

(2014) 12 AHC CK 0064

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 65219 Of 2014

Mahitab Singh

APPELLANT

Vs

Dakshinnanchal Vidyut Nigam Limited and Others

RESPONDENT

Date of Decision : 05-12-2014

Acts Referred:

Citation : (2015) 2 ADJ 229

Hon'ble Judges : Rakesh Tiwari, J;Dinesh Gupta, J

Bench : Division Bench

Judgement

1. Heard counsel for the petitioner and Sri Baleshwar Chatu vedi appearing for the respondents. This petition has been preferred for issuance of a writ in the nature of mandamus directing the respondents to provide electricity connection including pole and wire in respect of Nalkoop for irrigation of agricultural land to the petitioner and a direction to the respondents to decide representation of the petitioner's father dated 25.9.2009.

2. This matter has been heard on 4.12.2014, when the following order was passed:

"As prayed, put up tomorrow i.e. 5.12.2014 to enable the counsel for petitioner to place the notification of November, 2013 to the effect that electricity connection may be given to the consumers even in dark area who have applied prior to publication of the aforesaid notification."

3. Sri Baleshwar Chaturvedi, learned counsel appearing for respondent No. 1 to 3 has placed before us a judgment dated 13.8.2014 rendered by the Court in Writ Petition No. 42184 of 2014, Ratan Singh v. State of U.P. and another, wherein chart of sub terrain water level in various development blocks of the State, have been shown. Block Araon in district Firozabad has been shown at serial No. 15 as over exploited area with regard to underground water level. Submission of the counsel for respondent is that no electricity connection for the boring/tubewell is granted as a matter of policy of the Government of U.P. in such over exploited

blocks, therefore, petitioner cannot be provided electricity connection as prayed by him.

4. Counsel for the petitioner submits that it is apparent from the G.O. dated 13.10.2014 that there is no such restriction imposed by the State Government upon boring/tubewell which have already been constructed and are only to be energized. In this regard, he has placed reliance upon paragraph No. 2 to 4 of the aforesaid G.O., which read thus:

5. He then submitted that late Ahibaran Singh, father of the petitioner had applied for electricity connection as per scheme of the State Government in the year 2009 for irrigation of his agricultural fields and had also deposited the required amount of fee for the purpose, pursuant to which the department had prepared line chart and an estimate showing total expenditure of Rs. 77,319/- was prepared.

6. Counsel for the petitioner has emphasized that his father had earlier also taken electricity connection for the purpose of tubewell/boring but that boring was not successful and had failed. Thereafter, the boring was further extended by 40 feet in depth. But the respondents neither provided any pole and wire nor has given electricity connection though the authorities themselves had submitted report in favour of the petitioner.

7. After hearing counsel for the parties and on perusal of the record as well as the report submitted by Junior Engineer appended as Annexure 3 to the writ petition, we find that contention of learned counsel for the petitioner is incorrect and the petitioner has not come before the Court with clean hands. Relevant extract of the aforesaid report reads thus:

8. It appears from the above report that petitioner has not taken this plea in the writ petition that he had deepened his earlier existing failed boring/tubewell by 40 feet as argued by him but has got a new boring done at a new site about 67 meters away from the old boring and for this purpose he had requested the department to provide him an extra pole and wire for the proposed connection which was not given to him as per policy and that a perusal of the line chart alongwith Naksha Nazri prepared by the department clearly establishes that there is an old failed boring existing and a new boring about 67 meters away from it.

9. In so far as the G.O. dated 13.10.2014 relied upon by the petitioner is concerned, it does not apply for two reasons, (i) the petitioner's boring is new one after the G.O. which is situated at a distance of 67 meters from the old boring and (ii) his earlier boring had failed and old boring was not re bored by deepening 40 feet as claimed by him. Therefore, G.O. dated 13.10.2014 does not apply as new boring or failed boring are not covered by it for providing new electric connection. Only new borings which are existing and are to be energized are covered by it. As stated earlier, since the petitioner has not approached the Court with clean hands, this writ petition is dismissed with cost of Rs. 20,000/-

which shall be recovered from him as arrears of land revenue.