



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.08.2015

CORAM:

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THE HONOURABLE MR.JUSTICE R.SUBBIAH

Writ Petition (MD)No.3938 of 2013

M/s.Nazeema Rice Mill
rep.by its partner,
M.Premnazeer.

... Petitioner

Vs.

1.The Executive Engineer,
Operation and Maintenance
The Tamilnadu Electricity Board,
Elayangudi, Sivagangai District.

2.The Assistance Executive Engineer,
Operation and Maintenance, Rural,
The Tamilnadu Electricity Board,
Elayangudi, Sivagangai District.

... Respondents

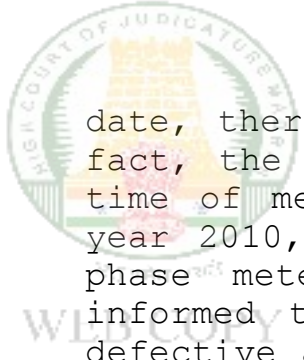
Writ petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records on the file of the 2nd respondent in connection with order passed by him in his Proceedings in Lr.No.AEE/Pa/OO/Ela/FLTCT/A.No.28/13 dated 20.02.13 and quash the same as illegal.

For Petitioner : Mr.M.Siddharthan
For Respondents : Mr.S.M.S.Johnny Basha

ORDER

This Writ petition has been filed praying to call for records on the file of the second respondent in connection with the order passed in Lr.No.AEE/Pa/OO/Ela/FLTCT/A.No.28/13 dated 20.02.13 and quash the same as illegal.

2. The case of the petitioner is that the petitioner is running a rice mill in the name of Nazeema Rice mill along with his brother as one of the partner. The petitioner has obtained 3 phase electricity connection from the second respondent for the purpose of running the said rice mill. While so, in the year 2006, the electricity connection of the said rice mill has been ~~connected~~ ^{increased} from 28.5 horse power and increased into 88.5 horse power. The petitioner has periodically paid the monthly electricity bill as measured by the second respondent and till

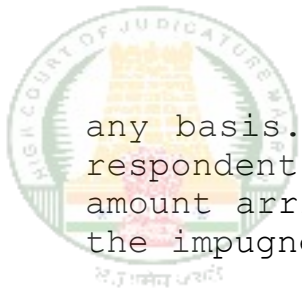


date, there is no default in payment of the electricity bill. In fact, the respondents have periodically checked the meter at the time of measuring the units for electricity consumption. In the year 2010, they changed the system of meter into digital CD III phase meter. While so, on 22.01.2013, the second respondent informed that the petitioner's electricity meter RTC was found defective and the potential found low from 27.08.2011 and as such it was inspected on the same date. After inspection, it was noted that 50% (appropriately) of actual load was missing in the meter and the meter was declared as defective. Thereafter, on 20.02.2013 the second respondent has passed the impugned order stating that since the meter was found defective, consumption in the meter is low from 27.08.2011 and the same is revised from the said date and directed the petitioner to pay a sum of Rs.1,33,754/- within a period of 15 days. Aggrieved over the same, the present petition has been filed.

3. The second respondent has filed a detailed counter wherein it is stated that three phase meter was provided to the petitioner and on inspection, it was found that one phase was not functioning. Therefore, the electricity consumption from 12.07.2013 to 22.01.2013 showed low reading. The defective meter was removed and a new meter was installed on 22.01.2013 and the new meter shows proper consumption. Further it is stated that as per Regulation 11 of the Tamilnadu electricity Supply Code, 2004, when the meter is defective, the average of electricity supplied during the preceding four months or the later four months after the new meter is installed, ought to be taken while arriving at the average consumption of electricity. In the present case, the meter reading of four months, prior to 12.07.2011 was taken. The appropriate authority of the Board have pointed out to collect the shortfall amount from the consumer through a letter dated 20.02.2013. After Meter Relay Test, it is confirmed that the meter is defective and one phase was not functioning from 12.07.2011 to 22.01.2013. Aggrieved over the claim made by the second respondent, the petitioner has come before this Court and if at all the petitioner is aggrieved over the claim, the petitioner is having alternative remedy to approach the next higher authority under Regulation 11(7) of Tamilnadu Electricity Supply Code and thereafter, the petitioner has right to file a petition before Consumer Redressal Forum and therefore, the petitioner is not entitled to get the relief sought for in the Writ Petition and hence the second respondent sought for dismissal of the Writ petition.

4. Heard the submissions made on either side and perused the materials available on record.

<https://hcservices.ecourts.gov.in/hcse/Files/> learned counsel appearing for the petitioner submitted that the impugned order passed by the second respondent directing the petitioner to pay a sum of Rs.1,33,754/- is without



any basis. In the said order, it is silent as to how the second respondent has arrived at the said amount and therefore, the amount arrived at by the second respondent is arbitrary and hence, the impugned order is liable to be quashed.

6. The learned counsel appearing for the respondents submitted that meter provided to the petitioner has been sent to Meter Relay Test and it was found that the same is defective and one phase was not functioning from 12.07.2011 to 22.01.2013. Hence as per Regulation 11 of Tamilnadu Electricity Supply Code, 2004, the impugned order has been passed and there is no infirmity in the said order.

7. In my considered opinion, this Court cannot conduct a roving enquiry as to whether the amount arrived by the Authority is arbitrary or not, in the present Writ petition. As contended by the second respondent, the petitioner is having alternative remedy before the Consumer Grievance Redressal Forum and an Appeal to Electricity Ombudsman. That being so, the petitioner has to seek remedy only before the said Forum, if he is aggrieved by the impugned order dated 20.02.2013.

8. Hence, this Writ Petition is dismissed and the petitioner is at liberty to approach the Consumer Grievance Redressal Forum. No costs. Connected Miscellaneous Petitions are also dismissed.

Sd/-

Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar

To

1. The Executive Engineer,
Operation and Maintenance
The Tamilnadu Electricity Board,
Elayangudi, Sivagangai District.
2. The Assistance Executive Engineer,
Operation and Maintenance, Rural,
The Tamilnadu Electricity Board,
Elayangudi, Sivagangai District.

MJ

TE/NGM-SS/SAR(J) 05/09/2015 3P/3C