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W.P.Nos.6635 of 2009 and 28674 & 30454 of 2008
M.P.Nos.1(2) & 2 of 2008, 1, 3(2) & 4 of 2009



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 31.01.2023

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

**W.P.Nos.6635 of 2009 and 28674 & 30454 of 2008 &
M.P.Nos.1(2) & 2 of 2008, 1, 3(2) & 4 of 2009**

W.P.No.6635 of 2009:

Human Rights Protection and Welfare Organization
Rep. by its President S.Maria Selvam,
HLL Nagar Tsunami Kudiyruppu,
New Washermanpet, Chennai - 600 081.

... Petitioner

Vs

1.The Chairman,
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chennai - 600 005.

2.Sky Line Network,
New No.14A, I Floor,
Seniamman Koil V Lane, Tondiarpet,
Chennai - 600 081.
Rep. by its Prop. R.Neelankandan.

... Respondents

W.P.No.28674 of 2008:

M.Anandan

... Petitioner

Vs

The Chairman,
Tamil Nadu Slum Clearance Board,
Chennai - 600 005.

... Respondent



W.P.No.30454 of 2008:

Sky Line Network,
New No.14A, I Floor,
Seniamman Koil V Lane, Tondiarpet,
Chennai - 600 081.
Rep. by its Prop.R.Neelankandan

... Petitioner

Vs

- 1.The Managing Director,
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chennai - 600 005.
- 2.The Executive Engineer, Circle I,
Tamil Nadu Slum Clearance Board,
Kilpauk, Chennai - 600 010.
- 3.The Commissioner of Chennai City Police,
Egmore, Chennai - 600 008.
- 4.The Deputy Commissioner of Police,
Washermanpet Circle, Old Washermanpet,
Chennai - 600 021.
- 5.Assistant Commissioner of Police,
New Washermanpet Circle,
Chennai.
- 6.The Inspector of Police (Law & Order),
H.5, New Washermanpet Police Station,
New Washermanpet, Chennai - 600 081.

7.Anandan

... Respondents

PRAYER in W.P.No.6635 of 2009: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the entire records on the file of the 1st respondent leading to the issue



of proceedings bearing No.B1/4938/06 dated 05.11.2008 granting permission to the 2nd respondent for providing cable TV services to the tenements bearing No.241 to 480 at HLL Nagar Scheme Area and quash the same and forbear the respondents from interfering with the petitioner's right to take cable TV services from the operator of their choice.

PRAYER in W.P.No.28674 of 2008: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondent herein to grant permission to the petitioner to provide Cable TV Connections to the resident allottees of the Tamil Nadu Slum Clearance Tenements at H.L.L.Nagar Tsunami Kudiyruppu, V.O.C.Nagar, Chennai - 600 081.

PRAYER in W.P.No.30454 of 2008: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 to 6 to consider the petitioner's representation dated 25.11.2008 and prevent and dispossess the respondent 7 from running offensive trade of running illegal cable television network in plot No.241 to 480 of Hindustan Level Limited Nagar a Tamil Nadu Slum Clearance Board Tenement TV.

For Petitioners : Mr.J.R.K.Bhavananthan
for Mr.S.Kothandapani
[W.P.No.6635 of 2009]

Mr.K.Sridhar [W.P.No.28674 of 2008]

Mr.A.Kalaiselvan [W.P.No.30454 of 2008]
for Mr.J.B.Soloman Peter

For Respondents : Mrs.G.Thilakavathi, Senior Counsel
for Mr.B.Balaji



for Mr.Karthikeyan, Standing Counsel
[W.P.No.28674 of 2008,
R1 in W.P.No.6635 of 2009 &
R1 & R2 in W.P.No.30454 of 2008]

Mr.A.Kalaiselvan
for Mr.J.B.Solomon Peter
[R2 in W.P.No.6635 of 2009]

Mr.B.Vijay, Additional Government Pleader
[R3 to R6 in W.P.No.30454 of 2008]

Mr.K.Sridhar - R7 in W.P.No.30454 of 2008

COMMON ORDER

Read this order in conjunction with previous orders specifically orders dated 19.12.2022, 21.12.2022 and 23.01.2022, which are extracted below to set out the narration and trajectory that these matters have taken.

'Order dated 19.12.2022

The number of tenements at Hindustan Lever Limited Nagar, Tondiarpet, Chennai – 600 081 is 960. The dispute relates to allotment of rights to cable TV connections. There have been four allottees, each providing connection to a block of 240 connections.

2.In these writ petitions, we are concerned with the allotment made by Sky Line Network, to tenements numbering 241-480, comprising 240 connections. Having heard the rival contentions of Mr.J.R.K.Bhavanathan, learned counsel for the petitioner in W.P.No.6635 of 2009, being Human Rights Protection and Welfare Organization, Mr.K.Sridhar, learned counsel for the petitioner/Anandan Cable TV Systems in W.P.No.28674 of 2008 and Ms.Praveena, learned counsel for the petitioner/Sky Line Network in W.P.No.30454 of 2008, I am not inclined to disturb the arrangement which is presently in



force, seeing as Anandan Cable TV Systems has been operating the cable systems from 2008 onwards till date.

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3.However and admittedly, they have not remitted the necessary charges in this regard. The arrears due shall be determined by the Tamil Nadu Housing Board and conveyed to the party prior to the next date of hearing, that is on 21.12.2022. That apart, Sky Line Network has made any remittances in advance, let such details be supplied to the Court, as well.

4.A status report be filed, containing the above information with a copy served upon other learned counsel.

5.List on 21.12.2022 as item No.1.'

'Order dated 21.12.2022

This matter is listed today pursuant to the order of this Court, dated 19.12.2022 reading thus:

'The number of tenements at Hindustan Lever Limited Nagar, Tondiarpet, Chennai – 600 081 is 960. The dispute relates to allotment of rights to cable TV connections. There have been four allottees, each providing connection to a block of 240 connections.

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determined by the Tamil Nadu Housing Board and conveyed to the party prior to the next date of hearing, that is on 21.12.2022. That apart, Sky Line Network has made any remittances in advance, let such details be supplied to the Court, as well.

4.A status report be filed, containing the above information with a copy served upon other learned counsel.

5.List on 21.12.2022 as item No.1.'

2. Status report dated Nil, December 2022 is filed and paragraph No. 7 thereof contains a tabulation to the effect that Anandan/Writ Petitioner in W.P.No.28674 of 2008 has been allotted 450 tenements, Basker, 250 tenements and Mani, 240 tenements.

3. Admittedly, none of these cable TV Operators have paid the licence fee and the entirety of the amounts, of Rs.16,12,000/- (Anandan), Rs.9,40,000/- (Basker) and Rs.9,06,400/- (Mani), are outstanding.

4. According to learned counsel for the Tamil Nadu Housing Board ('Board'), no action has been taken by the Board in this regard as they are operating illegally. However no action has also been initiated to curtail their operations in the premises.

5. In counter dated Nil.07.2009 filed by the Board in W.P.No.6635 of 2009, it is averred that tenements bearing numbers 1 to 240 have been allotted to R.Shanmugam, tenements bearing numbers 241 to 480 to Neelakandan, (Sky line Network/petitioner in W.P.No.30454 of 2008), tenements bearing numbers 481 to 720 to Muralimohan and tenements bearing numbers 721 to 960 to Bharathiyar Men Self Help Group. Only Neelakandan is said to have remitted a sum of Rs.57,600/-.

6. There is no identity between the allottees of the Cable TV licences and those who are running the business, as would be evident from a comparison of paragraph No.9 of counter and paragraph No.7 of status report.



Paragraph 9 of counter

<i>Sl. No .</i>	<i>Name</i>	<i>Tenement Nos.</i>
1	Mr.R.Shanmugam	1 to 240
2	Mr.Neelakandan	241 to 480
3	Mr.Muralimohan (Shri Balaji Cable T.V. system)	481 to 720
4	Bharathiyar Men Self Help Group	721 to 960

<i>S. No</i>	<i>Year</i>	<i>Anandan/Writ</i>		<i>Basker</i>		<i>Mani</i>	
		No. of Tenements	Rent (450x20x12)	No. of Tenements	Rent (450x20x12)	No. of Tenements	Rent (450x20x12)
1	2010	450	1,08,000	250	60,000	240	57,600
2	2010	450	1,08,000	250	60,000	240	57,600
3	2011	450	1,08,000	250	60,000	240	57,600
4	2012	450	1,08,000	250	60,000	240	57,600
5	2013	450	1,08,000	250	60,000	240	57,600
6	2014	450	1,08,000	250	60,000	240	57,600



S. No.	Year	<i>Anandan/Writ</i>		<i>Basker</i>		<i>Mani</i>	
		No. of Tenements	Rent (450x20x12)	No. of Tenements	Rent (450x20x12)	No. of Tenements	Rent (450x20x12)
7	2015	450	1,08,000	250	60,000	240	57,600
8	2016	450	1,08,000	250	60,000	240	57,600
9	2017	450	1,08,000	250	60,000	240	57,600
10	2018	450	1,08,000	250	60,000	240	57,600
11	2019	450	1,08,000	250	60,000	240	57,600
12	2020	450	1,08,000	250	60,000	240	57,600
13	2021	450	1,08,000	250	60,000	240	57,600
14	2022	450	1,08,000	250	60,000	240	57,600
Advance Deposit (Board Proc No.B5/13096/2019, dated 22.07.2022)			1,00,000		1,00,000		1,00,000
Total			16,12,000		9,40,000		9,06,400

8. The case of the Board in defending these Writ Petitions is that there is a statutory entitlement to collect licence fee for Cable TV connections under Section 4B of the Cable TV Regulations Act, 1995 ('Act'). Despite this, not a single paise has been collected from the allottees from 2008 till date and the only amount collected is a sum of Rs.57,600/- from R.Neelakandan, Sky line Network/petitioner in W.P.No.30454 of 2008 who has not been granted a licence to operate.

9. All is evidently not well in the manner in which the Slum Clearance Board has gone about the allotments. Petitioners rely upon a decision of this Court in re. *Kannagi Nagar Kudisai Padudi Matru Varia Cable TV Operators Welfare Society vs. The Tamil Nau Slum Clearance Board and another* (decision dated 02.03.2011 in W.P.No.2310 of 2010).

10. This Court has, while considering a challenge to the enhancement of cable TV licence fees, concluded that such



licence is not liable to be collected as there is no authority in law to justify such collection.

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11. The Board, for their part, relies upon two subsequent decisions in the cases of R.Venkatesan vs. The Managing Director, Tamil Nadu Slum Clearance Board, No.5, Kamarajar Salai, Chepauk, Chennai 600 005 and others (WP.No.12321 of 2016 dated 18.08.2017) and M.Punitharani vs. The Managing Director, T.N. Slum Clearance Board, Chennai-600 005 and others (WP.No.2357 of 2011 dated 26.10.2022), wherein the decision in Kannagi Nagar has not been noted. In the later decisions, the provisions of Section 4B of the Act have been specifically applied, and the conclusions are in favour of the Board to the effect that the provisions of Section 4B would entitle the Board to collect the licence fee as levied.

12. The earlier decision in re. Kannagi Nagar proceeds on the basis that there is no statutory sanction for the levy of licence fee whereas in the later two decisions, this Court has specifically examined and come to the conclusion that Section 4B of the Act sanctions such levy. I would thus prefer to adopt the reasoning and conclusion of the same as they have taken note of the statutory scheme applicable.

13. To be noted that there is no challenge to the levy itself by any of the petitioners and the necessity for this discussion is only a query that emanated from the Bench as to the authority under which the Board levied the fee in question. This query stands satisfactorily and conclusively resolved and answered by the decisions of this Court dated 18.08.2017 and 26.10.2022 in favour of the Board.

14. The Court does not appreciate the manner in which the Board has proceeded with these matters, and there is evident and gross mismanagement and mischief in the allotment of the Cable TV Licences for the Hindustan Lever Limited Nagar (HLL Nagar), Tondiarpet, Chennai.

15. That apart, substantial judicial time has been spent on these matters when the Board has not even made any attempts to levy and collect the fees from the licencees/persons running the cable TV business now and these relevant facts



have come to light only upon repeated questioning and probing by the Court.

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16. For the above reasons, I am inclined to impose a substantial cost upon the Board, but desist for the moment only, and defer the quantification to a subsequent occasion, depending upon the compliance or otherwise of the Board of the directions issued below:

- (i) An enquiry will be conducted by the Chairperson of the Tamil Nadu Slum Clearance Board, Chennai in regard to the allotment of the Cable TV licences in respect of the Hindustan Lever Limited Nagar (HLL Nagar), Tondiarpet, Chennai project;
- (ii) The arrears payable by those in management of the Cable TV licences will be quantified and recovery effected in regard to the same forthwith;
- (iii) Action as per law and in terms of the rules and regulations applicable will be initiated if there is no compliance by the defaulters, meaning those in operation of the cable TV business as on date;
- (iv) Amounts collected from those who have not been allotted licences will be refunded forthwith;
- (v) A report of compliance in this regard will be filed by the Chairperson, Tamil Nadu Slum Clearance Board within a period of four weeks from today with copies served in advance upon the other learned counsel.

17. List on 20.01.2023.'

'Order dated 23.01.2023

A compliance report is filed by the 1st respondent today, which is dated 20.01.2023. It accompanied by an order dated 18.01.2023, whereunder the 1st respondent state that they have properly bifurcated and allotted the cable TV connections among the four original allottees. Separately, order dated 20.01.2023, passed by the Administrative Engineer, is also



placed on record in terms of which the amounts payable by each of the four allottees is said to have been quantified.

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2. Copies of the status report as well as the orders as aforesaid are supplied to the learned counsel on other side and on his request, matter is adjourned to 31.01.2023. 3. List on 31.01.2023.'

2.Today, learned counsel for the petitioner has filed objections to the compliance and status reports that were filed by the respondents on the earlier occasions.

3.To clarify, the number of tenements as on date is 960. Allotments have been made on an equal basis being 240 houses to four allottees including the petitioner herein. Two allottees are before me, one of whom is satisfied with the manner in which the allotment has been conducted. He is stated to have remitted part payment of the demand and assures the Court that the balance will be paid in due course and within the time fixed by the Board.

4.The petitioner in WP.No.28674 of 2008 is extremely unhappy with both the process as well as the demand that has been raised. The first objection is that the present allotment order itself is incorrect since out of 240 houses, allotted only a portion of those houses actually take the connections from him, whereas the others opt for direct connections. This is irrelevant as the allotment is qua number of houses/tenements and not number of connections. This is the basis on which the original allotment has also been done and hence this submission is rejected. If at all the petitioner believes that the allotment should



be on connection basis, then the very basis of the allotment has to be challenged, which has never been the case of the petitioner.

5.The second objection touches upon Section 4(B) of the Cable Television Networks (Regulation) Act, 1995. He also makes a reference to a decision of this Court in the case of *Kannagi Nagar Kudisai Padudi Matru Varia Cable TV Operators Welfare Society v. The Tamil Nadu Slum Clearance Board and another* (WP.No.2310 of 2010 dated 02.03.2011).

6.This decision has been rendered on 02.03.2011 prior to insertion of Section 4(B) in the Act and hence does not advance the case of the petitioner. Instead two later decisions of this Court in the cases of *R.Venkatesan v. The Managing Director, Tamil Nadu Slum Clearance Board, No.5, Kamarajar Salai, Chepauk, Chennai 600 005 and others* (WP.No.12321 of 2016 dated 18.08.2017) and *M.Punitharani v. The Managing Director, T.N. Slum Clearance Board, Chennai-600 005 and others* (WP.No.2357 of 2011 dated 26.10.2022) already cited by me in order dated 21.12.2022 are what hold the field now.

7.Thus I reiterate that the provisions of Section 4(B) do entitle the Board to collect licence fee as levied. It is thus incumbent on the petitioner to settle the demand or if he believes that he is entitled to some discount/concession in that regard to approach the authorities by way of a representation. If such



representation is filed within a period of one week from the date of receipt of this order, the same shall be considered by the authority taking note of the trajectory that these writ petitions have assumed before the Court and a decision taken by the authorities after hearing the petitioner within a period of two weeks from date of receipt of the representation. It is made clear that if no representation is filed within one week from date of receipt of the copy of this order, the demand raised assumes finality.

8.It is also made clear that the respondents shall ensure collection of the demands on the four cable operators to whom allotments have been made. Compliance be filed in this regard within a period of four weeks from today.

9.These writ petitions are disposed in light of the discussion as above. No costs. Connected miscellaneous petitions are closed.

31.01.2023

vs

Index : Yes/No

Speaking Order

Neutral Citation:Yes

To

1.The Managing Director,
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chennai - 600 005.

2.The Executive Engineer, Circle I,
Tamil Nadu Slum Clearance Board,



Kilpauk, Chennai - 600 010.

3. The Commissioner of Chennai City Police,
Egmore, Chennai - 600 008.

4. The Deputy Commissioner of Police,
Washermanpet Circle, Old Washermanpet,
Chennai - 600 021.

5. Assistant Commissioner of Police,
New Washermanpet Circle,
Chennai.

6. The Inspector of Police (Law & Order),
H.5, New Washermanpet Police Station,
New Washermanpet, Chennai - 600 081.

7. The Chairman,
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chennai - 600 005.



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W.P.Nos.6635 of 2009 and 28674 & 30454 of 2008
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Dr.ANITA SUMANTH,J.

VS

**W.P.Nos.6635 of 2009 and 28674 & 30454 of 2008 and
M.P.Nos.1(2) & 2 of 2008, 1, 3(2) & 4 of 2009**

31.01.2023