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W.P.(MD)No.2299 of 2016

R.Anandan v. The Superintending Engineer

BEFORE THE MADURAI BENCH OF MADRAS HIGH Court

DATED: 16.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD)No.2299 of 2016

(Through Video Conferencing)

R.Anandhan

... Petitioner

Vs.

1.The Superintending Engineer
(Executive Engineer, Development)
Tamilnadu Generation of Electricity
and Distribution Company
Thanjavur.

2.The Executive Engineer
Commission and Maintenance,
Tamilnadu Generation of Electricity
and Distribution Company
Kumbakonam 612 001.

3.The Executive Engineer,
Public Works Department
Water Resource Department
Vennaru Water Drain Division,
Thanjavur

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent's communications க.என்.சே.பொ/இ.பரா/குடும்ப/கோ/புகார்/அ.எண்.26/2013 dated 18.01.2014 consequent க.என்.சே.பொ/இ.பரா/குடும்ப/கோ/புகார்/அ.எண்.26/2013 dated 20.03.2014 and subsequent க.என்.சே.பொ/இ.பரா/குடும்ப/கோ/புகார்/அ.எண்.07/2015 dated 20.05.2015 and quash the same and direct the 2nd respondent to receive and register the petitioner's application dated 01.07.2013 for Agriculture pump set electricity service connection for petitioner's borewell in Survey No.562/1B in Onbatthuveli Village, Papanasam Taluk, Thanjavur District, within the period stipulated by this Court.

For Petitioner

:Mr.A.Haja Mohideen

For Respondent

:Ms.M.Rajeswari for R1 & R2

for S.M.S.Johnny Basha
standing counsel

Mr.M.Lingadurai for R3

Special Government Pleader



ORDER

This writ petition questions the impugned proceedings of the 2nd respondent dated 20.05.2015, wherein, the application submitted by the petitioner seeking for electricity supply for carrying on with the agricultural activities was refused to be registered.

2. The case of the petitioner is that he is an agriculturist, who is engaged in the cultivation of paddy and other crops in the subject property. The further case of the petitioner is that the subject property was classified as a punja land in the revenue records. It is stated that the petitioner dug a bore-well in his property and installed a pump set and applied to the second respondent for getting an electricity service connection for the said pump set. The petitioner was directed to get a No Objection Certificate from the Public Works Department (in short 'PWD') in order to take his application on file and to register the same. Such a registration is required since agricultural service connection is given based on the seniority in the list maintained by the department.

3. The petitioner was issued with a No Objection Certificate by the Public Works Department on 02.09.2013. As per the relevant Government letter, the property must be situated beyond 100 metres from the river and in case of any other water body, it must be situated beyond 50 metres. An inspection was conducted by the officials belonging to the Public Works Department and it was found that the petitioner had satisfied this requirement and the place, where the petitioner had dug the bore-well was beyond 102 metres from Vettaru and 52 metres from Sengurajan Vaikkal.

4. Based on the No Objection Certificate given by the PWD, the petitioner submitted his application to the second respondent.

5. The grievance of the petitioner is that the second respondent even without considering the No Objection Certificate given by the PWD came to a wrong conclusion as if the property, in which, the borewell has been dug, is only 10 metres from the river. In view of this objection, the application given by the petitioner was not registered. Aggrieved by the same, the present writ petition has been filed before this Court.

6. Heard the learned counsel for the petitioner, the learned standing counsel for the respondents 1 and 2 and the learned Special Government Pleader for the third respondent.

7. In the considered view of this Court, there is a requirement for the Electricity Board to insist for getting a No Objection Certificate from the competent authority in order to register an application seeking for agricultural service connection. Insofar as



the water bodies are concerned, the competent authority to grant such a certificate is the PWD. Therefore, the petitioner was directed to get the No Objection Certificate and accordingly the petitioner approached PWD and an inspection was conducted and it was found that the petitioner's property is well beyond the required distance from the water body. Once such a No Objection Certificate is granted by the PWD, the department has to necessarily act upon the same and it is not known as to how the No Objection Certificate was completely disregarded and a finding was given in the impugned communication of the second respondent as if the property of the petitioner is situated within 10 metres from the river. The impugned communication of the second respondent is completely arbitrary and virtually the No Objection certificate issued by the competent authority, namely, PWD has been overlooked.

8. In view of the above discussion, this Court finds that the impugned communication of the second respondent dated 20.05.2015 cannot be sustained and the same requires the interference of this Court. Accordingly, the impugned communication of the second respondent is hereby quashed. There shall be a direction to the second respondent to receive and register the application of the petitioner dated 01.07.2013 and such registration will be effective from the date on which it was originally presented before the second respondent. On such registration, the agricultural electricity service connection shall be granted to the petitioner in accordance with the seniority as and when the turn of the petitioner is reached.

9. The writ petition is allowed with the above directions. No costs.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

RR

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.SPL GP (SR-19512[F] dated 17/06/2021)

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