



W.P.(MD)No.17874 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 25.04.2024

DELIVERED ON : 14.06.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

W.P.(MD)No.17874 of 2021
and
W.M.P.(MD)No.14736 of 2021

Narayane Jawahar

... Petitioner

Vs.

- 1.The Senior Postmaster,
Head Post Office,
Thanjavur – 613 001.
- 2.The Executive Engineer,
Tiruchirappalli Circle,
Tamil Nadu Urban Habitat Development
Board,
Madurai Road,
Palakkari,
Tiruchirappalli-8.

3.Ragunathan Ramadoss

... Respondents



W.P.(MD)No.17874 of 2021

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari to call for the records related to the order passed by the second respondent in his proceedings in Na.Ka.No.A5/1578/2021, dated 22.09.2021 and quash the same as illegal.

For Petitioner : Mr.T.A.Ebenezer

For Respondents : Mr.S.Jeya Singh
Senior Panel Counsel
for R.1

:Ms.S.Latha
for R.2

: Mr.P.Vadivel
for R.3

ORDER

The Writ Petition is directed against the order passed by the second respondent, dated 22.09.2021 directing the authorities to disconnect the un-permitted Cable TV connections in the Pillayarpatti Tenements Scheme of the Tamil Nadu Urban Habitat Development Board.



W.P.(MD)No.17874 of 2021

2. The petitioner's case is that he has been conducting Cable TV business, after obtaining license from the competent authority – first respondent for more than six years, that the latest registration certificate issued by the first respondent on 09.08.2021 is valid from 06.08.2021 to 05.08.2022, that the petitioner has invited customers in the Slum Clearance Board houses at Pillayarpatti, who were using Set of Box by giving them free connection initially by spending lakhs of money, that they are the customers of the petitioner's Cable TV network for many years, that the petitioner had seen the notice pasted in his house on 26.09.2021 issued by the second respondent dated 22.09.2021, directing Cable TV Operators giving connections to the people residing in the project of the Tamil Nadu Urban Habitat Development Board area to disconnect the cables, failing which their cable connections will be disconnected, that the third respondent has directed the Assistant Executive Engineer and Assistant Engineer, Thanjavur Sub Circle to disconnect the unpermitted Cable TV connections and report within fifteen days and that therefore, the petitioner, with no other option, has approached this Court, challenging the impugned order.



W.P.(MD)No.17874 of 2021

3. The second respondent has filed a counter statement stating that there are 860 tenements in the Pillayarpatti Tenements Scheme constructed in three Phases, that the local Cable TV operators at Pillayarpatti who are having LCO license given by the first respondent are giving their cable TV network connections to the residents in the above tenements and they have to pay Rs.20/- for such each connection to the respondent Board, that the petitioner has been operating the above network connections without getting any permission from the second respondent Board and also not paying fee of Rs.20/- per connection and is illegally enriching himself, that the third respondent and one Srinivasan have approached the second respondent Board in the year 2018 requesting for grant of permission for giving Cable TV network connections, that the second respondent after considering the said request and verification of all documents, has made recommendation to the office of the Managing Director, Chennai and the said request was also accepted and after the receipt of such permission, the third respondent had paid a sum of Rs.2,00,000/- in favour of the Board being Bank guarantee and also paid Rs.72,000/- being one year deposit amount towards fees at Rs.20/- per connection, that the second respondent Board,



W.P.(MD)No.17874 of 2021

after the above payments has granted permission to the third respondent for running a Cable TV network operations in respect of 860 tenements, that subsequently, the third respondent informed the Board that the writ petitioner has been unauthorisedly running the Cable TV network operations and hence, the third respondent is unable to start his Cable TV network connections inspite of permission granted, that the third respondent has immediately issued a notice to the petitioner on 22.09.2021 directing him to stop the unauthorised Cable TV network operations and that though the petitioner has personally approached the Board and agreed to stop the Cable TV network operations, he has filed the above writ petition suppressing all the material facts.

4. It is their further contention that the petitioner, without applying for any permission for running the Cable TV network operations and without getting any permission whatsoever, without depositing any advance amount and without any payment, filed the above writ petition and obtained interim orders, that the petitioner, after filing the writ petition, has also filed a suit in O.S.No.285 of 2021, on the file of the District Munsif Court, Thanjavur and an application in I.A.No.1 of 2021



W.P.(MD)No.17874 of 2021

for temporary injunction and that the same is pending and that therefore, the petitioner has no locus standi to file the present writ petition and is not entitled to get any of the reliefs claimed.

5. The third respondent in his counter statement has taken a stand that since the petitioner has already filed a civil suit in O.S.No.285 of 2021 and the same is pending on the file of the Principal District Munsif Court, Thanjavur, the present writ petition cannot be maintained, that the petitioner has not obtained any licence from the Tamil Nadu Slum Clearance Board for providing Cable TV connection to its occupants, that the third respondent is a Arasu Cable TV operator for the past ten years and he has been providing cable connection to the occupants on the house building built by the Tamil Nadu Slum Clearance Board at Pillaiyarpatti Village, Thanjavur Taluk, that the third respondent has deposited a sum of Rs.2,00,000/- as advance in the year 2019, that he has also obtained due permission from the competent authority for providing connection to each house at Tamil Nadu Slum Clearance Board, that the third respondent has paid a sum of Rs.20/- per house for the house building in Phase I, II and III totally for 858 houses and that the third



W.P.(MD)No.17874 of 2021

respondent has been put to irreparable loss and hardship in view of the attitude of the petitioner in providing unlawful connections.

6. The main contention of the petitioner is that no permission or licence was needed from the second respondent Board to give Cable TV connections to the houses constructed by the Tamil Nadu Urban Habitat Development Board, that the petitioner does not know about the introduction of the permission scheme by the second respondent Board, that the petitioner was not heard nor given any opportunity before passing the impugned order, that the second respondent, without adopting any mode, has granted permission to the third respondent to run the Cable TV operations in the Pillayar patt Tenements scheme and that the impugned order directing the petitioner to disconnect his connections which is in violation of the principles of the principles of natural justice is liable to be quashed.

7. The petitioner, in the reply affidavit, has also taken a stand that there is no stipulation of any law to pay Rs.20/- per connection to the second respondent and more importantly, no permission from the second



W.P.(MD)No.17874 of 2021

respondent is also needed to give Cable Connections to the residents of the Board. The learned Counsel for the petitioner, in support of the said contention in the reply affidavit, has relied on the decision of this Court in the case of ***Kannagi Nagar Kudisai Pagudi Matru Varia Cable TV Operators Welfare Society Vs. The Tamil Nadu Slum Clearance Board and another*** in W.P.No.2310 of 2010, dated 02.03.2011, wherein a learned Judge of this Court by observing that [the Tamil Nadu Slum Areas \(Improvement and Clearance\) Act, 1971](#), under which the Tamil Nadu Slum Clearance Board is constituted, does not authorise the Board to impose any tax or fee, has held as follows:

“In the absence of authority of law, it is not open to the respondent Board, to prescribe fee, to be collected from the persons. The Board can only recover rent and other charges from the occupants under the allotment letter or contract entered into between the parties. The impugned order on the face of it, is without jurisdiction. The impugned order is quashed, by accepting the writ petition.”

8. But the learned Counsel for the second respondent has referred the proceedings of the Managing Director, Tamil Nadu Urban Habitat



W.P.(MD)No.17874 of 2021

Development Board, Chennai, dated 25.04.2022, wherein after referring to the order in the case of ***Kannagi Nagar Kudisai Pagudi Matru Varia Cable TV Operators Welfare Society*** above referred, has also referred Rule 3 of the Tamil Nadu Slum Clearance Board Remunerative Enterprises Rules, 1972, which states that in addition to the function of the Board under the Act, it should perform such other various functions given there under Rule 3(a) to 3(q) which includes providing facilities for communication and transport and various other amenities and any other remunerative enterprises and also referred a decision of this Court passed in W.P.No.12321 of 2016, dated 18.08.2017.

9. In the case of ***R.Venkatesan Vs. the Managing Director, Tamil Nadu Slum Clearance Board, Chennai and others*** in W.P.No.12321 of 2016, dated 18.08.2017, a learned Judge of this Court, after referring to the relevant provisions, has observed as follows:

“18. A reading of ***Section 4-B*** of Cable Television Networks (Regulation) Act, 1995, would make it clear that any person either being a resident of that area or not, is entitled to make underground cables or erect poles for



effecting cable television connection. Though the petitioner relied on [Section 4-B\(4\)](#) of the Act in support of his stand, a reading of [Section 4-B\(4\)](#) of the Act makes it clear that if the public authority feels in public interest that the underground cable or poles erected by the cable operator has to be removed or repaired, they can ask the cable operator concerned to remove the same. This provision speaks about prior permission of laying of cables or installing poles.

19. However, a reading of [Section 4-B\(5\)](#) & (6) of [Cable Television Networks \(Regulation\) Act, 1995](#) makes it clear that the public authority is empowered to grant permission to operate cable television service with certain conditions by entering into an agreement and they are also empowered to refuse permission on a reasonable ground.”

10. As rightly pointed out by the learned Counsel for the second respondent, in the proceedings of the Managing Director of the second respondent Board, dated 25.04.2022 referred above, has granted permission to the Cable TV Operators in tenemental schemes and resolved to collect Rs.20/-per month per tenement from all cable TV



W.P.(MD)No.17874 of 2021

operators who approach Board and to collect from them as rental charges. The learned Counsel would further submit that as per the above proceedings, the second respondent has been collecting charges at Rs.20/- per connection and only on that basis, the third respondent has paid the charges for one year along with other amounts mentioned above.

11. It is not in dispute that the petitioner has been running a Cable TV network operations in the houses coming under the Pillayarpatti Tenements Scheme. But according to the respondents 2 and 3, since the petitioner was an unauthorised operator, the third respondent has been given permission to run the Cable TV operations in the said Tenements Scheme houses. It is pertinent to note that in the counter statement itself, the second respondent has stated that the third respondent and one Srinivasan have approached the second respondent Board with a request for permission to run the Cable TV network operations in the Pillayarpatti Tenements Scheme, that the second respondent, after considering the request of the third respondent and after verifying all the documents, has recommended the request of the third respondent to the Managing Director, who in turn accepted the same and on that basis,



W.P.(MD)No.17874 of 2021

permission was granted to the third respondent. It is not in dispute that the second respondent has not issued any advertisement calling for the applications for running Cable TV network operations in the Pillayarpatthi Tenements Scheme.

12. As rightly contended by the learned Counsel for the petitioner, it is not known as to how the third respondent was selected and was given permission and the second respondent in the counter affidavit, has nowhere whispered as to how the request of the third respondent and one Srinivasan were alone received and on what basis, permission was granted to the third respondent. The learned Counsel for the petitioner has relied on the decision of this Court in the case of ***S.Umar Farook Vs. the Chairman, Tamil Nadu Slum Clearance Board and another*** in W.P.No.18664 of 2007, dated 18.09.2007, wherein also, when there was a claim and counter claim for running Cable TV operations by referring to the earlier orders of this Court, a learned Judge of this Court has directed the Board to conduct public auction for granting permission to run the Cable TV network operations and the relevant passages are extracted hereunder:

12/17



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“6.Added further circumstance is that action has been taken against the subordinates by the respondent Department. Now, at this juncture, the petitioner cannot have the benefit of the receipt either, or cannot urge the delay caused in conducting public auction, as a reason for continuing his business. Once there was an order by this court that the cable TV business in that area should be done by the Slum Clearance Board only by way of public auction, there is no question of either department permitting or the petitioner continuing the business contrary to the order of this court. Under these circumstances, as per the orders of this court made earlier, the Slum Clearance Board has to conduct public auction in respect of the Cable TV business in that area. Both the petitioner and all other public are entitled to participate therein.

8.It is also made clear that the public auction should be held and a fresh licence has got to be issued by the respondents Department to run the cable TV business in that area, as already held by this court in the earlier writ petitions in W.P.Nos.6841 and 7136 of 2006, dated 8.2.2007. Accordingly, the public auction should be held and a fresh licence should be issued by the respondents



W.P.(MD)No.17874 of 2021

department at the earliest, in which both the petitioner and the other public are entitled to participate. In the interest of public, it is fit and proper that the petitioner should be directed to continue his business till the new licence is

granted by way of public auction. With the above observations and directions, this writ petition is disposed of. No costs. Consequently, the connected MP is closed.”

13. In the case on hand, though the second respondent has alleged that a notice was issued to the petitioner on 22.09.2021 directing him to stop unauthorised Cable TV network operations in the above said Tenements, but the same was disputed by the petitioner. The second respondent has not chosen to produce a copy of the notice sent to the petitioner and the service of the same on the petitioner. As rightly contended by the learned Counsel for the petitioner, the second respondent was referring to the impugned notice dated 22.09.2021 which was admittedly addressed to the third respondent and the copies to the authorities for further action. Admittedly, even a copy of the impugned notice is not shown to be sent to the petitioner. It is not the case of the second respondent that before passing the impugned order, the petitioner



W.P.(MD)No.17874 of 2021

WEB COPY

was given any opportunity to make his representation or that he was heard before passing the impugned order.

14. Considering the above, this Court has no hesitation to hold that the impugned order granting permission to the third respondent, without following any of the mode or method known to law for selecting the Cable TV operator and that the impugned order came to be passed in violation of the principles of natural justice and that therefore, the impugned order is liable to be quashed.

15. In the result, the Writ Petition is allowed and the impugned order passed by the second respondent in his proceedings in Na.Ka.No.A5/1578/2021, dated 22.09.2021, is hereby quashed. The second respondent is directed to conduct a public auction and permission should be granted by the second respondent Board to run the Cable TV network operations on the basis of the public auction to be conducted, in which the petitioner, the third respondent and other public are entitled to



W.P.(MD)No.17874 of 2021

participate. Consequently, the connected Miscellaneous Petition is closed. There shall be no order as to costs.

14.06.2024

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

To

- 1.The Senior Postmaster,
Head Post Office,
Thanjavur – 613 001.
- 2.The Executive Engineer,
Tiruchirappalli Circle,
Tamil Nadu Urban Habitat Development
Board,
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W.P.(MD)No.17874 of 2021

K.MURALI SHANKAR,J.

SSL

PRE-DELIVERY ORDER MADE IN

**W.P.(MD)No.17874 of 2021
and
W.M.P.(MD)No.14736 of 2021**

14.06.2024