

(2011) 08 MAD CK 0454

In the Madras High Court

Case No : Writ Petition No. 37950 of 2002 and WPMP. No. 56909 of 2002

R. Pachamuthu

APPELLANT

Vs

Tamil Nadu Electricity Board and The Executive Engineer (O and B) Ariyalur, Trichy Electricity Distribution Circle, North, Ariyalur Division

RESPONDENT

Date of Decision : 16-08-2011

Acts Referred:

Citation : (2011) 08 MAD CK 0454

Hon'ble Judges : T. Raja, J

Bench : Single Bench

Advocate : A. Arulmozhi, for the Appellant; G. Vasudevan, for the Respondent

Judgement

The Honourable Mr. Justice T. Raja

1. The Petitioner has filed the present writ petition praying for issuance of a writ of certiorarified mandamus to call for the records of the second Respondent in his proceedings No. Ka.Na.Ka.THA/THI M ova va/MO/THO. Aa/KO7/No. 368/2001 dated 3.10.2001 and to quash the same as illegal and to direct the Respondents to refund the amounts collected from the Petitioner under self financing scheme and to grant him free electricity supply on par with other farmers.

2. The Learned Counsel appearing for the Petitioner submits that the Petitioner is a farmer owning a small extent of agricultural lands, hence he applied for electricity service connection to cultivate his lands in the year 1986 by registering the application on 18.12.1986. The Authorities viz. the Respondents have also given registration No. 1458. She further submits that when the Petitioner was waiting for more than 13 years in queue for getting free service connection. The third Respondent viz. Executive Engineer (O & B), Ariyalur, Trichy Electricity Distribution Circle, North, Ariyalur Division in his proceedings dated 20.4.1998, informed the Petitioner that his application for electricity supply has been taken for consideration. However, the Petitioner was directed to produce various documents on or before 29.5.1998. She further submits that

some of the documents required to be submitted by the Petitioner are certificate from the Village Administrative Officer accompanied by the map of the land with indication of the well, kist receipt and patta or title deed. She further submits that apart from that, the Petitioner was also directed to report his readiness to the Junior Electrical Engineer (Electrical) on or before 20.4.1998 with more particulars viz. the name of the company manufactured the motor pumpset, horse power of motor with serial number, receipt showing the purchase of the motor and pumpset along with No objection Certificate from P.W.D or Revenue Department if the well is situated near river or canal.

3. The Learned Counsel for the Petitioner further submits that the Petitioner in the abovesaid communication was specifically informed that if the Petitioner fails to submit his readiness along with the particulars sought for on or before 20.4.1998, the application itself would stand rejected and consequently he would lose his seniority. It appears that the Petitioner requested for extension of time and the second Respondent also granted time upto 30.6.1999 by his proceedings dated 19.5.1999. Records shows that the Petitioner has purchased motor pumpset for about Rs. 25,000/- and subsequently registered his readiness to the third Respondent in the month of February, 1999. Thereafter the Petitioner was waiting for the Respondents to come and effect electricity service connection. But the Petitioner has again received a letter dated 21.6.1999 from the third Respondent, in and by which he was informed that there is no feasibility to effect electricity service to the Petitioner on the basis of seniority and therefore he was informed to avail electricity connection under modified self financed supply priority scheme by paying Rs. 10,000/-, accordingly he agreed to avail the priority scheme and thereafter the Respondents Board effected service connection to the Petitioner's well in July 2000 under priority scheme by receiving Rs. 10,000/-.

4. When the matter stood as above, the case of the Petitioner is that the Petitioner's neighbour one Ramanathan who is also owning lands adjacent to the Petitioner's agricultural land was given free electricity service connection by the second Respondent and thus the second Respondent has discriminated the Petitioner by not giving free electricity connection on par with his neighbour Mr. Ramanathan. Further as the Respondent has threatened the Petitioner by communication dated 21.6.1999 informing him to opt for priority based electricity service connection on payment of Rs. 10,000/- as one time payment and also to agree for payment of flat rate of Rs. 1,500/- at every six months. Had there been no such communication to the Petitioner particularly informing the Petitioner that he would be losing the seniority for getting free electricity connection, the Petitioner would not have chosen to deposit Rs. 10,000/- and in addition to that after accepting priority service connection, the Petitioner has been paying Rs. 1500/- twice in a year as flat rate. Therefore the Petitioner has come forward to challenge the proceedings impugned in the writ petition.

5. The Learned Counsel for the Petitioner further submits that since the Petitioner

has been threatened by the second Respondent in the above said communication that he would lose seniority, he opted for priority based service connection by paying Rs. 10,000/- in addition to a payment of Rs. 1500/- at every six months. After getting the abovesaid service connection from July 2000 the Respondents are required to provide free electricity service connection to the petitioner, as he was entitled to get on par with his neighbour Mr. Ramanathan, who is having adjacent land to the Petitioner. As the Respondents failed to consider his case, by filing the present writ petition, the Petitioner prays for setting aside the impugned proceedings with further direction to the Respondents to refund the amount deposited by the Petitioner viz. Rs. 10,000/- and also to direct the Respondents to give free electricity service connection to the Petitioner.

6. When the matter was taken up, on instruction, the Learned Counsel appearing for the Respondents Tamil Nadu Electricity Board submitted that the Petitioner has been given free electricity service connection in the well situated in his lands.

7. In view of this subsequent event, the Learned Counsel for the Petitioner further submitted that now the question that is to be decided is when the Petitioner was waiting for getting free electricity service connection for the last 13 years from the Respondents, but for the communication dated 21.6.1999 informing the Petitioner that he would be losing the seniority in getting free electricity service connection, the Petitioner would not have opted for priority based electricity service connection on payment of Rs. 10,000/- as one time payment with another payment of Rs. 1,500/- for every six months for priority service connection. The said submission of course has got some merit for the reason that the Respondents have not even mentioned on what basis they have issued communication dated 21.6.1999 informing the Petitioner to go for priority based service connection when he was waiting for free electricity service connection for the last 13 years. If the Respondents had not issued such communication dated 21.6.1999, the Petitioner could have waited for some more time and availed free electricity service connection like his neighbour Mr. Ramanathan. Since the Respondents threatned the Petitioner in the said communication dated 21.6.1999 that he would be losing his seniority in availing free service connection, the Petitioner had to go for priority based service connection by paying Rs. 10,000/-. In any event, since the Petitioner has been given free service connection, though the Respondents are entitled to retain Rs. 1,500/- which was paid by the Petitioner in every six months towards the consumption charges, on effecting free electricity service connection to the Petitioner's well, the Respondents are not entitled to retain Rs. 10,000/- since the Respondent Board has not established before this Court that this amount is non-refundable to the Petitioner. Therefore, the amount of Rs. 10,000/- deposited by the Petitioner should be refunded by the Respondents Board to the Petitioner, within a period of three weeks from the date of receipt of a copy of this Order.

8. With the above direction, the writ petition stands disposed of. No costs.

Connected WPMP.No.56909 of 2002 is closed.