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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2021

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.16830 of 2019

GLOW WIDE AGRO PRODUCTS,
represented by its Authorized Signatory and
Managing Partner, Sharad Jalan,
having its Registered Office at
No.99, Harrington Road,
E-1, Harrington Court,
15th Avenue, Chetpet,
Chennai 600 031.

... Petitioner

vs.

1. The Assistant Engineer,
Red Hills, TANGEDCO,
Chennai 600 052.
2. The Assistant Executive Engineer,
Red Hills, TANGEDCO,
Chennai 600 052.
3. The Assistant Engineer,
Sothuperumbakkam,
TANGEDCO,
Chennai 600 052.
4. The Assistant Executive Engineer,
Flying Squad, TANGEDCO,
Chennai 600 002.
5. The Managing Director,
TANGEDCO,
Chennai 600 002.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the proceedings made in the impugned order passed by the Respondents 1 to 3, dated 28.05.2019 vide the proceedings issued on 31.05.2019 vide File



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Number Ka.No.U.Se.Po/E&Pa/Redhills/Min thiruttu D Mugam/2019 and quash the same as illegal and consequently direct the Respondents to change the Petitioner's Electricity Service connection from DOMESTIC into PERMANENT AGRICULTURE service connection.

For Petitioner : Mr.D.Jagannath

For Respondents : Mr.L.Jai Venkatesh,
Standing Counsel

O R D E R

Petitioner has come up with the present Writ Petition seeking to call for the records of the proceedings made in the impugned order passed by Respondents 1 to 3, dated 28.05.2019 vide the proceedings issued on 31.05.2019 and for a consequential direction to the Respondents to change their Electricity Service connection from DOMESTIC into PERMANENT AGRICULTURE service connection.

2. According to the Petitioner, a resolution was passed by their Company to have a Poly house and involve in agricultural cultivation. An Agreement was signed by the Petitioner with the TANGEDCO on 29.01.2016 to obtain temporary electricity service connection. Initially, the Petitioner Company obtained temporary electricity service connection in the name of the Managing Partner. It is stated by the Petitioner that, the Respondent Officials failed to even inspect the premises where the Poly House and the Agricultural farm is located and despite requests on several occasions to change the electricity service connection from Domestic to Agriculture, there was no response from the Respondents.

3. While so, on 28.05.2019, a Squad from the Respondent Department conducted spot inspection of the premises of the Petitioner Company and levied a sum of Rs.1,35,000/- towards Demand Charges and Penalty. However, the Petitioner paid a sum of Rs.40,000/- to the Respondent Board. Later, by a detailed letter dated 31.05.2019 to the Respondent Board, the Petitioner sought further time to pay 50% of the remaining amount, but, there has been no response from the Respondents. Despite the Petitioner's representation, the impugned order was passed by Respondents 1 to 3. Hence, having no other alternative, the Petitioner is before this Court with the above Writ Petition.

4. Learned counsel for the Petitioner contended that, the Respondents, while passing the impugned order, failed to take note of the fact that, the Petitioner Company had deposited a sum of Rs.40,000/- under protest and had also preferred an



Appeal before the Statutory Appellate Authority and was further willing to pay a sum of Rs.18,000/- which would be 50% of the total amount to be recovered by the Respondents. However, learned counsel for the Petitioner submitted that, the Petitioner will pay the balance amount within a period of four weeks from the date of receipt of a copy of the order and that, this Court may issue a direction to the Respondent/Board not to levy any penalty.

5. Heard the learned counsel on either side and perused the material documents available on record.

6. A perusal of the impugned order passed by the Respondent/Board shows that, the electricity service connection granted to the Petitioner Company is meant for residential purpose. However, on inspection of the premises by the Respondent/Board, it was found that, the Petitioner Company is using the same for commercial purpose. As the same is illegal, the Respondent/Board passed the impugned order levying penalty charges. Admittedly, the Petitioner has paid a sum of Rs.40,000/- towards penal charges. Further, the Petitioner has agreed to pay the balance amount within a period of four weeks from the date of receipt of a copy of the order, however, without interest or penal charges.

7. Considering the facts and circumstances of the case that, the Petitioner has already paid a sum of Rs.40,000/- of the amount demanded by the Respondent/Board and taking note of the submissions of the learned counsel for the Petitioner, this Court directs the Petitioner to pay the balance amount demanded by the Respondent/Board within a period of four weeks from the date of receipt of a copy of this order. This Court makes it clear that, the Respondent shall not levy interest or penalty on the balance amount payable by the Petitioner.

The Writ Petition is disposed of accordingly. No costs. Consequently, connected W.M.P.No.16415 of 2019 is closed.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

(aeb)



To:

1. The Assistant Engineer,
Red Hills, TANGEDCO,
Chennai 600 052.
2. The Assistant Executive Engineer,
Red Hills, TANGEDCO,
Chennai 600 052.
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Chennai 600 002.
5. The Managing Director,
TANGEDCO,
Chennai 600 002.

+1cc to Mr.L.Jai Venkatesh, Advocate SR. No.60873

W.P.No.16830 of 2019

SS (CO)
PR (21/01/2021)