



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.07.2021

CORAM:

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P(MD)NO.2968 of 2019

and

W.M.P(MD)No.2226 of 2019

Valliyammal

:Petitioner

.vs.

1.The Tamil Nadu Electricity Ombudsman,
19-A, Rukmini Lakshmipathy Salai,
(Marshal Road), Egmore,
Chennai - 600 008.

2.The Chairman,
Consumer Grievance Redressak Forum
19-A, Rukmini Lakshmipathy Salai,
(Marshal Road), Egmore,
Chennai - 600 008.

3.The Executive Engineer,
TANGEDCO,
Oddanchathiram,
Dindigul Distribution Circle,
110 KV Sub Station,
Dharapuram Road,
Dindigul - 624 619.

4.The Assistant Executive Engineer/Town,
TANGEDCO,
Dindigul Distribution Circle,
110 KV Sub Station,
Vedachandur,
Dindigul - 624 710.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order in Appeal Petition No.73 of 2017, dated 25.06.2018 on the file of the first respondent along with the first order in Forum Petition No.20, dated 26.09.2017 on the file of the second respondent and to quash the same as illegal and consequently to direct the respondents to provide free electricity supply connection to the Petitioner by



taking note of the Registration No.EEND 241/1999-2000, dated 24.3.2000 within the time stipulated by this Court.

For Petitioner

:Mr.S.Louis

For Respondents
1 to 4

:Mrs.Rajeswari
for M/s.S.M.S.Johnny Basha

O R D E R

This Writ Petition has been filed challenging the impugned order passed by the first respondent, dated 25.6.2018 and thereby confirming the impugned order passed by the third respondent dated 26.09.2017 and for a consequential direction to the respondents to provide free electricity service connection to the Petitioner.

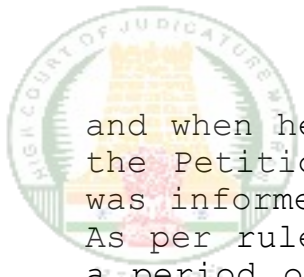
2.The case of the Petitioner is that she applied for free electricity service connection for her agricultural lands and her application was registered in Registration No.EEND 241/1999-2000, dated 24.03.2000. The Petitioner came to know that several persons were given free electricity supply and hence, she approached the third respondent. The Petitioner, thereafter, submitted a Grievance Petition before the third respondent and pursuant to the same, a notice for enquiry was issued to the Petitioner on 29.11.2016.

3.The Petitioner attended the enquiry and at that point of time, it came to the knowledge of the Petitioner that a communication was sent to the Petitioner on 03.11.2010 and there was no response from the Petitioner and thereafter since the Petitioner did not express the willingness within the stipulated time and the maximum period of five years also expired on 31.01.2016, the application made by the Petitioner was rejected. The third respondent, after considering the facts of the case and the relevant circular, rejected the petition submitted by the Petitioner.

4.Aggrieved by the same, the Petitioner filed an appeal before the first respondent and the first respondent through impugned proceedings, dated 25.06.2018, rejected the appeal. Aggrieved by the same, the present Writ Petition has been filed before this Court.

5.Heard Mr.S.Louis, learned counsel appearing for the Petitioner and Mrs.Rajeswari, learned counsel representing Mr.S.M.S.Johnny Basha, learned Standing Counsel appearing for the respondents/Electricity Board.

6.There is no dispute with regard to the fact that the Petitioner had made an applicatiuon in the year 2000 seeking for free electricity supply for her agricultural lands. The application made by the Petitioner was also entertained and the Petitioner was expecting that the respondents will inform her as



and when her turn comes. According to the respondents, the turn of the Petitioner reached in the year 2010 itself and the Petitioner was informed regarding the same through a letter, dated 03.10.2010. As per rules, the Petitioner has to express her willingness within a period of 90 days from the date of receipt of notice. The outer limit was fixed as five years and this period ended on 31.1.2016. Accordingly, the claim made by the Petitioner was rejected.

7. The learned counsel for the Petitioner relied upon an order passed by this Court in W.P(MD)No.21827 of 2017, dated 18.7.2018. The relevant portions in the order are extracted hereunder:

'2. The learned Standing Counsel for the respondents, by relying upon a Circular, dated 22.09.2009, issued by the Chief Engineer/Planning and Resource Centre, Tamil Nadu Electricity Board, submitted that whenever there is a delay in reporting readiness by the applicants beyond the period of one year, an extension could be given upto five years from the date of expiry of 90 days notice period. After the expiry of five years, the application will stand automatically cancelled and cannot be revoked. It is on the basis on this Circular, dated 22.09.2009, the Petitioner's request for free agricultural electricity service connection after the period of five years has been cancelled.

3. I have perused the Circular, dated 22.09.2009 issued by the Chief Engineer/Planning and Resource Centre, Tamil Nadu Electricity Board, to all the Chief Engineers, Distribution, Region. Apparently, the said Circular is an interdepartmental circular and it cannot be deemed to be an order binding upon the Petitioner as such.

4. In an identical situation, in W.P(MD)No.3798 of 2013, this Court had an occasion to deal with the said Circular. The Petitioner in the said Writ Petition had sought for free agricultural electricity service connection after a period of five years. This Court, by order dated 5.4.2013, had observed as follows:

'4. There is no dispute that the Petitioner registered his name as early as on 24.12.1990 for the purpose of providing electricity service connection to his property in S.No.466/3 at Kalathur Village, Pattukkottai Taluk, Thanjavur District. The first respondent appears to have issued a communication, dated 6.6.2003 directing the Petitioner to approach the third respondent for the purpose of providing service connection. Admittedly, the Petitioner failed to respond to the said



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direction. The Petitioner now wanted electricity service connection on the basis of his original registration. The first respondent, relying on the circular, dated 22.09.2009 issued by the Chief Engineer, Chennai denied service connection to the Petitioner. The said circular is only a departmental communication which has no sanction of law. When there is a service connection allotted to the Petitioner, the same cannot be denied on the basis of a departmental circular issued by the Chief Engineer. Therefore, I am of the view that the Executive Engineer was not right in denying service connection to the Petitioner.''.

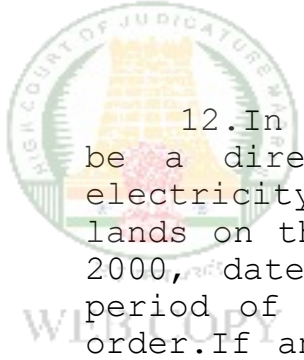
5.The above order is self-explanatory. As such, the respondents may not be justified in relying upon the Circular, dated 22.09.2009 and thereby, deny free agricultural electricity service connection to the Petitioner herein. ''

8.It is clear from the above order that this Court has taken into consideration the circular, dated 22.09.2009 and it was held that the Circular has no sanction of law and the department cannot deny service connection by relying upon the Circular.

9.In the instant case, there is no proof to show that the respondents had sent a letter, dated 3.10.2010 to the Petitioner, informing her that she must give her willingness within a period of 90 days. Even as per the finding of the first respondent, this letter was not sent to the Petitioner by Registered Post and it is seen from the records that there was only a general announcement made by the department and it is also claimed that it was published in the newspaper. Hence, there is no clinching evidence to show that the Petitioner was served with a notice in the year 2010 and even thereafter, she did not express her option.

10.The Petitioner was desirous of getting a free electricity connection for her agricultural lands and therefore, it will be too unnatural for the Petitioner to miss the opportunity to get free electricity service connection. This Court has consistently held that the Circular, dated 22.09.2009 relied upon by the respondents does not have the sanction of law and at the best, it is only directory in nature. It has also been held that the service connection cannot be denied based on this circular.

11.In view of the fact that there is no clinching evidence to show that the Petitioner was served with any notice in the year 2010 and also of the fact that the circular in question has been held not to have any sanction of law, this Court is inclined to interfere with the impugned order passed by the respondents.



12. In the result, this Writ Petition is allowed and there shall be a direction to the respondents to provide free agricultural electricity service connection to the Petitioner's agricultural lands on the basis of the original Registration No.EEND 241/1999-2000, dated 24.3.2000. This process shall be completed within a period of six weeks from the date of receipt of a copy of this order. If any charges are payable by the Petitioner in this regard, the same shall be paid. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (T&P)

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Sub Assistant Registrar (CS)

vsn

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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(Marshal Road), Egmore, Chennai - 600 008.
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4. The Assistant Executive Engineer/Town,
TANGEDCO,
Dindigul Distribution Circle,
110 KV Sub Station,
Vedachandur, Dindigul - 624 710.

+1 CC to M/s.S.LOUIS, Advocate (SR-22848[F] dated 16/07/2021)

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