

THE HONOURABLE SMT JUSTICE P.MADHAVI DEVI

W.P.Nos. 22275 of 2020 & 44079 of 2022

COMMON ORDER:

Both the writ petitions are filed by the same petitioner. In W.P.No.22275 of 2020, the petitioner is seeking a writ of mandamus declaring the action of the respondents No.2 to 4 therein in trying to disconnect supply of electricity to the agricultural electrical motors of the petitioner without following due process contemplated under law, as illegal, arbitrary and in violation of Principles of Natural Justice and consequently to direct the respondents No.2 to 4 not to disconnect the supply of electricity to the agricultural electrical motors of the petitioner and to pass such other order or orders.

2. On 28.12.2020 this Court has taken into consideration the submissions of the learned Standing counsel for the respondents that the official respondents will not disturb the power connection given to the agricultural electrical motors, which are drawing power from the transformers falling within the Geographical area in the State of Telangana and that in

so far as power connection given to the agricultural electrical motors, which are drawing power from the transformers falling in the Geographical area in the State of Andhra Pradesh and in the areas which were earlier forming part of the State of Telangana were handed over to the State of Andhra Pradesh after bifurcation of the State of Andhra Pradesh into Telangana and Andhra Pradesh, they will have to necessarily be discontinued. On 15.12.2020 this Court modified the interim order granted earlier by observing that the official respondents are free to discontinue the power supply to the agricultural electrical motors, if the same are drawing power from the transformers, which are falling within the Geographical area of the State of Andhra Pradesh and in case of any disconnection of the power supply to the petitioners is done, the authorities shall provide alternate power connection immediately so that the petitioner's agricultural operations will not be affected in any manner.

3. The learned counsel for the petitioners submitted that ever since, the petitioners have been enjoying the supply of electricity after installing the transformers in the lands

belonging to them in the State of Telangana. Thereafter, on the ground that the petitioners have installed the agricultural electrical motors in Andhra Pradesh area to ensure adequate water supply to the agricultural lands and also on the ground that the Tahsildar, Bhurgampahad, has issued a report vide ROC No.B/SPL/2020, dated 21.07.2020, stating that the petitioners and others have been given electric connection on the basis of certificates issued by the Tahsildar, Bhurgampahad Mandal, but are utilizing the free power given by the State of Telangana for drawing water from the Andhra area from the bore-wells which are situated in Andhra area, a notice dated 28.11.2022 to disconnect the power supply for the illegal usage of power for drawing water from Andhra area was issued to the petitioners. Challenging the same, the writ petition i.e., W.P.No.44079 of 2022 was filed.

4. Learned counsel for the petitioners submitted that the petitioners lands are all situated in Telangana area as certified by the Revenue Officials and the transformers are also located in the Telangana area only. It is further submitted that the petitioners were drawing water from the

Telangana side of Kinnerasani River and therefore, had laid the pipeline to draw the water there-from and there is no electricity cable in the Andhra area. He further submitted that even if it is to be presumed that the water is drawn from the Andhra side of Kinnerasani river, such water is utilized for growing crops in the lands in Telangana State only and therefore, the petitioner is contributing to the economy of the Telangana area only. He further submitted that the respondents have not appreciated the efforts made by the petitioners, but have issued a notice dated 28.11.2022 threatening to disconnect the electricity supply to the petitioner.

5. Learned counsel for the respondents have filed counter affidavit in both the writ petitions stating that the writ petitioners had earlier approached this Court in W.P.No.22275 of 2020 and as per the directions of this Court, the respondents have visited the site and after verification, have erected the transformers in the land belonging to the petitioner in Telangana area. He has drawn the attention of this Court to the photographs filed along with counter

affidavit to demonstrate that the petitioner was drawing water from a borewell in his land using the power from the transformer, but has laid cables unofficially into Andhra area, thus endangering the lives of several humans as well as animals. It is submitted that the respondents would be held responsible for any untoward incident, if the electric cables were to fall down and cause electrical accidents. He further submitted that though, the petitioners are claiming that the land irrigated by the petitioner is within the State of Telangana, he submitted that the petitioner is drawing water from the Andhra area and therefore, the respondents are not eligible to make the power supply available to the petitioners for drawing water from the bore-wells/sources of water from Andhra area.

6. Learned Senior counsel appearing for the petitioner has reiterated the above submissions and strenuously drawn the attention of this Court to the facts that the lands and the transformers installed in the petitioners land was in the State of Telangana. He submitted that the petitioners land is in Telangana area and the allegations that the water is being

drawn from the Andhra area, are not substantiated by any evidence. Therefore, he prayed for allowing of the writ petitions.

7. Having regard to the rival contentions and the material on record, it is noticed that the grievance of the respondents in both of these writ petitions is that the petitioners are drawing power supply from the State of Telangana free of cost, but are utilizing the same for drawing water from the Andhra area, which amounts to misuse of free of cost power supplied by the respondents for agricultural operations.

8. Therefore, the moot question before this Court is whether the petitioners can draw water from the bore-wells or from the river Kinnerasani from the Andhra area by using the free of cost power supplied by the respondents in Telangana.

9. As regards the location of the lands of the petitioners in the area of Telangana is concerned, there appears to be no dispute. The only dispute is whether the petitioners can lay the cables on their own and utilize the electricity from the transformers installed by the respondents to draw water from

the Andhra area. From the photographs filed along with the counter affidavit of the respondents it appears that the petitioners have laid the cable lines beyond the transformers. As rightly pointed out by the learned counsel for the respondents that for every bore-well or source of water, for every motor that is installed, the petitioners would have to apply and obtain a separate electricity connection. The petitioners apparently have not done so. Further, the geographical area of source of water from which the water is being drawn for irrigating the lands of the petitioners, is also not evident.

10. As rightly pointed out by the learned counsel for the respondents, the petitioners can use the power supplied by the respondents only for the purpose of irrigating the lands in Telangana and the source of water also has to be in Telangana only.

11. Learned counsel for the petitioner had also submitted that since the petitioners have land only in the State of Telangana, they could not have applied for electricity connection in the State of Andhra Pradesh to draw water

from the Andhra Pradesh. To draw water from the river Kinnerasani of Andhra area, the petitioners would be utilizing the power from the transformers and particularly from the unofficial and allegedly interior quality of cables laid by the petitioner themselves.

12. As rightly pointed out by the learned counsel for the respondents any untoward incident, would make respondents responsible and therefore, the act of the petitioners in laying the cables on their own to draw water from another area, even if it is from the land in Telangana, is unsustainable.

13. In view of the above, this Court deems it fit and proper to direct the respondents to inspect the site in the presence of the petitioners and if it is found that the transformers are located in the Telangana area and the source of water is also from Telangana area only, then the power supply to the petitioners service connection shall not interfered with. However, if there are multiple sources of water and the petitioners have put in multiple motors to draw water, then the petitioners shall be required to apply for separate service connections in accordance with the relevant rules and the

respondents are required to provide such service connections. However, if it is found that the respondents are drawing water from the Geographical area of the Andhra Pradesh, then the respondents are directed to take necessary action in accordance with law only with regard to the power drawn for such drawl of water from Andhra area.

14. Accordingly, these writ petitions are disposed of. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in these writ petitions, shall stand closed.

JUSTICE P.MADHAVI DEVI

Date: 10.02.2023

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