



W.P.(MD).No.8012 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.03.2024

CORAM

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

W.P.(MD).No.8012 of 2024

and

W.M.P.(MD).No.7262 of 2024

N.S.Ramaraj

... Petitioner

Vs.

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Tahsildar,
Rajapalayam Taluk,
Virudhunagar District.

3.The Assistant Executive Engineer,
Tamilnadu Electricity Board TNEB,
Rajapalayam,
Virudhunagar District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, forbearing the respondents from disconnecting the petitioner's electricity service connection bearing SC.No.287-001-3717 provided in the petitioner's address at Door No.7/74, Ayyanar Kovil Road, Krishnapuram Panchayat, Rajapalayam Taluk, Virudhunagar District in the light of the order dated 05.04.2023 passed by the Hon'ble Apex Court in Miscellaneous Application Diary No.8968/2023 in



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M.A.No.1323/2022 in SLP(C)No. 11466 of 2022 and the order dated 06.10.2023 passed by the Court of the learned Principal District Judge, Srivilliputur in I.A.02/2022 in O.S.No.201/2022 and consequentially direct the respondents to restore the electricity supply to the said service connection.

For Petitioner : Mr.N.Dilipkumar
For R-1 & R-2 : Mr.Veera Kathiravan
Additional Advocate General
assisted by Mr.M.Lingadurai
Special Government Pleader

ORDER

Heard the learned counsel for the petitioner and the learned Additional Advocate General assisted by the learned Special Government Pleader for the respondents 1 and 2.

2. This Court had the benefit of interaction with Dr.V.P.Jeyaseelan, District Collector, Virudhunagar District.

3. The writ petitioner is said to be an encroacher. According to the respondents, he had encroached upon a water body (Odai). The petitioner and the authorities have been entangled in the litigation for some time. One such Writ Petition filed by the writ petitioner was W.P.(MD).No.12854 of 2022 and



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the Writ Petition was dismissed on 23.06.2022. However, the District Collector was directed to dispose of the appeal filed by the petitioner against the order of the Tahsildar. Aggrieved by the said order, the petitioner filed S.L.P(C)No. 11466 of 2022. The Special Leave Petition was disposed of by permitting the petitioner to approach the Appellate Authority for grant of interim relief. Status quo was ordered to be maintained for a period of two weeks. The District Collector dismissed the petitioner's appeal on 31.01.2023.

4. The petitioner had the right of revision before the Government under Section 10-A of the Tamil Nadu Land Encroachment Act, 1905. Availing the said remedy, the petitioner moved the Government by filing a revision petition on 28.03.2023. While so, on 02.04.2023, the electricity supply was disconnected. The petitioner thereafter moved the Hon'ble Supreme Court by filing a miscellaneous petition in the disposed Special Leave Petition. The Hon'ble Supreme Court vide order dated 05.04.2023 directed that the status quo regarding the demolition shall be maintained till the Revisional Authority passed an appropriate order. Thereafter, electricity supply was restored on 06.04.2023. This restoration has been undone on 22.03.2024. Seeking re-connection, the present Writ Petition has been filed.



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5. There is some force in the stand of the learned Additional Advocate General and the District Collector that when the status quo granted by the Hon'ble Supreme Court was only as regards demolition, restoration ought not to have been given by the TANGEDCO on 06.04.2023. But, I am of the view that when the petitioner had availed the statutory remedy under the Act, the authorities need not act in haste. In any event, by cutting the electricity supply, no purpose is going to be achieved. The officials of the Electricity Board cannot be blamed for having restored the supply of electricity on 06.04.2023. They thought that they are respecting the order of the Supreme court by restoring the supply. This act need not be viewed adversely.

6. The petitioner is residing in the petition-mentioned property. The whole issue could have been easily resolved, if only the Revisional Authority, namely, the Government, had passed order within the time period stipulated by the Hon'ble Supreme Court vide order dated 05.04.2023. The Hon'ble Supreme Court had directed that the I.A. filed in the petitioner's revision petition should be disposed of within a period of one week. This order was passed on 05.04.2023. We are now in the last week of March 2024. Therefore, the Secretary to Government, Department of Revenue, Government of Tamil Nadu is directed to dispose of the petitioner's revision petition.



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7. Let me assume for a moment that the petitioner suffers an adverse order. Even such an order is amenable to judicial review. The petitioner deserves to be given at least three (3) weeks after the service of the order to be passed by the Government. Since electricity is a basic and fundamental amenity, it deserves to be restored.

8. Accordingly, this Writ Petition is disposed of in the following terms:

a) The Secretary to Government, Department of Revenue, Government of Tamil Nadu shall dispose of the petitioner's revision petition dated 28.03.2023 on merits and in accordance with law within a period of six (6) weeks from the date of receipt of a copy of this order. The Revisional Authority/Secretary to Government is obliged to grant personal hearing to the petitioner because the statute talks about granting reasonable opportunity. In the very nature of things, the reasonable opportunity would partake granting personal hearing (Section 10-A(3) of the Act).

b) It is open to the Revisional Authority to pass order one way or the other. If the revision petition is dismissed, the petitioner shall be given breathing time of three (3) weeks from the date of service of the order to move the High Court for obtaining relief. If during this period of three weeks, the petitioner fails to obtain any interim relief in his favour, the District Collector is



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not obliged to wait any further. The order for removing the encroachment can be enforced forthwith and without any issuance of further notice.

c) TANGEDCO is directed to restore the petitioner's electricity supply immediately and forthwith.

There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

28.03.2024

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

Note: Issue order copy by 02.04.2024

To

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Tahsildar,
Rajapalayam Taluk,
Virudhunagar District.

3.The Assistant Executive Engineer,
Tamilnadu Electricity Board TNEB,
Rajapalayam, Virudhunagar District.

4.The Secretary to Government,
Department of Revenue,
Government of Tamil Nadu.



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G.R.SWAMINATHAN, J.

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