

(2005) 02 MAD CK 0037

In the Madras High Court

Case No : Writ Petition No's. 8095 to 8097 of 2002

Mohan Rajes, Smt. Gowri Pandianathan and Smt. Soundara
Rajes

APPELLANT

Vs

The Assistant Engineer (O and M), Tamil Nadu Electricity
Board, The Executive Engineer (O and M), East Tamil Nadu
Electricity Board, The Tamil Nadu Electricity Board and The
Revenue Divisional Officer

RESPONDENT

Date of Decision : 04-02-2005

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2005) 02 MAD CK 0037

Hon'ble Judges : K.P. Sivasubramaniam, J

Bench : Single Bench

Advocate : N.S. Manoharan, for the Appellant; N. Srinivasan, for respondents-1
to 3 and V. Velumani, A.G.P. for 4th respondent, for the Respondent

Final Decision : Allowed

Judgement

K.P. Sivasubramaniam, J.—In these writ petitions, the respective petitioners pray for a writ of Certiorarified Mandamus to call for the

impugned orders, as detailed in the writ petitions, dated 16.2.2001, to quash the same, and to direct the respondents to grant agricultural service

connections for the properties mentioned thereunder.

2. The petitioners have applied to the Tamil Nadu Electricity Board for power connection for agricultural purpose relating to their properties as

early as on 25.10.1985. Even though priority was reached on 9.12.1994 itself, since then, the petitioners are struggling to get the power

connection without any avail, as a result of the negative attitude adopted by the respondents.

3. Earlier, one of the requirements, as insisted by the respondents, was to furnish ownership certificate in terms of the hierarchy of the revenue authorities. The petitioners complied with the said directions by obtaining certificate from the Tahsildar, the appropriate authority to grant such certificates. However, the respondents insisted that certificate should be issued by the Revenue Divisional Officer. On such attitude on the part of the respondents, the petitioner approached the Consumer Forum and though the District Consumer Disputes Redressal Forum found in their favour, the appeal filed by the respondents before the State Consumer Disputes Redressal Commission was allowed only on the ground that in such matters, Consumer Forum did not have jurisdiction to entertain the petition. However, the said forum condemned the attitude of the respondents in not discharging their duties in a proper manner. There being no other alternative, the petitioners have now approached this Court.

4. Unfortunately, even at this stage, the respondents had come forward with a stand that Survey No. 43/3 in respect of which permission for power connection was sought for, was a Government land and that the same had been encroached by the petitioner. In view of the fact that the said stand was not taken by the respondents at any time earlier either before the Consumer Forum or in their various letters to the petitioners and that it was only in these writ petitions such a new stand had been taken, this Court found that the attitude of the respondents was unfortunate.

5. By an earlier order dated 27.8.2004, after taking note of the improper stand of the respondents, this Court impleaded the Revenue Divisional Officer, Salem, and directed him to inspect the land for which service connection was sought for and to send a detailed report regarding the actual ownership of the land in dispute to this Court within a time frame. It was also directed that notice of inspection shall be given to both the petitioners and the respondents to substantiate their mutual contentions. It would be necessary to reproduce the order dated 27.8.2004 to assess the deplorable manner in which the respondents have acted:

It is rather unfortunate that the respondents-Electricity Board is adopting unfair attitude without any justification. The petitioners had approached the Authorities for power connection for agricultural purpose as early as on 25.10.1985. The priority was reached on 9.12.1994 and since then,

the petitioners are struggling to get power connection without any avail, as a result of the attitude adopted by the respondent.

2. One of the requirements is to furnish ownership certificate and in terms of hierarchy of Revenue Authorities, it is the Tahsildar who is the

appropriate Authority to grant such a certificate and admittedly has been duly complied with by the petitioners. However, the respondents insist

that the Revenue Divisional Officer should issue the certificate, thereby driving the petitioners to the Consumer Forum. Though the District

Consumer Forum found in favour of the petitioners, the appeal filed by the respondents before the State Consumer Forum was allowed only on the

ground that the Consumer Forum has no jurisdiction to entertain the said petition. However, the attitude of the respondents in not discharging their

duties in a proper manner was strongly condemned by the State Forum. There being no other alternative, the petitioners have now approached this

Court. It is only now at this stage, the respondents have come forward with the stand that Survey No. 43/3, for which permission for power

connection is sought for, is Government land and the same has been encroached by the petitioner. This stand was not taken by the respondents at

any time earlier, either in their letters to the petitioner or before both the Consumer Courts. It is only now in these writ petitions such a new stand

has been taken. It is rather unfortunate that the respondent/public institution should be so very casual in dealing with valuable rights of parties,

several years after the petitioners apply for service connection and after it reaches priority. Reference is made to a confidential letter dated

28.5.1993 from the Special Commissioner-Land Administration to the Chairman of the Electricity Board alleging that the petitioners had earlier

obtained three service connections of which one was on Government land. The other two service connections are in reference to S. No. 43, which

are shown as patta land. The final direction is only to make sure and properly verify before granting service connections. Such a direction cannot

be an excuse for the Board to blindly insist upon the production of ownership certificate only by the Revenue Divisional Officer. There is no such

direction in the said letter to insist on a certificate from the Revenue Divisional Officer. When the Tahsildar is the competent authority, his certificate

has to be accepted. If the Board has any information that the site is not a patta land, then they have to produce material for saying so. As the

petitioners" counsel had pointed out, the site for which service connection is sought for is S. No. 43/3, and S. No. 43 is shown to be a patta land

even in the letter of the Special Commissioner dated 28.5.1993. The more significant aspect of this episode is that as stated earlier, it is only now in

this writ petition such an objection is projected and not raised earlier. There appears to be something more than what meets the eye at least at the

level of the local Electricity Board officials.

3. At this stage, I do not propose to go further into the controversy as to whether the land in dispute belongs to the petitioner or not. It is sufficient

to call for a report from the Revenue Divisional Officer, Salem.

4. The Revenue Divisional Officer, Salem is suo motu impleaded as 4th respondent and is directed to inspect the land for which service connection

is sought for and send a detailed report regarding the ownership of the land in dispute to this Court within two weeks from the date of receipt of

copy of this order. Notice of inspection may be given to both the petitioner and the respondents to substantiate their contentions.

6. Learned Additional Government Pleader has now placed before this Court a report which has been received from the Revenue Divisional

Officer, Salem dated 31.12.2004. A perusal of the said report discloses that in respect of all the lands covered by the three writ petitions, the lands

are found to belong to the respective petitioners. In short, the petitioners are found to be the owners of the properties for which the power

connections are sought for.

7. It is therefore, seen that the various reasons stated by the respondents for not giving power connection promptly is deliberate and does not

appear to be bona fide. The action of the respondents in having delayed the matter for nearly ten years in spite of the priority having been reached

in the year 1994 itself, discloses the deplorable style of functioning of the respondents. As stated earlier, the petitioners were forced to approach

the Consumer Forum when the respondents insisted the production of ownership certificate by the Revenue Divisional Officer, ignoring the fact that

the appropriate authority was only the Tahsildar, from whom the petitioners have furnished the certificates. Though the State Forum allowed the

appeal filed by the respondents, the appeal was allowed only on a technical ground of maintainability of the appeal. The appellate Forum had made

strong observations about the attitude of the respondents. Even so, the respondents would not condescend to discharge their duties properly and would again force the petitioners to approach this court. After notice in these writ petitions, again, the respondents, just to raise untenable contentions, have stated that the property did not appear to belong to the respective petitioners, which is found to be false and incorrect, vide the report of the Revenue Divisional Officer/the fourth respondent.

With the result, the petitioners are entitled to succeed and the writ petitions are allowed. Having regard to the facts stated above, the respondents are directed to complete the requirements of furnishing power supply to the petitioners within a period of two months from the date of receipt of a copy of this order. It is made clear that non-compliance of this order will be viewed seriously and no further extension of time shall be granted.

Having regard to the aforesaid facts, this is an appropriate case in which exemplary costs should be awarded against the respondents. The attitude of the respondents is glaringly motivated and unbecoming of public officials. It could be easily guessed that the official responsible had ulterior motives. That a law abiding citizen having waited for nine years, and should again be driven from pillar to post on untenable and false reasons for a further period of eleven years, is highly deplorable and regrettable. Respondents/T.N.E.B. should pay a cost of Rs.5,000/- to each of the respective petitioners in each writ petition within a period of four weeks from the date of receipt of a copy of this order.