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W.P.(MD)NO.29745 OF 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.12.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.29745 of 2023 AND
W.M.P.(MD)No.25672 of 2023

Arulmigu Vaithiyanatha Subramaniya
Thandayuthapani Andavar Kovil Trust,
Rep. by its Managing Trustee,
R.Manickavasakam.

... Petitioner

Vs.

The Assistant Executive Engineer,
TANGEDCO, Distribution and Maintenance,
Karaikudi, Sivagangai District.

... Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned cancellation of the new electricity connection application No.2000540311232439 dated 07.12.2023 and quash the same and consequently directing the respondent to provide electricity connection to the petitioner temple by accepting the payment within the time stipulated by this Court.

For Petitioner : Mr.Arun Swaminathan,
for Mr.P.Thoothai Muniyasamy.

For Respondent : Mr.S.Deenadhayalan

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ORDER

Heard both sides.

2. The petitioner is a trust which is running a temple in Kalanivasal Village, Karaikudi Taluk. It applied for electricity service connection. By the impugned communication, the petitioner's application was cancelled. Challenging the same, the present writ petition came to be filed.

3. When the matter was taken up for hearing, the learned counsel appearing for the petitioner submitted that the real reason for cancelling the application was that the temple is located within 500 meters right from Sambai Ootru. This issue had already been dealt with by me in W.P.(MD)No. 4129 of 2022 vide order dated 05.10.2023. In the aforesaid order, I had held as follows:-

“Heard both sides.

2.The petitioner's father purchased the petition mentioned plot on 12.09.2011. He executed settlement deed dated 10.01.2020 in favour of his wife and his son namely, the



petitioner herein. The revenue record reflects the names of the petitioner and his mother. A house has been constructed. It has been assessed to property tax also. The petitioner applied for grant of electricity service connection. His request was negated. Challenging the same, the petitioner filed W.P.(MD)No.15424 of 2021. The writ petition was disposed of in the following terms:-

“4. A direction is issued to the petitioner S.Nitheshraj, Son of Srinivasan, residing at Ramalingam Nagar, Koviloor Road, Karaikudi, Sivangangai District and to the second respondent/the Assistant Executive Engineer, TANGEDCO (Rural), Karaikudi, Sivagangai District to mutually meet, fix the date and thereafter, go over to the petitioner's house and measure the distance from the petitioner's house to the Sambai Oothu and if it is found to be beyond 500 meters, a further direction is given to the second respondent to provide necessary service connection if the petitioner satisfies all



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other requirements. If the distance is less than 500 meters, then the Assistant Executive Engineer may pass a detailed order giving the reason for not giving electricity connection. The entire exercise shall be conducted between the petitioner and the second respondent and it is hoped that they would realize the actual distance between the petitioner's house and Sambai Oothu. No further orders are required.”

Thereafter, a fresh exercise to measure the distance was undertaken and the Assistant Engineer, TANGEDCO, Karaikudi came to the conclusion that since the petitioner's house is located at a 180 meters from Sambai Oothu, electricity service connection cannot be given. Questioning the same, the present writ petition came to be filed.

2.No doubt, the impugned order is in consensus with the terms of the order dated 11.11.2021 made in W.P.(MD)No.15424 of 2012. But I wanted to know from the learned standing



counsel for TANGEDCO as to whether any restraint order has been earlier issued to the effect that electricity service connection should not be given, if the building is located within 500 meters of Sambai Oothu.

3.The case was adjourned to enable the respondents to make a submission in this regard. In the impugned order what is referred to is the order dated 11.07.2002 made in W.P.No.17544 of 1995. Let me extract the entire order:-

“The prayer in the writ petition is as follows:-

To issue a writ of mandamus directing the respondents not to grant sanction to build any house or building within radius of 500 meters in the Sambai Uttru area in Karaikudi Municipal Limit.

2. The grievance of the petitioner is that the respondents are making attempt to grant sanction to build houses within 500 meters in “Sambai Uttru” area in Karaikudi Municipal



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Limit. The writ petition has been filed on the allegation that the members of the association consists of Advocates, Doctors, Teachers and other public spirited individuals and the association to protect the sole drinking water source for the Karaikudi Town popularly known as the "Sambai Uttru". Since respondents are making attempt to sanction building plans within 500 meters around "Sambai uttru" area, they made representation on 20.3.1995. In spite of the said representation, some of the plans have also been sanctioned and therefore, the petitioner made a further representation on 30.3.1995 requesting the first respondent to demolish the construction put up. Since no action has been taken by the respondents, the present writ petition has been filed.

3. No counter was filed on behalf of the respondents.

4. From the affidavit filed in support of the writ petition, it is seen that Sambai Uttru is



the sole drinking water source for the Karaikudi town and grant of permission construction of building around the said area would affect the source of drinking water. However, in view of the specific averments that some of the individuals have already been sanctioned the building plan and also made construction and some individuals also applied for planning permission and those individuals have not been impleaded in the writ petition, the direction sought for in the writ petition cannot be granted without ascertaining the factual position. Hence, the writ petition is disposed of with the direction to the respondents to consider the representations dated 20.03.1992 and 30.3.1995 of the petitioner's association and take action as per law after hearing the petitioner's association as well as those who would be affected on the action of the first respondent. Such exercise shall be completed within three months from the date of receipt of this order.



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5. With the above direction the writ petition is disposed of.”

4.It is seen that the only direction that was given was to call upon the authorities to take a call in the matter. It is not known if any formal order was issued by the District Collector, Sivagangai. Since no such restraint order has been produced before me, I have to necessarily interfere in the matter. The learned counsel for the petitioner states that adjacent building owners are already enjoying electricity service connection. The petitioner alone cannot be discriminated.

5.In this view of the matter, the order impugned in this writ petition is set aside. The second respondent is directed to provide electricity service connection to the petition mentioned premises subject to fulfilment of usual formalities. This shall be done as expeditiously as possible. The writ petition is allowed. No costs.”



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4. Of course in the impugned communication, the reason is said to be non-payment of the application charges. The petitioner's counsel points out that the application was filed on 28.11.2023. The petitioner had 15 days time to pay the charges. But even before the expiry period, the impugned cancellation order came to be passed.

5. The petitioner is permitted to submit a fresh application through online mode subject to fulfilment of the other usual formalities. The electricity service connection shall be provided to the petitioner without any delay. This writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

14.12.2023

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

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W.P.(MD)NO.29745 OF 2023

To:

The Assistant Executive Engineer,
TANGEDCO, Distribution and Maintenance,
Karaikudi, Sivagangai District.



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W.P.(MD)NO.29745 OF 2023

G.R.SWAMINATHAN,J.

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