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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.12329 of 2021

M/s.Aravind Auto Spares
No.41/105, Dr.Moorthy Nagar
1st Main Road, Padi
Chennai 600 050.

Rep.by its Partner Mr.P.R.Aravindhan

... Petitioner

-Vs-

1.Superintending Engineer
Chennai EDC/North,144, Anna Salai
Chennai - 601 204.

2.Executive Engineer
O&M/Ponneri, 33/11KV Ponneri SS Campus
Vembakkam, Ponneri-601 204.

3.Assistant Executive Engineer
O&M/Gummidipoondi
110 KV SIPCOT SSI Campus
Gummidipoondi - 601 201.

4.Assistant Engineer, O&M/SIPCOT-I
TANGEDCO, Gummidipoondi-601 201
(R4 suo motu impleaded vide Court
order dated 29.09.2021)

... Respondents

Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the 1st respondent to grant a new commercial service connection / LM51/3/5KW to the premises of the petitioner situated at Plot No.49, SIPCOT Industrial Complex, Gummidipoondi in the name of the petitioner without insisting on the arrears payable by the vendor company in liquidation (M/s.Akshaya Imaging Systems Pvt Limited).

For Petitioner	:	Mr.S.Sathianarayanan
For Respondents	:	Mr.L.Jai Venkatesh Standing Counsel



O R D E R

The Assistant Engineer, O&M, SIPCOT-I, TANGEDCO, Gummidipoondi-601 201 is suo motu added as the fourth respondent in this writ petition.

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2. This writ petition has been filed against the impugned communication of the fourth respondent dated 07.10.2020, wherein the petitioner was directed to pay the pending arrear charges of Rs.10,43,852/- as a condition precedent for processing the application submitted by the petitioner who was seeking for a new service connection in the subject property.

3. Heard Mr.S.Sathianarayanan, learned counsel appearing for the petitioner and Mr.L.Jai Venkatesh, learned Standing Counsel appearing for the respondents.

4. The case of the petitioner is that, the subject property was originally owned by a corporate entity viz., M/s.Akshaya Imaging Systems Pvt Limited. The National Company Law Tribunal (NCLT), by an order dated 07.08.2018 initiated liquidation proceedings against this corporate entity and appointed a liquidator. The liquidator, in exercise of his powers conferred under the Insolvency and Bankruptcy Code (IBC), 2016, sold the immovable property belonging to the corporate entity by inviting bids.

5. The petitioner participated in the e-auction that was conducted by the liquidator and they were declared as the successful bidder and the petitioner paid a sum of Rs.4,19,50,000/- (Rupees Four Crores Nineteen Lakhs and Fifty Thousand only) as the bid amount. Subsequently, a sale certificate dated 03.02.2020 was issued in favour of the petitioner and this sale certificate was also registered as Document No.1049 of 2020 before the Sub Registrar Office, Gummidipoondi.

6. The petitioner made an application on 13.08.2020 and requested the fourth respondent to grant a new service connection in the subject property. The fourth respondent, through the impugned letter dated 07.10.2020 refused to entertain the application on the ground that there is an arrears of Rs.10,43,852/- that is pending for the existing service connection and the same has to be paid by the petitioner to entertain the application seeking for new service connection. Aggrieved by the same, the present writ petition has been filed before this Court.

7. It is seen from records that, the liquidator has already called for the various claims that are pending against the corporate entity viz., M/s.Akshaya Imaging Systems Pvt Limited



and the TANGEDCO also submitted their claim as an operational creditor. This fact is borne out by the letter given by the liquidator on 04.11.2020. In view of the same, the claim made by TANGEDCO will be dealt with in accordance with the order of priority that has been set out under Section 53 of the Code.

8. In view of the above, the fourth respondent cannot insist for the payment of the amount by the petitioner and whatever is due and payable by the corporate entity towards the existing service connection, can be claimed only in accordance with the Code, for which TANGEDCO has already made a claim.

9. In the result, the impugned rejection letter issued by the fourth respondent on 07.10.2020 is hereby quashed. There shall be a direction to the fourth respondent to entertain the application submitted by the petitioner and process the same, if it is otherwise in order and provide a new service connection within a period of four weeks from the date of receipt of a copy of this order. This writ petition is allowed with the above directions. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

KST

To

1. Superintending Engineer
Chennai EDC/North, 144, Anna Salai
Chennai - 601 204.

2. Executive Engineer
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Gummidipoondi - 601 201.

4. Assistant Engineer, O&M/SIPCOT-I
TANGEDCO, Gummidipoondi-601 201

+1 cc to Mr.S.Sathiya Narayanan, Advocate Sr.NO.51193

+1 cc to Mr.L.Jai Venkatesh, Advocate Sr.NO. 50684

W.P.No.12329 of 2021

PCH CO

A.SK(22.11.2021)