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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12-11-2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.30885 OF 2016

AND

W.M.P.NO.26753 OF 2016

R.Balasubramaniam

... Petitioner

.Vs.

1. The Assistant Engineer,
Tamil Nadu Electricity Generation
and Distribution Corporation Ltd.,
Tirupur Electricity Distribution Circle,
Mathappur, Palladam Taluk,
Tirupur District.
2. The Executive Engineer,
Tamil Nadu Electricity Generation
and Distribution Corporation Ltd.,
Tirupur Electricity Distribution Circle,
Power House, Udumalai Road,
Palladam, Tiruppur District.
3. The Superintending Engineer,
Tirupur Electricity Distribution Circle,
Jothi Nagar, P.N.Road,
Tirupur - 2.
4. K.Nagasubramaniam

... Respondents

PRAYER:- Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the second respondent herein pertaining to the Reply Notice in Ka.No.Se.Po/Palladam/ Tho.Nu.U/Ko.Puhar Manu/A.No./1867/16-17 dated 18.08.2016 and quash the same and to forbear the first and second respondents herein from drawing overhead electrical lines across the cart track in S.F.No.299/4 and 417/2 of Ganapathipalayam Village, Palladam Taluk and Tirupur District for providing new E.B. Service Connection to the fourth respondent's temple situated in S.F.No.417/1 of Ganapathipalayam Village, Palladam Taluk and Tirupur District and also remove the



E.B Pole erected on the said cart track.

For Petitioner : Mr.P.M.Duraiswamy

For Respondents : No Appearance

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O R D E R

The order impugned in the present writ petition reveals that the petitioner submitted an application on 10.07.2016. In response to the said application, a reply was given through the impugned order dated 18.08.2016 stating that the second respondent will act on getting legal opinion from the Government Pleader.

2. This Court is of the considered opinion that the Electricity Board Authorities, on receipt of any such applications or objections regarding the grievances of the consumers, have to decide the independently based on merits and in accordance with the provisions of the Electricity Act, Regulations and Rules.

3. Contrarily, merely based on the legal opinion of the Government Pleader, the Electricity Board Authorities are not expected to act. The executive power conferred under the Statute is to be exercised independently, judiciously and uninfluenced by any other external factors.

4. This being the independency of an Executive under the Constitution of India, every Competent Authority under the Statute is obligated to decide the issues on merits, failing which they are committing dereliction of duty. Thus the order impugned is not in accordance with law. No doubt, the Electricity Board Authority is at liberty to get opinion from the Government Pleader. However, such opinion must be an internal communication for the purpose of getting clarification regarding the legal provisions or interpretations or otherwise. But the application cannot be rejected or returned merely stating that on receipt of legal opinion from the Government Pleader, further actions will be taken. Such internal correspondences or opinions or discussions need not be always communicated to the consumers unless it is necessary.

5. In the present case, the objections/applications submitted by the petitioner are to be decided independently and if necessary, legal consultations with the Government Pleader or the other Authorities Competent of the Electricity Department. All such discussions, consultations, opinions are the internal administrative processes.



6. Under these circumstances, the second respondent is directed to consider the objections/applications filed by the petitioner on merits and in accordance with the provisions of the Act and Rules or Regulations, as expeditiously as possible, and preferably within a period of twelve weeks from the date of receipt of a copy of this order. It is needless to state that in the event of conducting an enquiry, the second respondent is bound to provide an opportunity to all the parties, including the petitioner.

7. With the abovesaid directions, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

Svn

To

1. The Assistant Engineer,
Tamil Nadu Electricity Generation
and Distribution Corporation Ltd.,
Tirupur Electricity Distribution Circle,
Mathappur, Palladam Taluk,
Tirupur District.
2. The Executive Engineer,
Tamil Nadu Electricity Generation
and Distribution Corporation Ltd.,
Tirupur Electricity Distribution Circle,
Power House, Udumalai Road,
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3. The Superintending Engineer,
Tirupur Electricity Distribution Circle,
Jothi Nagar, P.N.Road,
Tirupur - 2.

+1cc to the Government Pleader, S.R.No.58735

W.P.NO.30885 OF 2016

MG(CO)
PBS/29/11/2021