



W.P(MD)No.9549 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.09.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.9549 of 2015
and
M.P.(MD)Nos.1 and 2 of 2015

Nachaammal

... Petitioner

Vs.

1.The Chairman,
Tamilnadu Generation of Electricity
and Distribution Corporation,
Annasalai, Chennai.

2.The Superintending Engineer,
Operation and Maintenance,
Tamilnadu Generation of Electricity
and Distribution Corporation,
Trichy District.

3.The Assistant Executive Engineer,
Operation and Maintenance,
Tamilnadu Generation of Electricity
and Distribution Corporation,
Vaiyampatty, Manpparai Taluk,
Trichy District.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent in his proceedings No.Lr.No.AEE/O&M /VMPT/CI/F Enforce/D.No.081/14/ dated 21.02.2015 quash the same and directing the 2nd respondent to conduct the enquiry on the representation submitted by the petitioner on 16.02.2015.

For Petitioner : Mr.S.Muthukrishnan

For Respondents : Mr.S.Deenadhayalan,
Standing Counsel.

ORDER

Heard the learned counsel on either side.

2.The petitioner challenges the impugned assessment order on the grounds set out in the affidavit filed in support of the writ petition.

3.The learned standing counsel for the respondents submits that the impugned order is appealable and that in any event, it was passed



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only after issuing notice to the writ petitioner and that therefore, it should not be set aside.

4.The learned counsel for the petitioner states that when the writ petition was filed, an interim order was granted on condition that the petitioner should pay a sum of Rs.25,000/-. He states that irrespective of the outcome of the writ petition, the petitioner will not press for refund of the said amount. This submission is recorded.

5.I carefully considered the rival contentions and went through the materials on record. The petitioner is an agriculturist. She was having a borewell in S.F.No.173/3E. She was also having another borewell in S.F.No.20/2. The petitioner had electricity service connection only for S.F.No.173/3E. It appears that the petitioner had on her own extended the connection and energized the borewell in S.F.No.20/2. This was found out and penalty was levied. The petitioner paid a sum of Rs.1,30,000/-. This was on 12.08.2014. The case of the petitioner is that she thereafter disconnected the extension. However, the disconnected cables were in S.F.No.173/3E. The petitioner's allegation is that her



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relatives had eye on her property and that they sent complaints containing false allegations to TANGEDCO. Based on same, TANGEDCO officials visited the petitioner's field again on 11.02.2015. The petitioner's specific case is that on the said date, the bore well in S.F.No.20/2 was not having any connection. But it was made to appear as if the petitioner had once again illegally restored the extension. It appears that some quarrel had taken place and the petitioner's son namely, Kuppusamy was injured and admitted in GH Manapparai for two days. In the meanwhile, provisional notice was issued. It is not known if the petitioner was served with provisional assessment notice. But the petitioner sent a complaint on 16.02.2015. However, the impugned order came to be passed.

6. There is nothing on record to show that the provisional assessment notice was served on the petitioner. On that sole ground, the order is liable to be set aside.

7. The question whether I should make an order of remand. The petitioner is admittedly an agriculturist. Even according to the



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respondents, the petitioner had only illegally extended the electricity service connection to another borewell which was being used for agricultural purposes. The policy of the Government is to give free electricity to farmers. When the end-use was for only agricultural purpose, I do not want to make an order of remand. It is seen that the petitioner had already given an application for change over. However, the said request was rejected on 03.02.2015. Copy of the rejection order passed by the third respondent has been made available. The order makes a strange reading. It states that the petitioner has not installed any borewell in S.F.No.173/3E. In fact, the case of the petitioner is for shifting the connection from S.F.No.173/3E to S.F.No.20/2.

8.In this view of the matter, the order impugned in this writ petition is set aside. The petitioner is permitted to give a fresh application for change over. When the petitioner is entitled to one agricultural service connection, if the borewell in S.F.No.173/3E had turned dry and she wants the connection to be shifted to S.F.No.20/2, her request can very well be considered.



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9. With this liberty to the petitioner and direction to the third respondent, this writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

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NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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