

(2012) 01 MAD CK 0252

In the Madras High Court

Case No : Writ Petition No. 14414 of 2011 and M.P. No's. 1 and 2 of 2011

R. Nandakumar

APPELLANT

Vs

Estate Officer ATA/Eviction Authority Neyveli Lignite Corporation Ltd. Neyveli Cuddalore DT, Neyveli Lignite Corporation Ltd. Chief General Manager Township Administration Neyveli Cuddalore District and Estate Officer/ ES-11 Township Administrator Neyveli Lignite Corporation Ltd. Neyveli

RESPONDENT

Date of Decision : 23-01-2012

Acts Referred:

Citation : (2012) 01 MAD CK 0252

Hon'ble Judges : Vinod K. Sharma, J

Bench : Single Bench

Advocate : K. Sukumaran, for the Appellant; N.A.K. Sharma, for the Respondent

Judgement

Honourable Mr. Justice Vinod K. Sharma

1. The petitioner prays for issuance of a writ in the nature of certiorari, to quash Lr.No. TA/ES11/2001/E1/2011/292 dated 15.03.2011. The impugned order reads as under. NEYVELI LIGNITE CORPORATION LIMITED OFFICE OF THE GENERAL MANAGER/TA ESTATE II SECTION

Lr. No. TA/ESII/2001/E1/2011/292

Dated : 15/3/2011

To

Shri R. Nandakumar/S. Tholkappian (R40217) No. 4, Stair Case Stall, (SS4) Block - 12 Neyveli - 3.

Sir,

Sub : No. Stair Case Stall, Block - 12 - Power Supply Re-connection - Reg.

Ref : 1. Order of High Court in W.P. No. 27116 of 2010 & MP. No 1 of 2010 received on 15.2.2011

2. Representation dated NIL received from Shri. R. Nandakumar on 18.6.09.

3. Representation dated 29.9.2009 received from Shri R. Nandakumar on 1.10.2009.

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On scrutiny of available records, it is observed that no letter/representation on 21.7.2009 was received from Shri. R. Nandakumar as stated in the above referred writ petition. However two letters vide ref. 2nd and 3rd cited were received regarding disconnection of power supply for the shop No. SS-4 of Main Bazaar, Block -12. The following reply is furnished for the above referred representations.

License was issued to Shri R. Nandakumar for running the trade of "Sweets Stall" in the Stair Case Stall No. 4, Main Bazaar, Block - 12, Neyveli - 3 on auction basis vide Lr. No. 8270/ES-II-3/TA/92 - (SS-4) dated 5.1.1993.

Under Regularization of traders license, Shri. S. Tholkappian has applied for Transfer of license with additional trades of Bakery, Milk & Tea Stall and Quarters allotted to this license in his favour. Accordingly, the revised license fee and Administrative Charges which worked out to Rs. 2,63,045/- was intimated to the license for remittance.

Shri. S. Tholkappian had remitted Rs. 2,13,045/- only excluding the transfer charges of Rs. 50,000/- for both the license and quarter. Subsequently, the license was cancelled and eviction proceedings in Form A & Form B (Eviction notice) were issued. After the receipt of Form B, Shri. S. Tholkappian had remitted the pending amount of Rs. 50,000/- vide letter dated 23.6.2008.

Based on the remittance of Regularization arrears, revocation of cancellation of license was considered. While the revocation of cancellation of license was under consideration, certain violations such as providing temporary plastic sheets in tea stall area causing disturbance to the public and carrying out certain modification works in the premises without prior approval were noticed in the above shop premises and the same was intimated to the licensee vide Lr. No TA/ES- II/2001/E1/2008, dated 14.8.2008 and a remainders vide (1) Lr. No. TA/ES- II/2000/E1/2008 dated 7.11.2009 (2) Lr. No. TA/ES-II-1/2000/2009 dated 1.1.2009. But there was no proper response. Due to the continued violations of carrying out unauthorised modification works, the revocation was withheld and also the power supply to the premises was disconnected on 9th January 2009.

Meanwhile on 24.11.2008, Shri. S. Tholkappian and Shri. R. Nandakumar made a representation in the form a Notarised Affidavit requesting to renew the license in the name of Shri R. Nandakumar, the original licensee and not to consider the transfer applied under regularisation scheme.

Subsequently, in the joint representation dated 3.10.2009 submitted by Shri. R. Nandakumar and Shri. S. Tholkappian, it was requested by them that the letter submitted by them on 24.11.2008 for renewal of license in the name of Shri. R. Nandakumar may be treated as withdrawn and it was requested for transfer of license in favour of Shri. S. Tholkappian. Further it was requested to resume the power supply, which was disconnected earlier for the violations.

In the meantime, it had come to the notice that one Shri. Radhakrishnan along with his family was residing in the Quarters allotted to the licensee Shri R. Nandakumar, which amounts to subletting. The allotment of the said quarter was in fact owing to the grant of license to the shop. As the sublet of quarters allotted to the licensee is a violation of allotment conditions both under shop license and allotment of quarter. Show Cause Notice was issued on 3.3.2009 followed by Cancellation Order which was issued on 17.11.2009. Consequently, Form - A was issued on 8.12.2009 and Eviction order (Form-B) was issued on 2.11.2010. As mentioned above the quarter allotment was considered to the licensee only in the capacity of the licensee of the shop. As such, the violations committed in respect of the quarter allotted to the shop licensee is also a violation with respect to the shop license. In view of the said violation, eviction proceedings under the PP Act is in progress.

It is further noticed that outstanding dues in respect of the shop license as on 14.3.2010 is Rs. 1,12,452/- excluding penalty.

It is a normal practice that power supply reconnection could be considered only if the licensee rectifies all the violations indicated.

In view of the above, it is reiterated that so long as the violation regarding unauthorised modifications in the shop premises and the subletting of the house are brought to finality and the outstanding dues to the shop is cleared, the request for power supply re-connection to the shop cannot be considered.

Shri R. Nandakumar is however provided with an opportunity to make his submission, if any, on the above.

Yours faithfully, For Neyveli Lignite Corporation

Sd/- Chief General Manager/TA

Learned Counsel for the petitioner challenges, the impugned order on the ground, that the order impugned is not in consonance with the order passed by this Court in W.P. No. 27116 of 2010 dated 1.12.2010, as the impugned order was passed without giving opportunity of hearing to the petitioner.

2. this Court vide order dated 1.12.2010 was pleased to direct as under.

In view of the limited prayer sought, the writ petition is disposed of directing the first respondent to consider the representation of the petitioner dated 21.7.2009 and pass orders on the same, in accordance with law and after providing an opportunity to the petitioner, within a period of 8 weeks from the date of receipt

of a copy of this order. No costs. Connected MP is closed.

3. Learned Counsel for the respondents contends that the writ petition is premature, as the impugned order has been passed to provide an opportunity to the petitioner to remove the violation, to enjoy the property along with all facilities.

4. On consideration, I find that the vide impugned order, the petitioner has been directed to set right the violation regarding the unauthorised modifications in the shop and evict the subtenant from the house. The impugned order further stipulates that the petitioner has to pay the outstanding dues till date. The impugned order therefore cannot be said to be mere notice but is in fact an order directing the petitioner to carry out remedial measures before electricity is restored to the petitioner.

5. On consideration, I find that unauthorised modifications and subletting cannot be a ground for denial of electricity connection to the petitioner, but at the same time, the petitioner is under legal obligation to pay the dues payable till date to the Neyveli Lignite Corporation Limited.

6. This writ petition is therefore disposed of by directing the third respondent to restore the electricity connection to the petitioner, on receipt of the outstanding dues till date.

7. It is however made clear that the third respondent shall be at liberty to take appropriate action including seeking eviction for violation of the terms of the allotment and subletting the premises, in accordance with law, if so advised. No costs. Consequently, connected MPs are closed.