

(2002) 04 MAD CK 0024

In the Madras High Court

Case No : Writ Petition No. 1788 of 1996 and W.M.P. No. 2753 of 1996

V. Muthukrishnan

APPELLANT

Vs

The Chairman, Tamil Nadu Electricity Board, Madras, The
Executive Engineer, (Distribution), TNEB, Manamadurai,
Madurai District, The Assistant Divisional Engineer,
(Operation and Maintenance) TNEB, Manamadurai, Madurai
District and The Junior Engineer (O and M), Tamil Nadu
Electricity Board, Manamadurai, Madurai

RESPONDENT

Date of Decision : 19-04-2002

Acts Referred:

Citation : (2002) 2 MLJ 563

Hon'ble Judges : K. Gnanaprakasam, J

Bench : Single Bench

Advocate : T.S. Sivagananam, for the Appellant; N. Srinivas, for the Respondent

Final Decision : Allowed

Judgement

K. Gnanaprakasam, J.—The petitioner has filed the writ petition, seeking for the issuance of a writ of certiorarified mandamus, to call for the

records relating to the order of the second respondent in letter No. Exe.Eng./P/MN/VA/K3/A2590/95 dated 11.12.1995 and to quash the same.

2. The petitioner in the affidavit, filed in support of the petition has stated that he is a small farmer, owning lands in S.454/3 in Kezhapasali Village,

Manamadurai Taluq. The petitioner was cultivating his lands by drawing water from a well by conventional methods. As a boon to agriculturists,

the State of Tamil Nadu brought out a scheme, whereby if an agriculturist pays a fixed sum of Rs.10,000/-, he would be given electricity

connection; provided he owns a land and a well. The petitioner satisfies those requirements and gave an application to the second respondent on

23.9.1995, furnishing the relevant details. The said application was acknowledged by the Department and as per the terms of the scheme, he had directed to pay a sum of Rs.500/- as advance and the petitioner paid the said amount of Rs.500/- under receipt No.514404 dated 18.4.1995.

After payment of the said amount, the petitioner was called upon to give an undertaking that he would be ready and willing to pay the balance of

Rs.9,500/- as and when service connection is effected in terms of the said scheme and the petitioner also gave a letter to the second respondent

agreeing to pay the balance amount of Rs.9,500/- . While so, the second respondent by proceedings dated 11.12.1995 called upon the petitioner

to pay a sum of Rs.1,20,700/- within 60 days from the date of receipt of the said communication. Though the 60 days was stipulated in the said

communication, the petitioner was actually ordered to pay the said amount on or before 9.2.1996. The said communication is impugned in this writ

petition.

3. The respondents have filed a counter affidavit, wherein they stated that the petitioner is owning 1.29 hectares of land i.e. more than what he has

stated in the petition. It is stated that the scheme in question is applicable to applicants for agricultural power connection irrespective of the extent

of land holding. It is further stated that free power connection was given by the Tamil Nadu Electricity Board to all applicants for agricultural

purposes. As there were number of applications pending, the Government of Tamil Nadu in G.O.Ms. No.145 dated 30.1.1992 introduced a new

scheme called the self-financing scheme, in which the applicants for agricultural power connection was given to those who are willing to pay

Rs.25,000/- or the actual cost of the estimate, whichever is higher and they have also to pay energy charges at Rs.150/- per Horse Power. The

response to this scheme was not satisfactory and therefore a revised self financing scheme was introduced by the Government by G.O.(Ms)

No.34, dated 14.2.1995, by which applicants for agricultural power connection was given on the payment of flat rate of Rs.10,000/- per service

and energy charges at Rs.250/- per Horse Power or 50 paise per unit consumption. Pursuant to this G.O., only the petitioner has given application

and the same was accepted by the Department and also received Rs.500/- as advance on 18.4.1995. It is stated that the Government

subsequently issued a revised order in G.O.Ms.159 dated 6.11.1995, by which, if the cost of extension of power connection is within Rs.50,000/-

(Rupees fifty thousand only) per service then applicants may need to pay a flat rate of Rs.10,000/- only and if the cost of extension of power

connection exceeds Rs.50,000/- (Rupees fifty thousand only) per service, then the applicants should pay the actual cost of extension of power

connection and energy charges of Rs.250/- per Horse Power per annum or 50 paise per unit at the option of the applicant. It is stated that the

estimate prepared for the petitioner's service connection works out to Rs.1,20,700/- and the petitioner has to pay the said amount, if he wants

Electricity supply.

Heard both sides.

4. The learned counsel for the petitioner would submit that the petitioner's application was received in pursuant to G.O.Ms.No.34 dated

14.2.1995, wherein it has been stated as follows:

Provided that for the agriculturists having power connection for their pumpsets by payment of Rs.10,000/- the rate of tariff shall be Rs.250/-

(Rupees Two Hundred and Fifty only) per Horse Power per annum or metered tariff at the rate of 50 paise per KWH at the option of the

consumer.

5. Pursuant to the above said Government Order, the petitioner submitted his application and deposit/advance amount of Rs.500/- was received

by the respondents on 18.04.1995. It would clearly indicate that the department's offer was accepted by the petitioner and the department having

accepted the advance amount have to honour the contract. Even otherwise, the petitioner has accepted the offer made pursuant to the

G.O.Ms.No.34 dated 14.02.1995 and the amount of Rs.500/- was collected only in terms of the said G.O. As such the petitioner is entitled to

have the Electricity connection as per the G.O., irrespective of the fact that the Government has passed another G.O., subsequently in

G.O.Ms.No.159 dated 06.11.1995. The petitioner has not given consent to avail the electricity supply under the said G.O.Ms.No.159 dated

06.11.1995; but, whereas his consent was under the G.O.Ms.No.34 dated 14.02.1995 and therefore the respondents are liable to honour the

agreement and the failure on the part of the Department is deplorable.

6. It is the known fact that agriculture is the main occupation of the Indians and it is the backbone of India also and the persons in Tamil Nadu also

mainly depend upon cultivation. Realising the hardship of the agriculturists, the Government have come forward even to give free current. When

such is the position, the respondents having agreed and accepted to give electricity supply on receiving the flat rate of Rs.10,000/-, they cannot

now go back upon their own order and the said act of the respondents is not proper. The agriculturists are not able to reap their sweat and labour

hence their interest has got to be safeguarded and protected by the Government. Under the said view also, the respondents are bound to honour

the agreement, which they have undertaken pursuant to the issuance of the G.O.Ms.No.34 dated 14.02.1995.

7. In the result, the writ petition is allowed and the petitioner is hereby directed to pay the balance of Rs.9,500/- within a months" time from the

date of receipt of this order and on such payment, the respondents shall give the electricity supply within a month thereafter. Consequently,

connected W.M.P. is closed.