



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.12.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.5015 of 2019
and
W.M.P.No.5722 of 2019

R.Manimaran

...Petitioner

vs.

1. The Superintending Engineer,
KEDC, Kallakurichi.
 2. The Executive Engineer,
Operations and Management,
Thirukoilur, Villupuram District.
 3. The Assistant Engineer,
O&M, TANGEDCO,
Thiyagadurugam, Villupuram District.
 4. The Junior Engineer,
O&M, Town, Thiyagadurugam,
Villupuram District.
 5. M/s Dharani Sugars and Chemicals Private Limited,
Prithivimangalam, Thiyagadurugam,
Villupuram District.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus or direction to call for the records of the proceedings bearing Lr.No.JE/O&M/T/TGM/F Doc/D No.152/17-18 dated 29/12/2017 on the file of the 4th respondent and the consequential letter Lr No JE/O&M/t/TGM/F Doc/D No 76/18-19 dated 01/08/2018 on the file of the 3rd respondent, and to quash the same as illegal and without jurisdiction, and to consequently direct respondents 1 to 4 to effect electricity supply to the petitioner's jaggery unit at Prithivimangalam Village, Villupuram District.



WEB COPY

For Petitioner

: M/s.V.Lakshminarayanan

For Respondents R1 & R2: Mr.P.Gurunathan,

Additional Government Pleader

For Respondents R3 & R4 : Mr.L.Jaivenkatesh

For Respondent R5

: M/s.P.T.Ramadevi

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for the records of the proceedings dated 29/12/2017 on the file of the 4th respondent and the consequential letter dated 01/08/2018 on the file of the 3rd respondent and to quash the same as illegal and to consequently direct the respondents 1 to 4 to effect electricity supply to the petitioner's jaggery unit.

2. The case of the petitioner is that, the petitioner's firm was started as a C.S.R initiative to assist and support the farmers and later the firm decided to set up a jaggery unit. Therefore, the Petitioner's firm submitted a request letter before the Respondents herein under Section 43 of Electricity Act for a LT service connection under III B Tariff. However, the 4th Respondent, vide impugned letter dated 29.12.2017 returned the application of the petitioner's firm on the ground that an objection had been raised by the 5th respondent and the petitioner's application will be considered only if a No Objection Certificate (in short 'NOC') is obtained from the Cane Commissioner/Director of Sugars. Thereafter, the petitioner's firm submitted a detailed reply dated 18.07.2018 before the 4th respondent, explaining the functioning of the firm. Despite setting out the aforesaid facts, the 3rd respondent, vide impugned letter dated 01.08.2018 returned the application of the petitioner's firm on the very same ground raised in the letter dated 26.12.2017 submitted by the 5th respondent before the Executive Engineer. Hence, challenging the impugned letters dated 01.08.2018 and 29.12.2017, this Writ Petition is filed.

3. The learned counsel appearing for the petitioner submitted that, as per the Sugarcane (Control) Amendment Order, 2007 dated 31.07.2007, it is clearly stated that the word jaggery in sub-clause (a) of the Sugarcane (Control) Order 1966 is omitted. He further submitted that, the Cane Commissioner/Director of sugars is not the competent authority



for issuing NOC for Jaggery and he is only a competent authority for Sugarcane. Hence, he submitted that, it would suffice, if this Court quashes the impugned orders dated 29.12.2017 & 01.08.2018 issued by the 4th and 3rd respondents respectively and issue consequential direction to the respondents 1 to 4 to accept the petitioner's application for obtaining LT Service connection under III B Tariff without insisting upon the NOC from the Cane Commissioner, as he is not the competent authority for issuing NOC for Jaggery and in the light of the Sugarcane (Control) Amendment Order, 2007 dated 31.07.2007.

4. Mr.P.Gurunathan, learned Additional Government Pleader submitted that, since the petitioner claimed that the Cane Commissioner is not the competent authority, this Court in its last hearing directed him to get instructions regarding the same from the Cane Commissioner itself and on instructions, he submitted that, NOC from the Cane Commissioner / Director of Sugar is not required for Jaggery unit.

5. The Standing Counsel appearing for the 3rd and 4th respondents fairly conceded that, since the Cane Commissioner himself stated that, there is no requirement to get NOC from Cane Commissioner for establishing Jaggery unit, the petitioner's application will be considered in the light of the Sugarcane (Control) Amendment Order, 2007 dated 31.07.2007 and appropriate orders will be passed within the time stipulated by this Court.

6. The learned counsel appearing for the 5th respondent submitted that, the 5th respondent is already under Liquidation and insolvency proceedings has been initiated against the 5th respondent and Moratorium order was passed on 29.07.2021.

7. Heard the arguments advanced by the learned counsel on either side.

8. For better appreciation of the case, the relevant portion of the "Sugarcane (Control) Amendment Order, 2007 dated 31.07.2007" relied on by the petitioner is extracted as below:

"2. In the Sugarcane (Control) Order, 1966-

(i) In clause 2,

(a) in sub-clause(a), the words, "gur, gul, jaggery" shall be omitted.

(b) in sub-clause(f), the words, "gur, gul, jaggery" shall be omitted.



(ii) In clause 6, in Sub-Clause(1), in item(e) the words and brackets "gur(jaggery)or," shall be omitted.

(iii) In clause 7,-

(a) in sub-clause (b), in item(ii), the words "gur, gul, jaggery" shall be omitted.

(b) in sub-clause (d), the words "gur, gul, jaggery" shall be omitted.

(iv) In Clause 8, the words "gur, gul, jaggery" shall be omitted.

(v) In Clause 9, in sub-clause (b) the words "gur, gul, jaggery" shall be omitted."

On a perusal of the Sugarcane (Control) Amendment Order, 2007 dated 31.07.2007, it is clear that the word "Jaggery" is omitted from the Sugarcane (Control) Order, 1966 and it does not come under the purview of the Cane Control order and also pursuant to the fair submission of the Learned Additional Government Pleader, it is clear that, NOC from the Cane Commissioner / Director of Sugar is not required for establishing a Jaggery unit. In view of the above, this Court issues a direction to respondents 1 to 4 to consider the petitioner's application for LT Service Connection under III B Tariff without insisting upon the NOC from the Cane Commissioner and dispose of the application within a period of four weeks from the date of receipt of a copy of this order.

9. Accordingly, this Writ petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

SD/-

ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

skt

To:

1. The Superintending Engineer,
KEDC, Kallakurichi.



2. The Executive Engineer,
Operations and Management,
Thirukoilur, Villupuram District.

3. The Assistant Engineer,
O&M, TANGEDCO,
Thiyagadurugam, Villupuram District.

4. The Junior Engineer,
O&M, Town, Thiyagadurugam,
Villupuram District.

+lcc to M/s.V.Raghavachari, Advocate Sr.69316

+lcc to M/s.P.T.Ramadevi, Advocate Sr.69341

W.P.No.5015 of 2019
and
W.M.P.No.5722 of 2019

pmk[co]
srg 23/02/2022