

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-7744-2019

Date of decision: 06.03.2024

MANMEET SINGH

.....Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: - Mr. Naveen Sharma, Advocate for
Mr. Vinay Kumar Gupta, Advocate
for the petitioner.

Ms. Niharika Sharma, AAG, Punjab.

Mr. Rishabh Gupta, Advocate for respondents No.2 to 5.

VINOD S. BHARDWAJ, J. (Oral)

1. Prayer in the present writ petition is for seeking issuance of directions to respondent No.2 to release the tube-well connection to the petitioner for which he has already deposited a sum of Rs.17,600/- and for any other relief.

2. Learned Counsel appearing on behalf of the petitioner contends that the petitioner had applied for release of tube-well connection in the year 2016 and submitted requisite statutory forms by completing all the formalities and also deposited a sum of Rs. 17,600/-, on the demand of respondent-

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Department. It is submitted that at the time of submission of the form alongwith requisite fee, an assurance was given that the electricity connection shall be released to the petitioner within a period of two months, however, the needful was not done. The petitioner and his family members have been pursuing the case and raising grievance before the respondent-authorities through numerous representations and visits to the office, however, no heed has been paid to them. Representation was thereafter submitted by the petitioner, however, no decision was taken thereupon which resulted in filing of the present writ petition. He contends that some similar situated persons had filed CWP-18875 of 2017 titled as “*Balwinder Kaur and another versus State of Punjab and others*” for seeking the same relief, the said writ petition was disposed of vide order dated 06.09.2018 by this Court wherein it was directed that the electricity connection be released to the petitioner No.2 therein within a period of 08 weeks. After noticing that they had granted a connection to the co-petitioner.

3. Written statement on behalf of respondents No. 2 to 5 had been filed on 24.11.2023 wherein the respondents have specifically submitted that the petitioner had moved an application for release of agriculture tubewell connection under the Chairman discretionary quota and that as per the guidelines dated 13.04.2018 issued by the PSPCL, no new demand notice against general category or any priority category were to be issued till further orders. It is contended that in light of the said prohibition imposed, the petitioner cannot claim that the electricity connection should be allotted to him out of turn, as a matter of right, particularly when the policy dated 13.04.2018 prohibits the same.

4. No replication/rejoinder to the said policy has been filed.

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5. I have heard learned counsel appearing on behalf of the respective parties and have gone through the documents appended alongwith the present writ petition.

6. The claim of the petitioner for grant of the electricity connection is based upon the order dated 06.09.2018 passed in CWP-18875-2017 titled as *Balwinder Kaur* (supra) whereby this Court had directed consideration of claim of petitioner No.2 in the said writ petition and for release of electricity connection therein. I am afraid that the above said contention of the petitioner cannot be accepted for the following reasons:

i) That the petitioner has failed to disclose the essential terms and conditions of the policy under which he submitted his application for release of the electricity connection and as to whether he fulfills the eligibility conditions prescribed thereunder.

ii) Since the case of the respondent-Department itself has been that the petitioner had submitted an application for release of the electricity connection under a discretionary quota of the Chairman, hence, it was essential for the petitioner to have pleaded and demonstrated that the pre-requisites of the policy as it was in force then, for release of electricity connection under the discretionary quota of the Chairperson, was fulfilled and the petitioner was fully eligible for the same.

iii) The petitioner has also failed to demonstrate his right for an out of turn allotment and as to whether any other similarly placed person who had also submitted an application for release of electricity under the said quota, after the petitioner has been given the said benefit.

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iv) In the absence of the requisite details, a direction for out of turn release of electricity connection, cannot be issued in favour of the petitioner as a special treatment.

v) The petitioner has also failed to dispute the fact that the subsequent notification has already been issued whereby prohibition has been imposed upon grant of out of turn release of electricity connection. No challenge to the said notification has been made. The said notification being binding, in the absence of any challenge, a direction cannot be issued for violation of the policy/guidelines of the Government of Punjab issued in this regard.

vi) The order dated 06.09.2018 does not lay down any ratio of law. The writ petition was disposed of after noticing that out of the two petitioners, the respondents had already released the connection in favour of one and that both the petitioners ought to have been treated at parity. There is no material available on record on the basis whereof it can be assumed that the case of the petitioner is identical to the case of the petitioner in CWP-18875-2017 as decided by this Court on 06.09.2018. The same is at best a *lis* decided and does not lay down any building ratio in law.

vii) That even otherwise, there are numerous precedents of this Court as well as the Hon'ble Supreme Court that have condemned the exercise of discretionary powers and held that such discretion is in violation of Article 14 of the Constitution of India. Exercise of any such discretion, for giving out an agriculture tubewell connection to any specific person, is rather unjust as it makes other persons wait in the queue for grant of similar benefits.

7. In the absence of any reference to any specific provision, under which a right would accrue in his favour a mere submission of an application

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for consideration of his claim under a policy can not be sufficient to direct release of connection.

8. Hence, the prayer of the petitioner for grant of electricity connection at this stage cannot be allowed at this stage more so when the stand of the respondent itself has been that the Government has already issued guidelines/instructions under which such connection cannot be released and that a seniority list has been maintained by the State Government and that the connections are to be released on the basis of the respective merit and seniority of a candidate concerned. There is nothing on record on the basis whereof the above said stand of the respondents can be held to be illegal, arbitrary or discriminatory and/or that the respondents have been violating the above said guidelines at their whims and fancies. The violation, if any, may be a ground to cancel such release, but cannot pave for a judicial order to breach a guideline.

9. The present writ petition is accordingly disposed of at this stage as being without any merit or legal basis. The petitioner would, however, be at liberty to pursue his remedy in accordance with law i.e. by moving an appropriate application before the competent forum for consideration of his claims as per law and if so advised, may also seek refund of his money which is claimed to have been deposited with the respondent-Department.

(VINOD S. BHARDWAJ)
JUDGE

MARCH 06, 2024
Vishal Sharma

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No