC charges.

10. The writ petition is allowed on these terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

Ias

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

1. The Executive Engineer,
TANGEDCO,
Samayanallur Division,
Madurai District.

2. The Assistant Executive Engineer,
Distribution,
TANGEDCO,
Vadipatti,
Madurai District.

+1 CC to M/s.M. SURESH KUMAR, Advocate (SR-17345[F] dated 18/09/2020)

W.P. (MD)No.8894 of 2020

17.09.2020

NR (01.10.2020) 3P 4C