



W.P(MD)No.28945 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 16.10.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.28945 of 2022

and

W.M.P.(MD)No.22917 of 2022

Pitchaiah

... Petitioner

Vs.

1.The Superintending Engineer,
TANGEDCO,
Distribution Circle,
Tirunelveli District,
Tirunelveli.

2.The Executive Engineer,
TANGEDCO,
Distribution Circle,
S.Pudur Town Panchayat,
S.Pudur,
Tenkasi District.

3.The Assistant Executive Engineer,
TANGEDCO,
Distribution Circle,
Senkottai,
Tenkasi 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 Certiorari, to call for records pertaining to the impugned order proceedings passed by the 3rd respondent vide Ka.No.U.Sea.Po/Vi.Ni/Seng/Va.Aa/Ko.Kattu/A.No 600/2022 dated 24.11.2022 and quash the same as illegal.

For Petitioner : Mr.T.Indrachithu

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

ORDER

Heard both sides.

2.The petitioner after getting approval from concerned authorities constructed a residential house. He wants electricity service connection for the same. On account of the running of overhead lines, TANGEDCO could not comply with the petitioner's request. They rejected the petitioner's application. Challenging the same, the present writ petition came to be filed.



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3.The learned standing counsel for TANGEDCO produced photographs and pointed out that when veridical clearance is less than 4.10 meters and horizontal clearance is less than 2.74 meters, the service connection will not be given.

4.In this case, the veridical clearance is below the aforesaid limit. It is pointed out that if the inmates of the house use the terrace, there is every likelihood of electrocution and the TANGEDCO may be fastened with liability in future.

5.The contention advanced by the learned standing counsel is well founded. At the same time, the equity obtaining in this case cannot be forgotten. The petitioner has put up a house. If he is not given electricity service connection, then he will not be able to use it at all. The petitioner will be put to considerable financial loss and hardship. It is pointed out that the adjacent house owners are enjoying electricity service connection.



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6.In order to strike a balance, I suggested that the petitioner should not use the terrace portion at all. He should not even build any staircase. He also must give an undertaking that will not make any claim against TANGEDCO for any reason. The petitioner accepting the said suggestion filed the following undertaking affidavit:-

“UNDERTAKING AFFIDAVIT FILED BY THE PETITIONER

I, Pitchaiah, S/o.Karuppasamy, Hindu, about 50 years Hindu, residing at Door No. 25/2, 1st Street, Kesavapuram, S.Pudur Town Panchayat, Senkottai Taluk, Tenkasi District, now temporarily come down to Madurai, do here by solemnly affirm and sincerely state as follow as.

- 1. I am petitioner herein this writ petition in W.P.(MD)No. 28945 of 2022 and as such I am well acquainted with the fact and circumstances of the case.*
- 2. I humbly submit that house was constructed by me at 1st Street, Kesavapuram, Pudur Corporation, Tirunelveli in the year of 2017 and Door number was also given to it vide Door No. 25/2. While constructing of my house, commercial electricity connection No. 07- 034- 020- 464 was provided for it as temporary one. After completion of construction, myself and my family members including my wife and two female children are surviving in it. My two*



children are studying 6th and 11th Std., at their schools respectively. Electricity is inevitable for them to study the school books since they could not focus their studies without the availability of electric bulbs and other electric materials. Whereas, the respondents still retaining the electricity connection as commercial connection instead of domestic connection citing the reason that high tension electric wire is passing nearby my house.

- 3. I submit that I have been paying the electricity consumption charges towards commercial electricity connection since 2017. I could not bear such huge amount for electricity consumption under the cover of commercial connection. If the electricity connection is not converted into domestic connection, then myself and my children, who are studying at their schools, would suffer a lot and hardship. Hence the conversion of electricity connection from commercial connection into domestic connection is need of hour and exigent for my family.*
- 4. I humbly submit that there is no availability of upstairs for my above house and also the terrace of my house was not used by us until now. I am herein giving undertaking that myself and my family members will not use the terrace of my house bearing Door No. 125/2 located at 1st Street, Kesavapuram, Pudur Corporation, Tirunelveli at any point of time.*



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5. I submit that I am also herein giving undertaking that myself and family members will not carry out any further construction activities on the terrace of my house bearing Door No.125/2 in future. Myself and my family members will not climb up the terrace of my above house at any point of time and also ourselves keep distance from the terrace of my house in future time also.

Therefore it is just and necessary prayed that this Hon'ble Court may be pleased to accept my undertaking affidavit filed in this writ petition in W.P.(MD)No. 28945 of 2022 and pass appropriate order as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice."

7.Since this should address the concerns of TANGEDCO, the third respondent is directed to provide electricity service connection to the petitioner as expeditiously as possible. The service connection now enjoyed by the petitioner is under commercial category. It shall be converted to domestic category. This shall be done as expeditiously as possible. From the date when the tariff change is effected, the petitioner shall pay the electricity consumption charges at the domestic rate.



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WEB COPY 8.This writ petition is allowed accordingly. No costs.

Consequently, connected miscellaneous petition is closed.

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