



W.P.No.25667 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 01.12.2022

Coram:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.No.25667 of 2013

and

W.M.P.No.32986 of 2017 and M.P.No.1 of 2013

M.A.Thillai Nayagam

.. Petitioner

Vs.

1. The Managing Director,
Tamil Nadu Arasu Cable T.V. Corporation Ltd.,
Chennai-600 034.

2. The Tahsildar,
Kancheepuram Taluk,
Kancheepuram.

3. J.Thasappa, Madhan Cable Vision
Respondents

..

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to proceedings No.15620/TACTV/Legal/2013, dated 23.05.2013 and quash the same and direct the first respondent to consider petitioner's representation dated 25.11.2011 together with enclosures along with the letter dated 07.05.2013.

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For petitioner : Mr.A.S.Narasimhan

For respondents: Mr.Davind Sundar Singh Fernandez for RR-1 and 2

No appearance for R-3

ORDER

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus to quash the impugned order, dated 23.05.2013 passed by the first respondent and to direct the first respondent to consider the representation of the petitioner, dated 25.11.2011.

2. Brief facts which are necessary for disposal of the present Writ Petition, are as follows:

The petitioner is a Cable TV operator in the name and style of Bright Sat Vision. The petitioner admitted that the third respondent has purchased business from one Mathiazhagan in the year 2008. The petitioner approached the first respondent to get signal and the petitioner obtained licence from 01.03.2008 to 12.08.2009 and again thereafter, on subsequent spells. Though the petitioner states that they are paying the subscription regularly, it appears that the petitioner is unable to operate, as the licence was also granted to the third respondent to operate the business in the same area or where the petitioner was

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doing business. Ultimately, the petitioner has submitted a representation for grant of licence and the same was not favourably considered. Hence, the petitioner approached this Court by filing W.P.No.5340 of 2013 and it is shown that an order dated 05.03.2013 was obtained by the petitioner in the said Writ Petition directing the first respondent herein to consider the petitioner's representation, dated 25.11.2011. Thereafter, by the impugned order, the petitioner's representation was rejected on the ground that the third respondent is already operating the Cable TV business in the same area and the petitioner had paid the subscription only upto September 2012. Since the petitioner had not paid the subscription from October 2012, the petitioner's representation was rejected not only on the ground that the petitioner has failed to pay the subscription, but also on the ground that the licence has been granted in favour of the third respondent.

3. Learned counsel for the petitioner submitted that during the pendency of this Writ Petition, the petitioner has obtained interim order from this Court on 13.09.2013 holding as follows:

".... The impugned order would not stand in the way the petitioner doing the business of Cable T.V. if he is otherwise entitled to do so on the basis of the registration given by the Statutory Authority."

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4. The petitioner has also filed Contempt Petition in Cont.P.No.154 of 2015 to punish the respondents therein for violation of the above interim order passed by this Court. He refers to the counter affidavit filed in the Contempt Petition on behalf of the second respondent therein, wherein it is stated as follows:

"6. I submit that as the data systems of TACTV are all computerised, once a Local Cable Operator registered himself online with TACTV, with the number of points/connections, the system automatically starts generating the payment schedule and captures the amount of subscription paid as well as pending every month. In view of the same as, the Writ Petitioner on his own has shown 100 points and paid subscription till September 2012 and the system generated an outstanding amount against the Writ Petitioner. It is submitted that the Writ Petitioner though has enrolled online with TACTV, however, till date, he has not produced the details of his subscribers/connections. Even now, the TACATV is ready to provide signals to him provided he gives the exact number of connections along with the details of subscribers."

5. Learned counsel appearing for the respondents 1 and 2 submitted that



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the petitioner has committed default and a sum not less than Rs.2 lakhs is due from the petitioner towards subscription. When the petitioner seeks licence from respondents 1 and 2 for running his business, they cannot commit default in payment of subscription.

6. This Court cannot direct the respondents to give permission to the petitioner to operate the Cable TV business in a particular area. The petitioner has not even challenged the order, by which the third respondent was permitted to operate the Cable TV business. The writ petition is heard after nine years and there may be subsequent developments.

7. In such circumstances, this Court is not inclined to entertain the present Writ Petition or to give positive direction to the respondents. However, it is open for the petitioner to approach respondents 1 and 2 with a fresh application, if he is otherwise eligible after paying the arrears of subscription within four weeks. In case the third respondent or any one is running the business on a valid licence obtained from the respondents in the same area, the person operating business in the area may also be heard and a speaking order shall be passed in accordance with law within a period of four weeks from the date the petitioner remits the arrears of subscription for the period the petitioner was operating.

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8. Except granting the above liberty to the petitioner, the Writ Petition is dismissed. These shall be no order as to costs. Consequently the Miscellaneous Petitions are closed.

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Speaking Order: Yes/no

CS

To

1. The Managing Director,
Tamil Nadu Arasu Cable T.V. Corporation Ltd.,
Chennai-600 034.
2. The Tahsildar,
Kancheepuram Taluk,
Kancheepuram.



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