

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2015

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

W.P. No. 14188 of 2015

&

M.P. Nos. 1 & 2 of 2015

M.R.K. Ravi

..Petitioner

Vs.

1. The Superintending Engineer (O&M),  
Tamil Nadu Electricity Board,  
Villupuram Electricity Distribution  
Circle, Villupuram.
2. The Executive Engineer (O&M),  
Tamil Nadu Electricity Board,  
Tindivanam.
3. The Assistant Executive Engineer (East),  
Tamil Nadu Electricity Board,  
Tindivanam.
4. The Junior Engineer (O&M),  
Tamil Nadu Electricity Cum  
Distribution Circle,  
Tamil Nadu Electricity Board,  
Marakkanam.

..Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issue of a Writ of Certiorarified Mandamus to call for the records relating to the proceedings dated 13.04.2015, passed in K.No. EE/OM/Tvm/U.K.A/Tvm/475 on the file of the 2<sup>nd</sup> respondent herein, confirming the proceedings dated 25.10.2014 passed in Ka.No./AEE/O & M/Mara/Ka-Separate/A.No.143/14-15 on the file of the fourth respondent, and quash the same and consequentially direct respondents 2 to 4 herein to restore the electricity service connection No. 462-009-561 in my Prawn Farm in Marakkanam, Tindivanam Taluk, Villupuram District, within a period as may be fixed by this Court.

|                 |    |                  |
|-----------------|----|------------------|
| For Petitioner  | :: | Mr.P. Raja       |
| For Respondents | :: | Mr.M. Varunkumar |

## O R D E R

This writ petition is filed challenging the proceedings of the 2<sup>nd</sup> respondent dated 13.04.2015 confirming the proceedings of the fourth respondent dated 25.10.2014 and for a consequential direction to respondents 2 to 4 to restore the electricity service connection No. 462-009-561 in the petitioner's Prawn Farm in Marakkanam, Tindivanam Taluk, Villupuram District, within a stipulated time period.

### 2. The facts of the case are as hereunder:

The petitioner is running a Prawn Farm in Marakkanam Village, Tindivanam Taluk, Villupuram District, under a lease from May, 2008 onwards under a lease from one Mr. Ravivarman and obtained electricity service connection vide No. 462-009-561. According to the petitioner, he has been paying electricity consumption charges regularly, with respect to his farm, without any default. The petitioner states that Prawn Farming is a seasonal industry; Prawn harvesting is being completed after every 4 to 4 ½ months; the next culture will start only after a gap of two months and thus during that period, the Prawn Farm will not be running, as a result of which, the petitioner would be paying the minimum consumption charges. While so, the landlord, Mr. Ravivarman, received a notice dated 25.10.2014 from the 4<sup>th</sup> respondent herein, demanding payment of a sum of Rs.13,28,725/-, within a period of seven days, in respect of alleged left over electricity charges, issued by the Audit Committee for the period from April, 2012 to September, 2012 and failing payment of the said sum, it was informed that the same would be recovered from the petitioner along with regular consumption charges. The petitioner gave a representation to the 4<sup>th</sup> respondent to review the said notice dated 25.10.2014 for which the 3<sup>rd</sup> respondent handed over the petitioner with a copy of the audit slip and directed the petitioner to pay the said sum of Rs.13,28,725/-. However, according to the petitioner, as per the audit slip, the amount of Rs.13,28,725/- was worked out towards the additional charges from the months of January, 2011 to July, 2013, adopting the average electricity power consumption for the months from July, 2010 and November, 2010. The amount of Rs.13,28,725/- represents the difference between the Assumed average consumption charges and the actual electricity power consumption as per meter reading. As the petitioner's Prawn Farm was not functioning, for the period from August, 2010 to October, 2010, he had paid the prescribed minimum charges to the Board. Since the notice dated 25.10.2014 was issued without adopting any statutory rules prescribed under the Tamil Nadu Electricity Act; without giving any opportunity to the petitioner and without conducting any enquiry, the petitioner sent a representation in the form of an appeal to the 1<sup>st</sup> respondent on 09.11.2014 and the same was received by the 1<sup>st</sup> respondent on 01.12.2014. Even during the pendency of the said representation, the petitioner filed W.P.

No. 9269 of 2015 and the same was disposed of by an order dated 31.03.2015, directing the 1<sup>st</sup> respondent to consider the said representation dated 09.11.2014 and to pass orders on merits, within a period of two weeks from the date of receipt of the said order. However, even before the filing of the above said writ petition, the 3<sup>rd</sup> respondent, without calling the petitioner for any personal enquiry, by his proceedings dated 16.01.2015, gave a proposal to the 2<sup>nd</sup> respondent to collect a sum of Rs.3,42,179/- as Audit Deficit amount for the period from September, 2010 to March, 2012 together with a sum of Rs.5,48,144/- for the period from April, 2012 to July, 2013, totalling to a sum of Rs. 8,90,323/-, from the petitioner. On receipt of a copy of the said proposal by the landlord of the petitioner, the petitioner approached the 2<sup>nd</sup> respondent and submitted a copy of the order dated 31.03.2015 passed in W.P. No. 9269 of 2015 and requested the 2<sup>nd</sup> respondent to consider his representation dated 09.11.2014 and to pass orders, as per the rules prescribed under the statute. However, the 2<sup>nd</sup> respondent, without considering the said representation and without even following any statutory rule prescribed under the Electricity Act, 2003 (36 of 2003), passed the impugned order dated 13.04.2015, thereby demanding payment of the said sum of Rs.13,28,725/- by the petitioner. Challenging the same, the present writ petition is filed.

3. It is submitted by the learned counsel for the petitioner that the respondents have disconnected the supply to the petitioner's electricity service connection and if the same is not restored, the petitioner would suffer heavy loss as Prawn Harvesting is in progress, at present. Learned counsel for the petitioner further submitted that the petitioner undertakes to deposit a sum of Rs.8 lakhs, out of Rs.13,28,725/- demanded by the respondents and that on such deposit being made, the respondents may be directed to restore electricity supply.

4. Heard Mr. Varun Kumar, learned counsel appearing for the respondents.

5. Considering the submissions made by the learned counsel on either side, the writ petition is disposed of with the following directions:

(i) The respondents are directed to restore electricity supply to petitioner's Service Connection No. 462-009-561 within two days from today.

(ii) In view of the undertaking given by the petitioner, the petitioner is directed to deposit a sum of Rs.8,00,000/- (Rupees Eight Lakhs only) before the 1<sup>st</sup> respondent, namely, The Superintending Engineer (O&M), Tamil Nadu Electricity Board, Villupuram Electricity Distribution Circle, Villupuram, within a period of two

weeks from the date of receipt of a copy of this order. In case, the petitioner fails to deposit the said amount within the stipulated time, thereby violating the undertaking given before this Court, the respondents are at liberty to disconnect the electricity service connection.

(iii) After making the deposit of Rs.8 lakhs before the 1<sup>st</sup> respondent, within a period of two weeks thereon, the petitioner is directed to file an appeal before the 1<sup>st</sup> respondent raising all the grounds, and the 1<sup>st</sup> respondent is directed to consider the same and pass appropriate orders, with regard to the entire demand made, within a period of eight weeks thereafter.

No costs. Connected M.Ps are closed.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

nv  
To

1. The Superintending Engineer (O&M),  
Tamil Nadu Electricity Board,  
Villupuram Electricity Distribution  
Circle, Villupuram.
2. The Executive Engineer (O&M),  
Tamil Nadu Electricity Board,  
Tindivanam.
3. The Assistant Executive Engineer (East),  
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4. The Junior Engineer (O&M),  
Tamil Nadu Electricity Cum  
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Tamil Nadu Electricity Board,  
Marakkanam.

1 cc to Mr. M. Varunkumar , Advocate Sr.No.43998

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CTK(CO) PMK.19.8.2015