



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2022

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.35227 of 2019

and

W.M.P.Nos.36026 and 36027 of 2019

R.Subramaniam

...Petitioner

Vs

1. The Executive Engineer,
Tamil Nadu Electricity Board,
Panruti, Cuddalore District.
2. The Assistant Executive Engineer,
Tamil Nadu Electricity Board,
Operation and Management,
Panruti, Cuddalore District.
3. The Assistant Executive Engineer,
Tamil Nadu Electricity Board,
Anguchetty Palayam,
Cuddalore District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records of the 2nd respondent had passed an Impugned Order K.No.AEE/EP/Ki/p/Ko Ka/A No.198/2019-20 dated 17.06.2019 and quash the same.

For Petitioner

: Mr.M.Senthamizh Selvan

For Respondents

: M/s.Keerthana R.Shenoi

For Mr.L.Jai Ganesh

Standing Counsel

ORDER

The petitioner challenges provisional assessment, dated 17.06.2019, imposing a penalty of a sum of Rs.3,06,870/- (Rupees Three Lakhs Six Thousand Eight Hundred and Seventy Only) on the ground that his agricultural service connection, has been



granted as early as in the year 2000, vide Service connection No.032-003-165, and has been shifted to service a new bore well, located just 33.5 meters away from the electricity pole.

2. Mr.M.Senthamizh Selvan, learned counsel for the petitioner states that the petitioner had admittedly been granted the service connection as aforesaid in the year 2002, and has been utilizing the same for years together for carrying out agricultural activities. While things stood thus, there was an inspection in the premises of the petitioner on 17.06.2019 on the basis of a complaint made by a 3rd party.

3. According to the complaint, the petitioner had shifted the location of the connection to service a bore well, situated 33.5 meters away from the electricity pole. Finding the allegation to be correct, the petitioner was called upon to appear for detailed enquiry culminating in the impugned provisional assessment.

4. Learned counsel for the petitioner would argue that, though the petitioner had been given service connection qua a particular location, the borewell in that location had dried up over the years. It is thus that the petitioner had proceeded to sink a new borewell, shifting the connection to service the new bore well. The new well is located a mere 33.5 meters away from the original location where he had been sanctioned the service connection. In any event, he would plead that he was unaware of the rules and regulations in this regard.

5. Ms.Keerthana R.Shenoi, learned counsel representing Mr.L.Jai Venkatesh, learned Standing Counsel appearing on behalf of the respondents draws my attention to the Explanation under Section 126 of the Electricity Act, 2003 pointing out that, 'change of location can only be made with due intimation'. Section 126 deals with unauthorized use of electricity and one of the Explanations thereunder amplifies the term 'unauthorized use' to include usage of the service connection in any other location other than in the original location sanctioned.

6. In my view, the aforesaid Explanation would be of no avail to the respondents, since it applies, in my view, only to a complete change of location of the service connection. This is made clear by Memo, bearing No.SE/RE&I(D)/LO/AR/RE(P)/Target 84-85/D.35/85 (Technical Branch) dated 31.01.1985, that permits the use of an electricity service connection in any location within a distance of 30 meters from the electricity pole. In the present case, the changed location is 33.5 meters from the pole, the deviation being a mere 3.5 metres.

7. The petitioner is an agriculturist and has been using the



connection from 2000 onwards. In my view, the fact that he has sunk the new bore well at a distance of 33.5 meters, instead of 30 meters, cannot justify the imposition of penalty upon him as the Memo cited above permits a change of location and the shift in this case, is, in my view, insignificant. The penalty imposed, of a sum of Rs.3,06,870/- is set aside.

8. The arguments of the respondents to the effect that the petitioner ought to have sought permission for shifting the service connection also does not appeal, as, in this case, the service connection has not been shifted, but only moved to a more viable location, permitted under the rules. That the petitioner has exceeded the distance limit by 3.5 meters, is not, in my considered view, a fatal flaw.

9. In light of the discussion above, the impugned order/provisional assessment is set aside and this Writ Petition allowed, with no order as to costs. Connected Miscellaneous Petition is closed.

10. Learned Standing Counsel for the respondents concurs with the position that the electricity service connection to the petitioner's premises has been disconnected, as a result of the impugned order. In light of the Writ Petition having been allowed, the same shall be restored forthwith.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

Jeni/sd

To

1. The Executive Engineer,
Tamil Nadu Electricity Board,
Panruti, Cuddalore District.
2. The Assistant Executive Engineer,
Tamil Nadu Electricity Board,
Operation and Management,
Panruti, Cuddalore District.



3. The Assistant Executive Engineer,
Tamil Nadu Electricity Board,
Anguchetty Palayam,
Cuddalore District.

+1cc to Mr.M.Senthamizh Selvan, Advocate, S.R.No.20975

+1cc to Mr.L.Jai Venkatesh, Advocate, S.R.No.21413

W.P.No.35227 of 2019

PM(CO)
SU(27/04/2022)