



W.P.(MD)No.6411 of 2013

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :16.02.2023

CORAM

THE HONOURABLE MR.JUSTICE K. KUMARESH BABU

W.P.(MD)No.6411 of 2013
and
M.P.(MD).Nos.1 & 2 of 2013

1.S.Pappammal (Died)

2.Kumar

3.Gopalsamy

.... Petitioners

(P2 & P3 are substituted vide Court order dated 02.01.2023 in W.M.P. (MD).No.21659 of 2022 in W.P.(MD).No.6411 of 2013 by KBJ)

Vs.

1.The Executive Engineer,
Operation and Maintenance,
TANGEDCO,
Manapparai,
Trichy District.

2.The Assistant Executive Engineer,
Operation and Maintenance,
TANGEDCO,
Thuvarankurichi,
Trichy District.

.... Respondents



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PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for records with respect to the impugned order passed by the second respondent in his proceedings ந.க.எண்.2.செ.பொ/இ.பரா/துவரங்குறிச்சி/கோ.மின்திருட்டு/அ.எண்: 96/13 dated 18.02.2013.

For Petitioner :Mr.N.R.Balaji Srinivasan
For Respondents :Mr.S.Deenadhayalan
Standing Counsel

ORDER

This writ petition has been filed seeking to quash the order made by the second respondent in his proceedings ந.க.எண். 2.செ.பொ/இ.பரா/துவரங்குறிச்சி/கோ.மின்திருட்டு/அ.எண்: 96/13 dated 18.02.2013.

2.The learned counsel for the petitioner would submit that the petitioner had been granted with the agricultural service connection and that the petitioner had been using the electricity connection for agricultural purpose. Since she had proposed to construct a house and for the purpose of construction, she decided to use the soil in her land for manufacture of



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bricks. For that, he had also obtained permission from the President of M.Idayapatti Panchayat, by proceedings dated 09.12.2012 and thereafter, made preparation for manufacturing bricks. While that being so, the second respondent on 23.01.2013, during inspection, had found that the petitioner was misusing the electricity for commercial purpose and had issued proceedings holding that the petitioner had committed theft of electricity and he calculated the theft for a period of 365 days. Even assuming that the petitioner had utilized the agricultural service connection for drawing water for manufacture of bricks, it could be only from 09.12.2012 and there was an error in drawing worksheet as if the theft had occurred for 365 days. This aspect has not been considered by the second respondent, while passing the impugned order. Even though he refers to the permission granted, he had held that the said permission does not bear any number and has rejected his contention. Hence, being aggrieved against the same, the petitioner had approached this Court, by way of this writ petition.

3.Countering his arguments, the learned Standing Counsel appearing for the respondents would submit that the entire explanation of



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the petitioner has been considered and since the documents submitted by the petitioner were not supporting the case of the petitioner, his contention has been rejected and based upon the working sheet, the petitioner was directed to pay a sum of Rs.1,90,285/- (Rupees One Lakh Ninety Thousand Two Hundred and Eighty Five only) along with occurred consumption charges. Hence, he would submit that there is no infirmity in the order passed by the second respondent.

4.I have considered the rival submission made by the learned counsel appearing on either side.

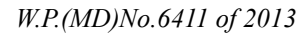
5.I have perused the order impugned in this writ petition. The petitioner's explanation seems to have been rejected by the second respondent, on the ground that there is no justification in the document submitted by the petitioner to substantiate. He had obtained the licence only in December 2012. The impugned order also proceeds on the basis that the plan and the estimate given by the petitioner would not validate the conversion of an agricultural connection into a commercial connection.



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6.Be that as it may, the original permission given by the concerned Village Panchayat had been produced before me today. It contains the signature of the Village Panchayat President and seems to be an authentic document. Further, I am of the opinion that when the petitioner had produced the aforesaid approval and also the planning permission and the estimate given by the Engineer in favour of the petitioner, calculating the period of theft for a period of 365 days and calculating the consumption charges on that basis, in my opinion, may not be correct. Hence, the order impugned in this writ petition is set aside and the matter is remitted back to the second respondent to re-do the exercise by accepting the permission given by the Village Panchayat to the petitioner and the estimate in support of his claim and thereafter, pass appropriate orders on merits and in accordance with law.



16.02.2023

To

- 1.The Executive Engineer,
Operation and Maintenance,
TANGEDCO,
Manapparai,
Trichy District.
- 2.The Assistant Executive Engineer,
Operation and Maintenance,
TANGEDCO,
Thuvarankurichi,
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K.KUMARESH BABU, J.

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