



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.01.2021

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No. 13409 of 2011
and
M.P. (MD) No. 2 of 2011

The Capuchin Friars Minor Society,
Gnanalaya,
26, Birds Road,
Tiruchirappalli-620 001.

... Petitioner

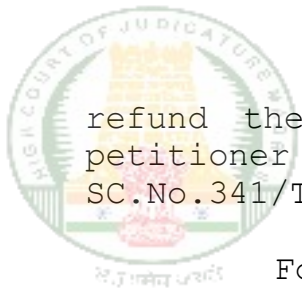
Vs

1. The Chairman,
Tamilnadu Electricity Board,
Electricity Avenue,
Annasalai,
Chennai-600 002.
2. The Superintending Engineer,
Trichy Electricity Distn.Circle/Metro,
Tamilnadu Electricity Board,
Mannarpuram,
Trichy-620 020.
3. The Assistant Executive Engineer,
Operation & Maintenance Palakkarai,
Tamilnadu Electricity Board,
Thennur,
Trichy-620 017.
4. The Assistant Engineer,
Operation & Maintenance,
Junction Division,
Tamilnadu Electricity Board,
Trichy-620 001.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the third respondent in its proceedings in Lr.No.AEE/O&M/PKI/Ty/F.DOC/ D.No.306/2011-12 dated 29.10.2011 and ~~consequently, direct the third respondent to~~

<https://hccourtshc.mca.gov.in/hccourts>



refund the sum of Rs.20,000/- and Rs.1,27,340/- levied from the petitioner under duress and reclassify the service connection in SC.No.341/TF Eye Hospital to residential tariff.

For Petitioner : Ms.J.Maria Roseline
For Respondents : Ms.M.Parameswari
for Mr.S.M.S.Johny Basha

ORDER

Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondent Board.

2.The petitioner is a congregation of ardent Christian Priests. It is a Society known as "Gnanalaya". It has been granted the petition mentioned electricity service connection. An inspection was conducted on 29.10.2011. The respondent has taken a stand that there has been energy theft because the place was used for the residence of the ardent Christian Priests. Pursuant to the inspection, the impugned communication has also been issued. The petitioner has been called upon to pay a sum of Rs.1,27,340/-. The petitioner appears to have paid a sum of Rs.20,000/- towards compounding charges. The connection has now classified under Tariff V. The petitioner, therefore, wants the original classification to be restored and they also want the amount of Rs.1,47,340/- to be refunded.

3.The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition.

4.In particular, she pointed out that the premises in question is used only for housing the ardent priests and not for any other purpose. According to her, the connection was rightly given under domestic category and the respondents erred in reclassifying the same.

5. I find considerable force in the contention advanced by the petitioner's counsel.

6. But then, the learned Standing Counsel produced before me the photographs of the name board of the petitioner Society, in which, it has been mentioned that the working hours will be from 10.00 a.m., to 12.20 p.m., The Standing Counsel complained that the petitioners were not even willing to let the inspecting officials to enter the premises and that the petitioner had not given any proper explanation and that led the respondent to pass the impugned order.

7.At this stage, the petitioner's counsel states that a small place, measuring 10 X 10 square feet is being used as the office of the Society. The respondent cannot take objection to that.



8. Since some new development had come into play, in the very nature of things, the issue has to be remanded to the file of the second respondent. The impugned communication is quashed and the second respondent will issue fresh notice to the petitioner and after holding an enquiry, the second respondent will pass appropriate order on merits and in accordance with law. The sums already paid by the petitioner will be adjusted in terms of the order to be passed by the second respondent. The Writ Petition is allowed on these terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-III)

// True Copy //

/ /2021
Sub Assistant Registrar (CS-)

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Superintending Engineer,
Trichy Electricity Distn.Circle/Metro,
Tamilnadu Electricity Board,
Mannarpuram,
Trichy-620 020.

+1 CC to Mr.J.MARIA ROSELINE, Advocate (SR-2087[F] dated 25/01/2021)

RMI

TE : 05/02/2021 : 3P/3C

W.P. (MD) No.13409 of 2011
25.01.2021