

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2015

CORAM

THE HON'BLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.38811 of 2015 &
M.P.No.1 of 2015

Kumaravel

... PETITIONER

Vs

1. The Chairman,
Tamil Nadu Electricity Board,
220, Anna Salai,
Chennai - 600 002.
2. The Executive Engineer,
Tamil Nadu Electricity Board,
Tindivanam,
Villupuram District.
3. Assistant Audit Officer,
Tamil Nadu Electricity Board,
Audit Party No.2
Villupuram District.
4. Junior Engineer, Operation and Maintenance,
Tamil Nadu Electricity Board,
Marakanam, Villupuram District.

... RESPONDENTS

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the Junior Engineer, O & M, Tamil Nadu Electricity Board, Marakkanam, Villupuram District, the 4th respondent herein culminating in Ka.No.E.E/General/EB/Marakkanam/G/Audit/137/A.No.111/dated 5.11.2015 quash the same and further direct the 4th respondent not to collect the audit amount the sum of Rs.3,21,089/- from the petitioner.

For Petitioner : Mr.K.Balakrishnan

For Respondents : Mr.M.Varunkumar

O R D E R

With the consent of the learned counsel on either side, the writ petition is taken up for final disposal.

2. Heard Mr.K.Balakrishnan, learned Counsel appearing for the petitioner and Mr.M.Varunkumar, learned counsel who accepted notice on behalf of the respondents.

3.The petitioner is aggrieved by the impugned demand, demanding a sum of Rs.3,21,089/- from him alleging that it is the amount payable on account of audit shortfall. Earlier the petitioner had filed a Writ Petition before this Court in W.P.No.36622 of 2015, challenging the proceedings of the fourth respondent dated 1.10.2015 and to direct the fourth respondent not to collect the audit shortfall. The said writ petition was disposed of by an order dated 18.11.2015 and the operative portion of the order reads as follows:

"3.The primary ground, on which, the impugned order has been questioned is by contending that the electricity consumption charges for the petitioner's service connection have been computed without any notice to the petitioner.

4.On a perusal of the impugned notice, it is evident that there was no opportunity given to the petitioner prior to the issuance of the same. Therefore, on this short ground, the impugned notice is liable to be set aside.

5.Accordingly, the writ petition is allowed, the impugned notice is set aside and a direction is issued to the third respondent to issue a show cause notice to the petitioner clearly setting out the manner in which, the additional current consumption charges have been proposed to be recovered and after affording an opportunity to the petitioner to submit his objections, fresh orders shall be passed by the third respondent. No costs. Consequently, the above MP is closed."

4.Inspite of the above order having been served on the fourth respondent herein, now the impugned demand has been raised. Since the impugned demand is contrary to the directions issued by this Court in the earlier writ petition, the same cannot be sustained.

5.The learned Standing counsel for the respondents submitted that the impugned demand is pursuant to the usual practice followed by the respondent Board.

6.In my view, the practice said to have been followed uniformly is not in accordance with law, as they violate the principles of natural justice. Assuming there is shortfall, the consumer is entitled to know on what basis the amount was arrived at and he should be given an opportunity to contest his claim. Without doing so, directly serving the demand notice on the petitioner is incorrect. Furthermore, in the instant case, the earlier notice was set aside and a direction was issued to the fourth respondent herein to issue show cause notice and proceed in accordance with law.

7.Hence, for all the above reasons, the impugned demand cannot be sustained and accordingly the same is quashed. However, liberty is granted to the fourth respondent to issue show cause notice enclosing the copy of the audit report, etc., to the petitioner and thereafter proceed in accordance with law.

The Writ Petition is allowed on the above terms. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

सत्यमेव जयते Sub Assistant Registrar

rpa

To

1. The Chairman,
Tamil Nadu Electricity Board,
220, Anna Salai,
Chennai - 600 002.

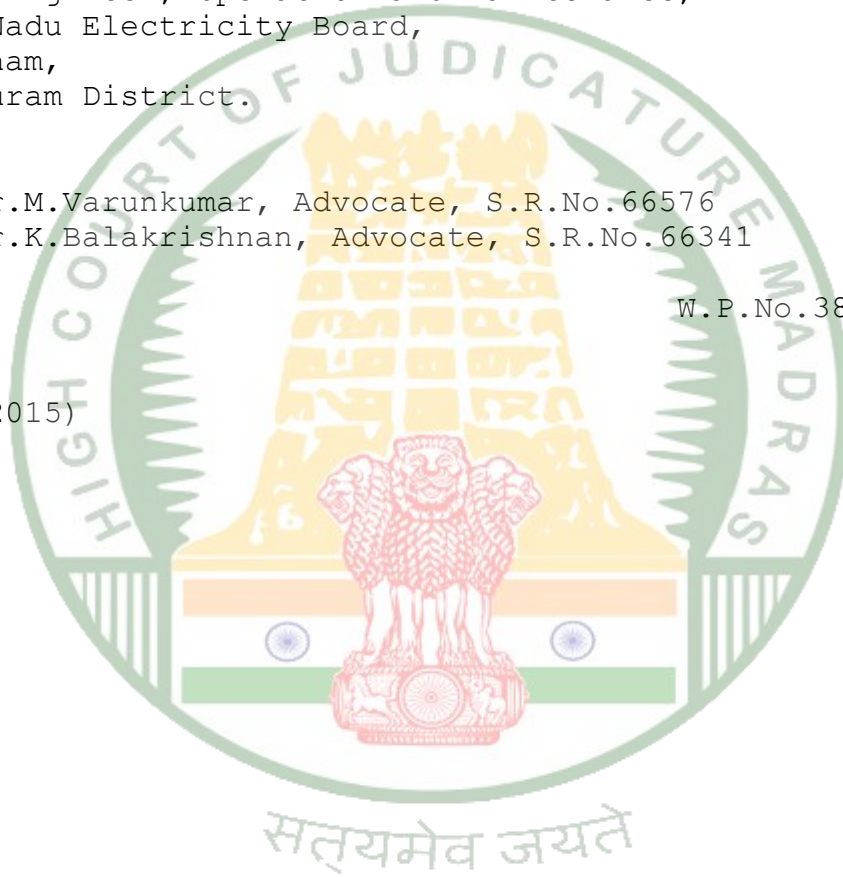
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2. The Executive Engineer,
Tamil Nadu Electricity Board,
Tindivanam,
Villupuram District.
3. Assistant Audit Officer,
Tamil Nadu Electricity Board,
Audit Party No.2,
Villupuram District.
4. Junior Engineer, Operation and Maintenance,
Tamil Nadu Electricity Board,
Marakanam,
Villupuram District.

+lcc to Mr.M.Varunkumar, Advocate, S.R.No.66576
+lcc to Mr.K.Balakrishnan, Advocate, S.R.No.66341

W.P.No.38811 of 2015

VS (CO)
CA(18/12/2015)



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