



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.05.2022

CORAM :

THE HON'BLE MRS.JUSTICE S.ANANTHI

W.P.No.11925 of 2022

and

W.M.P.No.11339 of 2022

E.Nirmala

..Petitioner

Vs.

1.The District Collector
Coimbatore.

2.Junior Engineer (O&M)
TANGEDCO
Kolarpatti Village
Pollachi Taluk
Coimbatore District.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records on the file of the respondents relating to the orders of second respondent (1) dated 22.04.2022 in Ka.No.JE/O & M/K.Patti/K.Vi.Mi./A.No.42 in respect of the petitioner's service connection No.334-002-357,5HP & (2) dated 22.04.2022 in Ka.No.JE/O & M/K.Patti/K.Vi.Mi./A.No.42 in respect of petitioner's service connection No.334-002-1465 and quash the same.

For Petitioner : Mr.T.Sai Krishnan

For Respondents : Ms.Rajarajeshwari
for R1

Ms.Keerthi
for Mr.Abul Kalam
for R2.

Mr.R.Prabakar for intervenor



ORDER

WEB COPY This Writ Petition has been filed by the petitioner to call for the records on the file of the respondents relating to the orders of second respondent (i) dated 22.04.2022 in Ka.No.JE/O&M/K.Patti/K.Vi.Mi./A.No.42 in respect of the petitioner's Service Connection No.334-002-357, 5 HP and (ii) dated 22.04.2022 in Ka.No.JE/O&M/K.Patti/K.Vi.Mi/A.No.42 in respect of the petitioner's Service connection No.334-002-1465 and quash the same.

2. The crux of the case of the petitioner is that she owns a land in S.F.No.26 in the Kolarpatti Village comprising of an extent of 2.75 Acres. According to the petitioner, she is carrying on agricultural operations in the said land (field) and having coconut grove. Since the said property is situated at Pollachi-Udumalaipettai Road, the petitioner had put up a service station for cleaning motor vehicles, which is a small business, from which she is eking out her livelihood.

3. It is further stated by the petitioner that she had availed electricity supply from the second respondent in Service Connection No.334-002-357 for agricultural purpose and the said connection was obtained on 31.03.1985 with a 5.HP motor is being run with the aid of the aforesaid electricity supply. She also obtained a Service Connection in No.334-002-1465 for commercial purpose for use in the service station with minimal water usage.

4. It is also stated by the petitioner that she has been making payments for electricity consumption regularly without any default to the second respondent for the said electricity Service Connections.

5. It is further stated by the petitioner that the Well situated in the said field is located at a distance of about 113 meters from the PAP (Parambikulam Aliyar Project) canal and it is the stand of the respondents that it is at a distance of about 96 meters. The bore-well which is being used for agricultural purpose during dry months, is situated at a distance of about 79 meters and it is the version of the respondents that it is at a distance of about 62 meters. Any how, according to the petitioner, the location of the Well and bore-well in his lands, is beyond the prohibited distance of 50 meters from the PAP canal.

6. While so, the impugned orders were passed by the second respondent intimating that the said two electricity Service Connections would be disconnected in fifteen days from the date



of the order and the impugned orders were served on the petitioner only on 26.04.2022. The impugned orders were issued pursuant to the proceedings of the first respondent, dated 06.10.2021, inspection report of the Joint Inspection Committee, dated 09.04.2022 and the proceedings of the first respondent, dated 14.04.2022.

7. It is the grievance of the petitioner that she was not put on notice about the above said proceedings and was not even informed of the inspection said to have been conducted by the Joint Inspection Committee and according to the petitioner, no such inspection had taken place in her presence and no copy of such inspection report was furnished to her and that no opportunity of hearing was also afforded to her before such report.

8. It is further stated by the petitioner that from the proceedings dated 06.10.2021 of the first respondent, relating to the allegation of unauthorised drawal of water from the PAP canal and branch canals, a Joint Inspection Committee was formed, comprising of Sub-Collector, Executive Engineer of PWD, Assistant Executive Engineer of PWD, Deputy Superintendent of Police, Executive Engineer of TANGEDCO and Tahsildar. The Joint Inspection Committee, as directed, had formed Sub-Committees comprising of its staff to check illegal drawal of water in the respective jurisdictions. The Sub-Committee was mainly formed to assess the damages caused to the banks of the canals for the purpose of drawing of water illegally and to find out the illegal tapping of water and if found so, a complaint be lodged before the Police against those persons who had acted illegally, and the said Sub-Committee was also assigned power to take steps for disconnection of electricity supply.

9. It is further stated by the petitioner that a Joint Committee comprising of Tahsildar of Pollachi, Inspector of Gomangalam Police Station, Junior Engineer of TANGEDCO Udumalaipettai, Revenue Inspector of Kolarpatti and Village Administrative Officer, have inspected certain lands including the petitioner's property, on 09.04.2022. The Joint Committee submitted a report as though the petitioner was found using water from the Well unauthorisedly for agricultural purpose and for running the service station and as if selling the water, and therefore, the Joint Committee recommended for immediate disconnection of electricity supply.

10. It is the further averment of the petitioner in the affidavit filed in support of the Writ Petition that on 11.04.2022, the first respondent had conducted a meeting of Water Management Supervisory Committee, based on which the proceedings dated 14.04.2022 was issued calling upon the Joint



Committee to send an action taken report on the illegal water tapping.

11. It is the stand of the petitioner that there is no illegal tapping of water and the impugned orders are passed without adhering to 'audi-alteram partem' principle. Hence, the petitioner has filed the present Writ Petition for the relief stated supra.

12. Heard the rival submissions made on either side and perused the materials on record.

13. It is evident that the petitioner was not given any notice and no opportunity of hearing was given by the second respondent before-ever the impugned orders are passed and that no show cause notice had been issued to the petitioner before recourse to such action by the Committees stated above, so also, the second respondent who passed the impugned orders.

14. This Court perused the impugned orders, from which, it is clear that no notice was issued by the respondents to the petitioner, more particularly, before the report submitted by the Committees stated above.

15. This Court, taking into consideration the facts and circumstances of the case, directs the petitioner to give her objection to the concerned authority/respondents within a period of ten days from the date of receipt of copy of this order and the said authority shall consider the objection of the petitioner and pass order on merits and in accordance with law, within a period of fifteen days from the date of filing of the objection of the petitioner. Till then, the second respondent/Junior Engineer (O & M), TANGEDCO, is directed to not to disconnect the above said two electricity Service Connections, in the petitioner's properties and the petitioner is prohibited from drawing water for commercial purpose from the subject Well/bore-well.

16. With the above observations and direction, the Writ Petition is disposed of. Consequently, the connected miscellaneous petition is closed. There shall be no order as to costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar



cs/drm

To

1.The District Collector,
Coimbatore.

2.The Junior Engineer (O&M)
TANGEDCO
Kolarpatti Village
Pollachi Taluk
Coimbatore District.

+1cc to Mr.T.Sai Krishnan, Advocate SR. No. 31109

W.P.No.11925 of 2022

SRA (CO)
PR (09/05/2022)