



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 23.07.2021

CORAM:

WEB COPY

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.Nos.28733 and 28757 of 2013
M.P.Nos.1, 2,2, 3,3, 4 & 4 of 20213

U.Prabhu ... Petitioner in W.P.No.28733 of 2013

G.Arul ... Petitioner in W.P.No.28757 of 2013

vs.

1.The Assistant Executive Engineer,
Operation and Maintenance,
TANGEDCO, Madurapakkam,
Villupuram Taluk.

2.The Assistant Engineer,
Operation & Maintenance,
TANGEDCO,
Vazhthavoor, Villupuram District.

.. Respondents in both WPs.

Prayer in W.P.No.28733 of 2013: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the 1st respondent in his proceedings in Letter No.AEE/VPM/MPKM/F.APTS/D.2011-2012 dated 15.06.2012 and also the subsequent notices issued by the 2nd respondent dated 01.03.2013 notice dated 02.05.2013 Ka.Na.O Po/O & M/Vazhu/Ko min Thirutu /No.41/2013, notice dated 09.07.2013 Ka.Na.O Po/o&M/Vazhuko/Ko Min Thirutu No.37/2013 and notice dated 08.2013 Ka.No.O Po/O&M/Vazhu/KO Min Thiru No.62/2013 and quash the same and thereby forbear the respondents from in any way collecting the payment of Rs.1,48,427 from the petitioner in respect of service connection No.425 situated at Vazhuthuvur Village, Villupuram District and also direct the respondents to restore the electricity service connection No.425, Vazhuthuvur forthwith and also forbear the respondents from disconnecting the domestic service connection No.419-001-1189, Vazhuthavur, under the guise of non-payment of amounts in the impugned notices.

Prayer in W.P.No.28757 of 2013: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the 1st respondent in his proceedings in Letter No.AEE/VPM/MPKM/F.APTS/D.2011-2012 dated 15.06.2012 and also the subsequent notices issued by the 2nd respondent dated



01.03.2013 notice dated 02.05.2013 Ka.Na.O Po/O & M/Vazhu/Ko min Thirutu /No.40/2013, notice dated 09.07.2013 Ka.Na.O Po/o&M/Vazhuko/Ko Min Thirutu No.33/2013 and notice dated 10.09.2013 Ka.No.O Po/O&M/Vazhu/KO Min Thirutu No.62/13-14 and quash the same and thereby forbear the respondents from in any way collecting the payment of Rs.1,48,427 from the petitioner in respect of service connection No.425 situated at Vazhuthuvur Village, Villupuram District and also direct the respondents to restore the electricity service connection No.13, Vazhuthuvur forthwith and also forbear the respondents from disconnecting the domestic service connection No.419-001-420, Vazhuthavur, under the guise of non-payment of amounts in the impugned notices.

For Petitioner : Mr.N.Suresh
in both W.Ps.
For Respondents : Mr.Jai Venkatesh,
Standing Counsel for TANGEDCO

COMMON ORDER

These writ petitions have been filed challenging the impugned notices issued by the second respondent directing the petitioners to pay a sum of Rs.1,48,427/- for the loss caused due to dishonest abstraction/illegal restoration of supply.

2. Mr.N.Suresh, learned counsel for the petitioners submitted that the petitioners are involved in fish culture activity in the petitioner's agricultural land and the fish culture activity is essentially an allied activity of agriculture and on 12.03.2013, the anti power theft squad of the respondents Board visited the petitioner's property and they were under the misconception that the agricultural service connection is being allegedly misutilized for fish culture activities and therefore, due to the aforesaid illegal extraction of supply, the respondents have directed the petitioners to pay the aforesaid assessment charges. He would further add that in the light of the clarification order issued by TNERC dated 24.12.2012, the impugned notices are liable to be quashed.

3. Mr.L.Jaivenkatesh, learned Standing Counsel for the respondent Board has drawn the attention of this Court to the counter affidavit of the respondents wherein it has been stated that the clarification order was passed on 24.12.2012 but whereas the theft has taken place on 12.03.2012 and therefore, the said order would not be applicable to the petitioner.



4. This Court has considered the rival submissions and perused the materials.

5. The entire case revolves around the clarification order of the TNERC dated 24.12.2012 and it is relevant to extract the following portion of the said order:

"Accordingly, it is clarified that the activities such as sericulture, floriculture, horticulture, mushroom cultivation, cattle farming, poultry and bird farming, dairy Units and fish/prawn culture which are carried out as allied activities of agriculture in the LT Tariff IV Service connections shall be construed as agricultural activities. The activities such as sericulture, floriculture, horticulture, mushroom cultivation, cattle farming, poultry and bird farming, dairy units and fish/prawn culture which are not covered under LT Tariff IV, shall be charged under LT Tariff III A(1)."

A perusal of the clarification order, it could be seen that fish/prawn culture activity is one of the allied agricultural activity and therefore, the respondents cannot insist upon the petitioners to pay the aforesaid assessment amount, as stated in the impugned notices.

6. According to the learned Standing Counsel for the respondents Board, the aforesaid activity would be charged under LT Tariff III A(1). According to the petitioner, the fish culture activity is an allied agricultural activity and there is no denial in the counter affidavit by the respondent. Therefore, this Court has no hesitation to hold that the aforesaid fish culture activity is only an allied agricultural activity and as such, the impugned notices of the respondents cannot be sustained.

7. The learned counsel for the petitioners has given an undertaking that the petitioners have already paid 50% of the demand amount to the respondent Board in compliance of the conditional interim order passed by this Court dated 22.10.2013 and the petitioners will not insist for refund of the said amount along with compounding charges.

8. Recording the aforesaid submission of the learned counsel for the parties, the Writ Petitions are allowed and the impugned proceedings/notices of the respondents are set aside. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar



To

1.The Assistant Executive Engineer,
Operation and Maintenance,
TANGEDCO, Madurapakkam,
Villupuram Taluk.

2.The Assistant Engineer,
Operation & Maintenance,
TANGEDCO,
Vazhthavoor,
Villupuram District.

+1cc to Mr.N.Suresh, Advocate SR.No. 35472

W.P.Nos.28733 and 28757 of 2013

A.SK(18.08.2021)