

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P.NO.15344 OF 2020

Coimbatore Consumer Cause

(Regd. No.110/97)

No.3B, 4th Floor, "Mayflower Valencia",
1264-C, Avinashi Road,
Nava India, Coimbatore - 641 004
rep. by its Secretary
K.Kathirmathiyon

... Petitioner

-vs-

1. The Chairman & Managing Director,
TANGEDCO, 144, Anna Salai,
Chennai - 600 002.
 2. The Director (Distribution),
TANGEDCO, 144, Anna Salai,
Chennai - 600 002.
 3. State of Tamil Nadu,
rep. by its Secretary to Government,
Municipal Administration and Water Supply Department,
Fort St. George,
Chennai - 600 009.
 4. State of Tamil Nadu, सत्यमेव जयते
rep. by its Secretary to Government,
Rural Development Department,
Fort St. George,
Chennai - 600 009.
- ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus calling for the entire records connected with the impugned Memo No.CE/Comm1/SE/Comm1/ EE3/AEE2/ F.Plg.Per/FLM-M/ 189/2020 dated 06.10.2020 issued by the second respondent and quash the same and consequently, directing respondents 1 to 4 to issue appropriate orders/instructions/directions to all the authorities concerned to strictly enforce the Tamilnadu Combined

Development and Building Rules, 2019 in respect of insisting mandatory Building Completion Certificate for providing Electricity, Water and Sewage connections.

For Petitioner : Mr.S.Sathia Chandran

For Respondents : Mr.P.H.Arvinth Pandian
Addl. Advocate-General
assisted by
Mr.Abdul Saleem
for respondent Nos.1 and 2
Mr.G.K.Muthukumar
Spl. Government Pleader
for respondent Nos.3 and 4

ORDER

(Order of the Court was made by Senthilkumar Ramamoorthy,J.)

This public interest litigation challenges a memorandum issued by the TANGEDCO on 06.10.2020 and prays for strict enforcement of the Tamil Nadu Combined Building Development Rules, 2019 (the 2019 Rules).

2. The 2019 Rules specify that service connections such as electricity supply connections, water supply connections and sewerage connections should not be provided for the classes of buildings specified in Rule 20 thereof, unless a completion certificate is obtained from the development authority.

3. The writ petitioner asserts that the memorandum under challenge deviates from the requirements of the 2019 Rules and, in particular, Rule 20 thereof.

4. Learned counsel for the writ petitioner asserts that the 2019 Rules were framed pursuant to orders passed by this Court. He submits that the said rules are intended to prevent unauthorised constructions, which are subsequently regularised. Under the guise of the impugned memorandum, it is contended that the TANGEDCO is enabling persons who put up unauthorised constructions to obtain electricity supply connections.

5. Learned counsel for the writ petitioner also submitted that the writ petitioner is not opposed to the grant of electricity supply connections to persons who require electricity supply connections for temporary structures or small portions of buildings and that, therefore, a representation of 02.01.2021 was made requesting the Government to extend exemptions to places where there are no buildings such as public parks, bore well connections, temporary structures, etc.

6. The last contention of learned counsel for the petitioner is that TANGEDCO is not empowered to issue a scheme because it is only a distribution licensee. Therefore, any such scheme should be issued by the TNERC.

7. Learned Additional Advocate-General appears on behalf of the TANGEDCO and submits that a draft scheme has been prepared by the TANGEDCO in order to provide electricity supply connections to certain classes of consumers. These consumers are either persons who have set up small shops or occupy small portions of existing buildings. They require Low Tension electricity supply connections and a completion certificate cannot be insisted upon from these categories of consumers. He also points out that requisite safeguards have been provided and that the property tax receipt issued by the competent authority is required before the application for service connection is considered. With regard to unauthorised constructions, he points out that the connection would be disconnected, if the Corporation or other Municipal authorities have initiated lock and seal or other action under the relevant legislations. Learned Additional Advocate-General submits that the draft scheme is in accordance with the 2019 Rules.

8. With regard to the power to frame the scheme, learned Additional Advocate-General submits that the TANGEDCO is under an obligation to supply electricity to consumers both under the Electricity Act, 2003 and the Tamil Nadu Electricity Supply Code, 2004. This contention is meritorious, inasmuch as the scheme is no more than a set of objective standards on the basis of which TANGEDCO would perform its statutory obligations. This is, however, subject to the caveat that the scheme should not contravene extant laws or rules, and we examine this issue next.

9. Upon perusal of the draft scheme, it is evident that the draft scheme is applicable with regard to the provision of Low Tension electricity supply connections for buildings other than high-rise buildings as defined in Rule 2(58) of the 2019 Rules. The 2019 Rules provide that a completion certificate is required for all buildings except residential buildings up to 12 metres in height not exceeding three dwelling units or 750 square metre and all type of industrial buildings. Thus, it appears that the draft scheme is contrary to Rule 20 of the 2019 rules which apply to all buildings except residential buildings up to 12 metres, whereas the draft scheme is made applicable to all buildings other than high-rise buildings, i.e. buildings which do not exceed 18.30 metres. It is needless to say that the TANGEDCO cannot provide for the Low Tension supply connection in contravention of applicable rules such as the 2019 Rules.

10. Thus, the objections of the writ petitioner herein to the impugned memorandum and the draft scheme would be substantially addressed provided the TANGEDCO adheres strictly to the 2019 Rules while providing Low Tension electricity supply connection to the classes of consumers indicated in the draft scheme.

11. Accordingly, W.P.No.15344 of 2020 is disposed of by directing the TANGEDCO to comply strictly with the Tamil Nadu Combined Building Development Rules, 2019 with regard to the grant of all electricity service connections. There will be no order as to costs. Consequently, W.M.P.Nos.19191 and 19192 of 2020 are closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To:

1. The Chairman & Managing Director,
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4. The Secretary to Government,
State of Tamil Nadu,
Rural Development Department,
Fort St. George, Chennai - 600 009.

+1cc to Mr.S.Sathia Chandran, Advocate, S.R.No.17124
+1cc to the Government Pleader, S.R.No.18003

W.P.No.15344 of 2020

SS(CO)
CS/01/04/2021