

(2008) 03 MAD CK 0054

In the Madras High Court

Case No : Contempt Petition No. 132 of 2006

C. Chokkalingam

APPELLANT

Vs

S. Samuel Muthiah, Executive Engineer, Operation and Maintenance, Tamil Nadu Electricity Board and S. Saravanan, Junior Engineer, Tamil Nadu Electricity Board

RESPONDENT

Date of Decision : 11-03-2008

Acts Referred:

Citation : (2008) 03 MAD CK 0054

Hon'ble Judges : M. Jaichandren, J

Bench : Single Bench

Advocate : K. Ravikumar, for the Appellant; S.N. Kirubanandam, for the Respondent

Judgement

M. Jaichandren, J.—This contempt petition has been filed praying that this Court may be pleased to punish the respondents for wilful

disobedience of the order, dated 14.11.2005, made in W.P. No. 30268 of 2003.

2. It is stated by the petitioner that he is an agriculturist owning cultivating lands to an extent of 2.35 acres in Survey No. 474/2, situated at

Kurumbapalayam, Vellithiruppur Village, Bhavani Taluk, Erode District. He had applied for the grant of electricity service connection for drawing

water from the well situated in the said land. The application had been made to the first respondent in the year 1990 and the said application had

been registered, on 29.12.1990, as Application No. 6916 on the file of the first respondent. Since the respondents had not taken steps to grant

electricity service connection even after a period of 13 years from the date of the application, the petitioner had filed a writ petition before this

Court in W.P. No. 30268 of 2003, praying for a writ of Mandamus to direct the

respondents to grant electricity service connection to the petitioner. This Court, by its order dated 14.11.2005, had passed the following order:

Heard the learned Counsel appearing for both the parties.

2. The question raised in this Writ Petition relates to grant of grant Electric Service Connection for 5 HP motor to the petitioner for drawing water

from the well situated in Survey No. 474/2, Kurumbapalayam, Vellithiruppur village, Bhavani taluk in pursuance to the application No. 6916

registered on 29.12.1990 on the file of the first respondent.

3. It is not in dispute that the application was made by the petitioner on 29.12.1990, as per Application No. 6916 dated 29.12.1990. The

grievance of the petitioner is to the effect that even though several other persons who had applied after the petitioner have been given such

connection, the petitioner's case has been ignored without any justification. There is no dispute that the petitioner comes under the general

category.

4. In the affidavit filed by the respondents on 31.12.2004, it is stated that the applicants who had applied on or before 05.05.1988 under the

general category had been given connection. It is further stated that the application of the petitioner will be considered, as per the Division-wise

seniority.

5. In course of hearing, the learned Counsel for the petitioner has invited my attention to the Communication No. So. Pa/Pa 1 Tho. Nu./Kattu Viva

No./No. 844452 dated 11.12.1997, wherein it is indicated that steps have been taken to grant electricity connection upto 30.11.1989 on ordinary

seniority. The learned Counsel for the petitioner has submitted that even in December 1997, the applicants up to November 1989 have been

considered and steps have been taken, but, it is unbelievable, even after lapse of about 8 years in the mean time, the petitioner's case has not been

considered and the connection has not been given. Prima facie, such contention of the petitioner appears to be justified. However, in the absence

of subsequent materials, this Court is not in a position to come to any definite conclusion that persons who had applied after the petitioner had been

given connection under the normal category. The learned Counsel for the petitioner has submitted that service connection Nos. 482, 493 and 497

had been effected, in respect of the applicants who had applied only in the year 1997. However, since it is not possible to verify all these aspects, I

feel, interest of justice would be served by giving the following directions to the respondents:

The first respondent is directed to find out if any application under the normal category, after 29.12.1990 has been given connection in the same

Division. If any such connection has been given, steps should be taken by respondents 1 and 2 to give connection to the petitioner as expeditiously

as possible, preferably, within a period of six weeks from the date of receipt of the communication of this order. On the other hand, if the first

respondent comes to the conclusion on appropriate enquiry that no applicant in the normal category, after 29.12.1990 has been given any

connection, such details should be communicated to the petitioner, so that the petitioner would be in a position to know his actual position. This

intimation should also be communicated to the petitioner within the same period of six weeks, from the date of communication of this order.

6. Subject to the aforesaid observations, the Writ Petition is disposed of. No costs.

3. In the counter affidavit filed on behalf of the first and the second respondents, it has been stated as follows:

3. It is respectfully submitted that only to harass the respondents, the petitioner herein has filed the above contempt petition which is not

maintainable either in law or on facts. If the petitioner herein is aggrieved, he should have filed a separate writ petition challenging the reply of the

first respondent issued in Lr. No. EE/O&M/B/IER/F.DOC/D.53/05/ dated 26.12.2005. Without prejudice to the above, I respectfully submit that

the petitioner has registered his application under Division priority (D.P. No.) 6916, dated 29.12.1990 for 1 No. agricultural service connection

for the well situated in Survey No. 474/2 at Kurumbapalayam, Vellithiruppur village, Bhavani Taluk, Erode District, under normal category. The

petitioner's application is under normal priority and will be considered as per the Divisional Seniority and as per the Target fixed by the

Government, then and there under the normal priority.

4. It is respectfully submitted that the Electricity service connection for agricultural pump sets are being given to the consumer strictly on the basis

of Divisional seniority which will be based on the target fixed by the Government

Board. Every year, the target for effecting agricultural service

connection will be fixed by the Government of Tamil Nadu and the Tamil Nadu Electricity Board will fix the targets for each Region/Circle/Division

based on the target fixed by the Government of Tamil Nadu for the supply of agricultural pump sets.

5. It is respectfully submitted that on enquiry and after through verification of registers, it was ascertained that no service connection had been given

effect under normal priority for application registered on or after 29.12.1990 this fact was also intimated to the petitioner herein.

6. It is respectfully submitted that in Bhavani Division, Agricultural service connections under normal priority had been effected for the applications

registered up to 5.5.1988 during the year 2004-2005 as per the Target fixed by the Government. Further, the applications registered upto

31.12.1988 have since been taken up for effecting service connection under normal priority for the year 2005-2006.

7. As regards, SC No. 482, which was registered as D.P. No. 8346, dated 18.4.1995 the service connection under self finance scheme was

effected as opted by the individual and on payment of Rs. 10000/- under the Self Finance Scheme. Whereas, the petitioners herein did not opt to

come under Self Finance Scheme and hence he could not be given connection.

8. The service connection No. 497, for which the application was registered as D.P. No. 5942 dated 28.1.1989 was considered under Special

priority scheme (on-line/one-pole extension scheme) based on Technical feasibility, to Mr. K.V. Pottareddiyar.

9. It is respectfully submitted that the application of the petitioner herein to effect service connection under special priority scheme (on -line service)

was also considered based on the circular Memo No. SE/IEMC/EE3/AEE2/V400/D.241/98 (Technical Branch) dated 23.4.1998. The

respondents respectfully submit that the voltage regulation was found to be not within the stipulated norms of 6% with diversity factor 1.5 as per

the instructions stated above. The voltage regulation was 12.53% in the case of the petitioner herein. As the petitioner's case was found technically

not feasible the service connection under the said special priority could not be effected. It is also submitted that the scheme of special priority under

on -line/one - pole extension based on technically feasibility was not extended

after the year 1998-99.

10. It is respectfully submitted as that mentioned in W.P. No. 30268 of 2003 the S.C. No. 493 is a domestic connection which is different from

agricultural connection, Agricultural service connection under normal priority is a different category and hence the case of the petitioner could not

be considered on par with the said applicant, K.S. Periyasamy.

11. It is respectfully submitted that no application registered on or after 29.12.1990 has been considered under normal priority. It is respectfully

submitted that the service connection under normal priority were given to the persons who have applied during the year 1987 and no service

connections under normal priority has been effected to those who have applied on and after 1989.

12. It is respectfully submitted that the electric service connection for agricultural application can be given only based on the target fixed and by

strictly following the order of seniority division wise. For the year 2005-2006 Target has been fixed by the Government. Based on the target fixed,

the applications registered upto 31.12.1988 have since been taken-up for effecting agricultural service connection under normal priority in the first

respondent division. As the petitioner has registered only on dated 29.12.1990 his application will be considered for effecting service connection in

the following years only following the order of seniority/target.

13. The seniority list is being maintained in the Divisional Office, Bhavani. In the case of Agricultural service connection, supply was effected only

as per the division seniority and as per the Target fixed by the Government of Tamil Nadu to various categories. It is respectfully submitted that the

application of the petitioner comes under normal category, the seniority registered is an open book even the petitioner herein can verify the register

available with the office of the respondent herein. In the above circumstances the respondents respectfully submit that the respondents herein are

class I and II Officers working in Tamil Nadu Electricity Board and have got high regard and value for the order of the Hon"ble Court and have

properly carrying out the direction from time to time. Neither of the respondents had any intention, much less the deliberate intention, to violate any

of the orders passed by the Hon"ble Court.

4. The learned Counsel appearing for the respondents had submitted that no

service connection has been provided out of turn as alleged by the petitioner. Further, the learned Counsel appearing for the respondents had also submitted that the petitioner could pursue the alternative remedies available to him to agitate the matter, if found necessary. In such circumstances, this Court is of the considered view that the petitioner had not shown sufficient cause or reason to punish the respondents for contempt of Court, as prayed for in the present contempt petition. Hence, the contempt petition stands closed. No costs.