



W.P.(MD)No.7524 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.08.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No. 7524 of 2021

V.Jamunarani

... Petitioner

Vs.

- 1.The Chief Engineer
TANGEDCO,
No.144,Anna Salai,
Chennai - 600 002.
- 2.The Superintendent Engineer
TANGEDCO,
Dindigul Distribution Circle,
Meenakshi Nayakan Patti,
Angunagar ,
Dindigul District.
- 3.The Executive Engineer
TANGEDCO,
Oddanchathiram,
Dindigul Distribution Circle,
110 KV Sub Stattion,
Dharapuram Road,
Dindigul - 624 619.



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4. The Assistant Executive Engineer,
TANGEDCO,
Reddiyyar Chathiram,
Dindigul District.

5. The Chairman,
Consumer Grievance Redressal Forum,
19-A, Rukmini Lakshmipathy Salai (Marshal Road),
Egmore,
Chennai – 600 008

... Respondents

[By order of this Court, dated 31.08.2023, the 5th respondent is Suo Motu impleaded]

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the Respondent No.3 to Provide free electricity supply connection to the petitioner by taking note of the registration No.415/1998-1999 dated 22.12.1998 by considering the petitioner's representation dated 28.09.2020.

For Petitioner : Mr.S.Louis

For Respondents : Mr.S.Deenadhayalan
Standing Counsel

ORDER

This writ petition is filed to Provide Free Electricity connection to the petitioner, by considering the petitioner's representation, dated 28.09.2020.



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2. Heard Mr.S.Louis, the Learned Counsel appearing for the petitioner, Mr.S.Deenadhayalan, the Learned Standing Counsel appearing for the respondents and perused the material documents available on record.

3. The petitioner is an Agriculturist having 3.5 acres of agricultural land and has coconut grove in the said land. The petitioner has submitted an application seeking free electricity connection and the same was registered in Registration No.415/1998-1999 dated 22.12.1998. The contention of the petitioner is that the similarly placed persons who had registered in the year 1998 were all granted free electricity connections, but the petitioner alone was not granted. When the petitioner has approached the 3rd respondent, he did not get any response from the respondents and hence the petitioner is before this Court.

4. The Learned Standing Counsel appearing for the respondents submitted that the Board has issued notice as early as 03.11.2010 to the petitioner and directed the petitioner to submit readiness application to the Board in order to effect free electricity connection. In support of their contention, the respondents have submitted a receipt issued for the letter which was sent through



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“Certificate of Posting”, where the postal acknowledgement is dated 16.11.2010.

But the petitioner submitted that he did not receive any such communication.

5. After considering the rival submissions and after perusing the relevant records, this Court has given its anxious consideration. As per TANGEDCO Circular, dated 08.10.1992 the consumer who had registered for free electricity connection should submit a readiness petition within a period of 90 days. Beyond 90 days upto one year the Superintending Engineer was granted power to consider the case of the consumers in Circular dated 22.03.1991. Hence in the Circular 08.10.1992 the Superintending Engineer was granted further power to consider the belated request beyond the period of one year and upto five years in different spells from the date of issue of 90 days notice individually and decide based on the merits of its own case on its own. The circular dated 08.10.1992 further states that representations received upto a period five years from the date of cancellation of application may be considered on merits of the cases individually and orders passed. Subsequently, the respondents have also issued another Circular dated 23.06.2012 and it has been clearly stated that the application shall be considered within five years from the date of expiry of 90



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days notice. In the said circular, it is further stated that the Executive Engineer is the appropriate authority to consider upto to one year from the date of expiry of initial 90 days notice period. Then the Superintending Engineer is the appropriate authority to consider upto 3 years but beyond 1 year from the date of expiry of initial 90 days notice period. Then the Chief Engineer (Distribution) Region is the appropriate authority to consider upto 5 years but beyond 3 years from the date of expiry of initial 90 days notice period. The circular further states that if any application is submitted within five years but the application is processed after five years, then the Chief Engineer shall consider the same and pass orders it is only administrative delay. However, the Circular dated 23.06.2012 is silent about the appropriate authority who has to consider the application which is submitted beyond 5 years. Therefore, this Court is of the considered opinion that the Chairman ought to consider the case of the petitioner.

6. However, the respondents cannot declined free electricity again by citing that the petitioner had approached the respondents beyond the period of five years, since the free electricity connection is beneficial scheme to the poor agriculturist. The said issue was already considered by the Learned Single Judge



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in W.P.(MD)No.21827 of 2017, dated 18.07.2018 and the relevant portion is extracted hereunder:

“2. The learned Standing Counsel for the respondents, by relying upon a Circular, dated 22.09.2009, issued by the Chief Engineer/Planning and Resource Centre, Tamil Nadu Electricity Board, submitted that whenever there is a delay in reporting readiness by the applicants beyond the period of one year, an extension could be given upto five years from the date of expiry of 90 days notice period. After the expiry of five years, the application will stand automatically cancelled and cannot be revoked. It is on the basis on this Circular, dated 22.09.2009, the Petitioner-s request for free agricultural electricity service connection after the period of five years has been cancelled.

3. I have perused the Circular, dated 22.09.2009 issued by the Chief Engineer/Planning and Resource Centre, Tamil Nadu Electricity Board, to all the Chief Engineers, Distribution, Region. Apparently, the said Circular is an interdepartmental circular and it cannot be deemed to be an order binding upon the Petitioner as such.

4. In an identical situation, in W.P.(MD)No.3798 of 2013, this Court had an occasion to deal with the said Circular. The Petitioner in the said Writ Petition had sought for free agricultural electricity service connection after a period of five years. This Court, by order dated 5.4.2013, had observed as follows:



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4. There is no dispute that the Petitioner registered his name as early as on 24.12.1990 for the purpose of providing electricity service connection to his property in S.No.466/3 at Kalathur Village, Pattukkottai Taluk, Thanjavur District. The first respondent appears to have issued a communication, dated 6.6.2003 directing the Petitioner to approach the third respondent for the purpose of providing service connection. Admittedly, the Petitioner failed to respond to the said direction. The Petitioner now wanted electricity service connection on the basis of his original registration. The first respondent, relying on the circular, dated 22.09.2009 issued by the Chief Engineer, Chennai denied service connection to the Petitioner. The said circular is only a departmental communication which has no sanction of law. When there is a service connection allotted to the Petitioner, the same cannot be denied on the basis of a departmental circular issued by the Chief Engineer. Therefore, I am of the view that the Executive Engineer was not right in denying service connection to the Petitioner.

5. The above order is self-explanatory. As such, the respondents may not be justified in relying upon the Circular, dated 22.09.2009 and thereby, deny free



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*agricultural electricity service connection to the
Petitioner herein”.*

7. In W.P.(MD)No.2968 of 2019 vide order, dated 15.07.2021 the Learned Single Judge following the earlier order passed in W.P.(MD)No.21827 of 2017 had held as under:

“10.The Petitioner was desirous of getting a free electricity connection for her agricultural lands and therefore, it will be too unnatural for the Petitioner to miss the opportunity to get free electricity service connection. This Court has consistently held that the Circular, dated 22.09.2009 relied upon by the respondents does not have the sanction of law and at the best, it is only directory in nature. It has also been held that the service connection cannot be denied based on this circular.

11.In view of the fact that there is no clinching evidence to show that the Petitioner was served with any notice in the year 2010 and also of the fact that the circular in question has been held not to have any sanction of law, this Court is inclined to interfere with the impugned order passed by the respondents.

12. In the result, this Writ Petition is allowed and there shall be a direction to the respondents to provide free agricultural electricity service connection to the Petitioner-s



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agricultural lands on the basis of the original Registration No.EEND 241/1999~2000, dated 24.3.2000. This process shall be completed within a period of six weeks from the date of receipt of a copy of this order. If any charges are payable by the Petitioner in this regard, the same shall be paid. No costs. Consequently, connected Miscellaneous Petition is closed”.

8. This Court has considered the same issue in W.P.(MD)No. 3282 of 2021, dated 27.07.2023 and had held as under:

5. After perusing the records and after hearing the rival submissions, it is seen that the petitioner and her husband due to her financial difficulties had migrated to some other State for employment and was not aware of the sanction letter. Subsequently, the petitioner approached the respondents but due to Gaja cyclone, the petitioner could not process the sanction letter. Moreover, petitioner could not locate the letter and after due search, the petitioner could locate the readiness letter subsequently. The contention of the respondents is that since the petitioner had not availed the scheme within 90 days from the date of the letter and further 30 days concession was also not availed, hence the scheme has lapsed, the petitioner's application has lapsed long back and the same cannot be considered at this point of time.

6. This Court is not able to accept the contention of the respondents. The petitioner has registered under the scheme in the year 1999 with a fond hope that free electricity service connection will be granted to the petitioner, so that the land could be used for cultivation. After lapse of 11 years, the



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electricity connection was granted to the petitioner's land. In the meanwhile, since there was no water, the petitioner in order to eke out the livelihood had migrated to other States. The scheme is a beneficial scheme and strict approach is not advisable. According to the respondents the authority who was conferred with the power to consider application, is not having power to condone the huge delay.

7. Therefore, this Court is directing the respondents to restore the petitioner's seniority list in free electricity connection register within a period of two (2) weeks from the date of receipt of a copy of the order. The petitioner shall install the motor and pump set and report the same within a period of two (2) months from the date of receipt of a copy of this order. Thereafter, the respondents shall grant electricity connection within a period of two (2) months therefrom.

8. With the above direction, this Writ Petition is allowed. There shall be no order as to costs.

In the present case the petitioner had approached the respondents after lapse of more than 10 years and this Court is of the considered opinion that the respondents cannot deny free agricultural connection, since the free agricultural connection is beneficial scheme to the poor agriculturist. However, this Court is of the considered opinion that the Chairman is the appropriate authority to consider and pass orders. But Chairman is not a party in the present writ petition, hence this Court Suo motu impleaded the Chairman, TANGEDCO No.144, Anna Salai, Chennai - 600 002 as 5th respondent. The Chairman / 5th respondent is



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directed to consider and pass orders within a period of two (2) months from the date of receipt of a copy of this order.

9. With these observations and directions, this writ petition is allowed. No Costs.

Index : Yes / No
Internet : Yes
NCC : Yes / No

31.08.2023

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S.SRIMATHY, J

ksa

**Order made in
W.P.(MD)No. 7524 of 2021**

31.08.2023