



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.01.2021

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WP(MD)No.4357 of 2011

and

MP(MD)No.1 of 2011

T.A.Jayaraman

... Petitioner

Vs.

1.The Superintending Engineer,
Thanjavur Electricity Distribution
Circle,
Tamil Nadu Electricity Board,
No.1, Vallam Salai,
Post No.263, Thanjavur - 613 007.

2.The Assistant Executive Engineer,
(Operation and Maintenance),
Tamil Nadu Electricity Board,
Papanasam, Thanjavur District.

3.The Assistant Executive Engineer,
(Enforcement),
Tamil Nadu Electricity Board,
Thanjavur.

4.The Junior Engineer,
Tamil Nadu Electricity Board,
Operation and Maintenance,
Kalasikulam, Thanjavur District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the first respondent in Lr.No.SE/TEDC/TJR/AEE/Gel/AE/F.Enft/D.723/11, dated 09.03.2011 and quash the same.

For Petitioner : Mr.P.Thiagarajan

For Respondents : Ms.Parameshwari,
for SMS.Johnny Basha



ORDER

The petitioner is an agriculturalist. He was given the petition mentioned free agricultural service connection. The case against the petitioner is that the petitioner used the service connection for aqua culture purpose. An inspection was held on 08.02.2010 and a working sheet was also served on the petitioner. Questioning the same, the petitioner filed WP(MD)No.1617 of 2010. When the matter was taken up for final disposal, it was clarified by the respondent that the working sheet impugned in the writ petition was only a provisional working sheet and that the writ petitioner will be heard before passing final orders. Thereafter, the writ petitioner was heard and an enquiry was conducted and final orders came to be passed on 10.02.2011. Aggrieved by the same, the petitioner filed an appeal before the Superintending Engineer, Thanjavur on 04.03.2011. The said appeal was returned by the first respondent herein on the ground that the case against the petitioner fell under Section 135 of the Indian Electricity Act, 2003 and that therefore, the appeal was not maintainable and the appeal papers were returned as not feasible of compliance. The said order is put to challenge in this writ petition.

2.The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. According to him, the respondents having followed all the procedures laid down under Section 126 of the Indian Electricity Act, cannot now be heard to contend that the case actually fell under Section 135 of the Act.

3.I am not persuaded by the aforesaid contention of the learned counsel for the petitioner. The specific stand of the board right from the beginning was that the electricity was used for the purpose other than for which the usage of the electricity was authorised. Thus, the case on hand fell under Section 135 (e) of the Act. Therefore, the first respondent is justified in returning the appeal papers filed by the petitioner as not maintainable. I sustain the order impugned in this writ petition. It does not call for any interference. However, liberty is given to the petitioner to challenge the order dated 10.02.2011 passed by the second respondent herein. The petitioner's counsel states that this court should exclude the period during which this writ petition was pending. I am certain that the Judge before whom the writ petition is listed for admission would not non-suit the petitioner on the ground of laches. The learned counsel for the petitioner states that he would file an appropriate writ petition questioning the said order within a period of eight weeks from the date of receipt of copy of this order. It appears that the petitioner has complied with the conditions imposed by this Court. The petitioner is presently enjoying the service connection. Subject to the orders that may be obtained in the writ petition to be filed, the status quo as on date will continue for a period of eight more weeks.



4.The writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

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/ /2021

Sub Assistant Registrar(CS)

skm

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:

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+1 CC to M/s.P.THIYAGARAJAN, Advocate (SR-1483[F] dated 20/01/2021)

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