



W.P(MD)No.18142 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 12.06.2024

Delivered on : 08.07.2024

CORAM :

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.P(MD)No.18142 of 2021
and
W.M.P(MD)No.14994 of 2021

M.Indira

: Petitioner

Vs.

1.The Postal Master,
Arasaradi head Post Office,
Madurai South,
Madurai 625 016.

2.M.Balasubramani

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of certiorarified Mandamus, to call for the records pertaining to the impugned order in No.ASD/Cable TV Digs/21-22, dated 27.08.2021 passed by the first respondent and quash the same as illegal and consequently, directing the first respondent to renew the registration certificate for continuing the Cable TV connection service in the area of T.V.Nallur, Nagari, C.Pudhur, Ayankottai, Aundipatti in the petitioner's name by considering the petitioner's representation, dated 24.08.2021.



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For Petitioner : Mr.K.Sivabalan

For Respondents : MrV.Malaiyendran, for R1.

: Mr.B.Chandran, for R2.

ORDER

This Writ Petition is directed against the order dated 27.08.2021 passed by the first respondent and for a direction to the first respondent to renew the registration certificate for continuing the Cable TV connection service in the petitioner's name by considering the petitioner's representation, dated 24.08.2021.

2. The petitioner's case is that her husband A.Muthu started a private Cable TV Operating service in the name and style of Bhuvan Cable Vision; that the petitioner, her husband, their son Rajaram and daughter Tamil Selvi had been partners since 03.09.2018; that all of them have invested Rs.50,000/- each and agreed that the petitioner's husband would get 10% of the returns and the petitioner would get 40% and their son and daughter would get 25 % each; that the petitioner's husband was issued with the registration certificate, dated 22.06.2020 for running a Cable Television network in the area of T.V.Nallur, Nagari, C.Pudur, Ayyankottai and



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Aundipatti for the period of 12 months from 08.06.2020 to 07.06.2021; that the petitioner's husband had applied for the registration prior to 08.06.2020, but at that juncture, the petitioner's husband died on 11.06.2020; that the petitioner had received a communication stating that the registration should be renewed on or before 07.06.2021 and hence, she had applied for renewal and re-issuance of registration certificate in her name on 05.06.2021 and also paid Rs.500/- toward registration fee; that the first respondent did not pass any orders upon the petitioner's application for the reason best known to him; that in the meanwhile the petitioner has been issued with an order, dated 27.08.2021 by the first respondent stating that the petitioner's another son/second respondent had objected for issuance of Cable TV registration to any other legal heirs without his knowledge and directed the petitioner to obtain no objection from all the legal heirs of the deceased husband and that therefore, the petitioner aggrieved by the said order has filed the present writ petition.

3. The first respondent has filed a counter affidavit wherein, he has taken a stand that one A.Muthu had applied for registration as a Cable TV operator at Arasaradi HPO in his individual capacity and the same was considered and registration certificate was issued on 08.06.2016 under



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Registration No.CTC/397/ASD; that the relatives of the said Muthu had reported to the Head Post Office that the said Muthu expired on 11.06.2020; that one Balasubramanian, son of the deceased Muthu had given a representation objecting for renewal or issuance of any Cable TV registration without his knowledge and consent; that the registration certificate is not transferable; that when the petitioner and her son approached the first respondent for renewal, they were advised to apply for fresh registration, which would be considered and disposed of in accordance with rules; that the petitioner applied for issuance of Cable TV registration in her name, which was run by her late husband and the same was sent for verification to the Inspector of Posts, Cholavandan Sub Division; that the field officer has given a report stating that the Cable TV was still being run in the name of late A.Muthu and the petitioner was unable to prove the possession of network in her name; that since the second respondent had raised objections, the petitioner was directed to obtain no objection certificate from all the legal heirs of the deceased Muthu; that as per the instructions issued by CO (TN), letter, dated 20.09.2016, whereas the license holder ceases to exist the license stands cancelled automatically and as such, the question of transfer/renewal of license is ruled out and that therefore, the petition is liable to be dismissed.



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4. The second respondent has filed a counter affidavit stating that his father has entered into the Cable Television network business from the year 2003 with few employees and thereafter, his father has become Cable Operator and got services in his name; that the second respondent being the elder son of the family was doing all the work like canvassing of new connections to the TVs, Cable wire connection from cable operator room to individual house and adjustment of Disk antenna to receive clear signal; that the second respondent came to know that at the instance of the petitioner, his father, sister and younger brother started a partnership firm in the name and style of Bhuvan Cable vision without including the second respondent; that after registration of the said firm, still it is dormant and never started its business; that the petitioner without any consent or any information to the second respondent filed an application on 09.06.2021 to the first respondent to renew the license to her name from the deceased father's name in individual capacity; that the first respondent has refused to give license to the petitioner on the basis of his objection and has rightly directed on 27.08.2021 that if she want to become cable TV licensee, shall get no objection from all the family members; that the first respondent has rightly refused to renew the license in favour of the petitioner and that therefore, the petition is liable to be dismissed.



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5. No doubt, the learned counsel for the first respondent would submit that the Assistant Director (Tech & BD) Department of Posts, Southern Region has sent a communication, dated 28.09.2016 to all SSPOs, Madurai Division, wherein it was stated that once the license holder ceased to exist the license stands cancelled automatically and as such, the question of transfer/renewal of license is ruled out.

6. But, as rightly pointed out by the learned counsel for the petitioner, the Inspector of Post Officers, Cholavanthan Sub Division, Vadipatti have sent a letter to the Post Master, Arasaradi HO forwarding the Cable TV applications after duly verified through Mail overseer and found that the Cable TV is being run in the name of Shri.A.Muthu and not in the name of Smt.Indira. In the said letter, it has been further stated that issuing the renewal of license in the name of Indira/petitioner is the discretion of the Issuing authority.

7. As already pointed out, in another communication, dated 28.09.2016, the first respondent office has taken a stand that the question of transfer/renewal of license does not arise and that once the license holder ceased to exist, the license stands cancelled automatically. But in the other



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communication, dated 20.07.2021, the Inspector of Post Offices has taken a stand that issuing the renewal of license is in the discretion of Issuing authority. Considering the above, the first respondent is not clear as to whether the license standing in the name of a person, who died pending license, can be renewed.

8. It is pertinent to note that the first respondent has also taken a stand that since the second respondent, one of the sons of the deceased Muthu had raised objections, they were not in a position to renew the license and hence, the petitioner was directed to produce no objection certificate from all the legal heirs of the deceased Muthu. Though the second respondent has alleged in his counter affidavit that he had also taken part in the Cable TV business, he has not produced any iota of evidence either before this Court or before the concerned authority that he had taken part in the Cable TV business run by his father.

9. Even according to the second respondent, his father was doing Cable Television network business from 2003 onwards and as already pointed out, the petitioner has taken a stand that they have started a partnership business in the name and style of Bhuvan Cable Vision from 2018 onwards and the



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petitioner has produced the copy of partnership deed, dated 03.09.2018 and also the copy of Form No.I, wherein it has been specifically shown that the petitioner, her husband and her son Rajaram and daughter Tamil Selvi as the partners of the said firm.

10. No doubt, as rightly contended by the learned counsel for the second respondent, the license was granted in the name of the deceased Muthu and not in the name of the partnership firm. The second respondent in his counter affidavit has specifically admitted the formation of partnership firm. But according to him, the firm is still dormant and never started its business.

11. It is not the case of the second respondent that he was living with his family at the time of father's death and subsequently. As rightly contended by the learned counsel for the petitioner, since the petitioner and her other family members were continuing the Cable TV network subsequent to the death of her husband, the petitioner has approached the first respondent to renew the license in her favour with the consent of his another son and daughter also the partners of the said firm. Since the second respondent has not shown that he was also involved in the Cable TV network business along



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with his father or that he was doing the said business along with the petitioner and other family members subsequent to the death of his father, the second respondent has absolutely no right to raise objections for granting or renewing the license in favour of the petitioner.

12. Even assuming for argument sake that the said Muthu had left some property including the Cable TV business, then the second respondent can only sue for partition of his father's property, if so advised. Regarding the contention of the first respondent that once the license holder ceased to exist the license shall stand cancelled automatically, as rightly contended by the learned counsel for the petitioner, when a person is doing Cable TV business by investing lot of amount and if he dies, it is not logical and correct to say that the license stand cancelled automatically. If such a stand is taken, after the death of the license holder, his family, if license is not renewed, would suffer greatly.

13. The learned counsel for the petitioner would submit that the deceased himself was having 10% in the profits and even assuming for argument sake that the second respondent is entitled to get a share in the business run by his father, he will get 2.5% and as such he cannot raise



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objections for renewing the license. I find much merit in the said contention.

The first respondent without considering the above aspect in proper perspective, but by giving much weightage to the objections of the second respondent, has passed the impugned order mechanically and as such the same cannot be sustained.

14. In the result, the Writ Petition is allowed and the first respondent is directed to consider the petitioner's representation and grant/renew the license without insisting no objection certificate from the second respondent and pass necessary orders within a period of four weeks from the date of receipt of copy of this order. Consequently, connected Miscellaneous Petition is closed.
No costs.

08.07.2024

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

The Postal Master,
Arasaradi head Post Office,
Madurai South,
Madurai 625 016.



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K.MURALI SHANKAR, J

DAS

Pre-delivery order made in
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and
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Dated : 08.07.2024