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Court : Andhra Pradesh

Decided On : Mar-07-2000

Reported in : 2000(2)ALD809; 2000(2)ALT222

Judge : S.R. Nayak, J.

Acts : Constitution of India - Article 14

Appeal No. : WP No. 3547 of 1999

Appellant : K. Munilakshmi

Respondent : Assistant Engineer, (Operation), Aptransco, Chittoor Dist. and Another

Advocate for Def. : Mr. K.N. Jwala, SC

Advocate for Pet/Ap. : Mr. M. Chandrasekhar Reddy, Adv.

Judgement :
ORDER

1. The writ petition was heard finally with the consent of learned Counsel for the parties.

2. The petitioner submitted an application to the first respondent on 7-3-1994 for providing electricity service connection to the Submersible Motor erected in the bore well dug in Survey No.26/2 of Theellagundla Palle Village, Devaragudipalli Post, Vedurukuppam Mandal, Chittoor District. Her application was registered and given Registration No.272479, dated 7-3-1994. Admittedly, in pursuance of the application estimate was sanctioned and deposits were collected for Rs.200/- and Rs.480/- towards SC and SD charges respectively on 30-3-1994. However, ultimately no service connection was given to the petitioner. Hence, this writ petition by the petitioner, wherein writ of mandamus is sought for declaring the action of the respondents in not providing electricity service connection to the Submersible Motor erected in the bore well dug in Sy.No.26/2 of Thellagundla Palle Village, Devaragudipalli Post, Vedurukuppam Mandal, Chittoor District basing on the application submitted by the petitioner to the respondent No.1 on 7-3-1994 seeking electricity service connection and at the same time providing electricity service connection to other applicants hailing from the same village who had applied much later to the petitioner as illegal, arbitrary and discriminatory and a consequential direction to the respondents to provide electricity service connection as sought for by thepetitioner.

3. In response to Rule Nisi, respondents have filed a counter-affidavit contesting the claim of the petitioner. In the counter-affidavit it is stated that the respondents have acknowledged the petitioner's application and given Registration No.272479 dated 7-3-1994. In Para 2 of the counter-affidavit it is stated that estimate was sanctioned and deposits were collected as noted above. In Para 2 of the counter-affidavit it is also stated that service connection sought by the petitioner involves 210 mts., LT 3/4W line for extension of supply to the petitioner's bore well. Adverting to the allegations of the petitioner made in Para 4 of the affidavit, it is claimed by the respondents in Para 4 of the counter-affidavit that Sri Sidda Reddy of Thellagundlapalli village made an application on 29-3-1995, deposits were collected on 31-3-1995 and service connection was released on 30-6-1995 as it involved only 60 mts., LT line. Similar reference was made to the application of P. Anki Reddy of the same village dated 20-8-1994. In his case deposits were collected on 10-3-1995 and service connection was released on 30-6-1995 as it involved only 1 pole extension.

4. In Para 3 of the counter-affidavit it is claimed that ban was imposed on releasing of agricultural services by the Board during October, 1995. Although five pages counter-affidavit has been filed by the respondents, the two circumstances set out for refusal to grant the service connection to the petitioner are, namely; (i) service connection to the petitioner's bore well involves 210 mts., LT 3/4W line and (ii) the Board imposed ban on agricultural services in the month of October, 1995. Therefore, the short question that falls for consideration is, whether the two circumstances set out by the respondents in their counter-affidavit aretenable and on those two grounds the petitioner could be denied agricultural service. In my considered opinion, both the grounds urged in the counter-affidavit to deny the agricultural service to the petitioner's bore well are ex facie untenable. I say this because, admittedly, the Board imposed ban in the month of October, 1995, whereas the petitioner has made the application as far back as on 7-3-1994. The respondents acted upon the petitioner's application by registering the application, by collecting the deposits towards SC and SD charges, as noted above, on 30-3-1994 itself long before the Board imposed ban in the month of October, 1995. There is absolutely no explanation whatsoever as to why the respondents slept over the matter between 30-3-1994 and October, 1995. Although Para 2 of the counter-affidavit states that agricultural service connection to the petitioner's bore well involves 210 mts., LT 3/4W line, nowhere it is asserted that due to that reason the petitioner was not given agricultural service connection to her bore well. Further, the applications made by others hailing from the same village subsequent to the petitioner were considered and agricultural services were released in favour of P. Sidda Reddy and P. Anki Reddy.

5. However, the learned Standing Counsel for the respondent-Board would maintain according to certain norms, to which reference is not made in the counter-affidavit at all, priority should be given to those applications where agricultural services would involve less than two poles. Even assuming that there are such administrative instructions by the Board, on that ground itself I cannot uphold the impugned inaction of the respondents. It is not the case of the respondents at all that when the petitioner made the application on 7-3-1994, there were other applications from persons from the same village or mandal and the agricultural services sought by them involved less than two poles. No where this

fact is pleaded nor anything is placed before the Court to support the above factual assertion made by the Standing Counsel. If that is the fact situation, it goes without saying that the first respondent was guilty of practicing invidious discrimination among the similarly circumstance villagers. It is the admitted position that latter applicants were granted agricultural services whereas the petitioner, who made the application as far back as on 7-3-1994, was denied agricultural service for no good reasons. Therefore, I hold that the impugned inaction of the respondents in not releasing agricultural service to the petitioner's bore well dug in Sy.No.26/2 of Thellagundla Palle Village, Devaragudipalli Post, Vedurukuppam Mandal, Chittoor District is totally discriminatory and violative of Article 14 of the Constitution.

6. Before concluding, one more plea taken by the respondents in Paras 6 and 7 be noted briefly. The plea refers to a policy envisaged by the Government during the year 1998-99. This policy envisaged by the Government cannot be applied to the application made by the petitioner in the year 1994 to defeat her right to agricultural service connection. The primary question for the Court is to see whether the application made by the petitioner on 7-3-1994 was dealt with by the first respondent fairly, reasonably and in accordance with law when it was made. If the petitioner were to make application during the year 1998 or subsequently, perhaps, the respondents would have urged the policy guidelines envisaged by the Government during year 1998-99 and would have validly told the petitioner to wait till her turn comes up for consideration. That is not the situation in the instant case.

7. In the result, writ petition is allowed. A direction shall issue to the respondents to take immediate further steps in pursuance of the petitioner's application dated 7-3-1994 and give her agricultural service connection to the Submersible Motor erected in the bore well dug inSy.No.26/2 of Theellagundla Palle Village, Devaragudipalli Post, Vedurukuppam Mandal, Chittoor District subject to the petitioner performing necessary formalities in accordance with the terms and conditions of supply. This direction shall be implemented within a period of two months from today.

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