

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.03.2016

Coram

The Hon'ble Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.28273 and 28274 of 2015

&

M.P.Nos.1,1 of 2015

Kulandasamy
2015

...Petitioner in W.P.No.28273 of

D.Sivakumar
2015

...Petitioner in W.P.No.28274 of

Vs.

1. The Chairman
Tamil Nadu Generation and Distribution
Corporation Ltd Anna Salai Chennai-2.
- 2 The Executive Engineer
Tamil Nadu Generation and Distribution
Corporation Ltd Kangeyam Tiruppur-638 701.
- 3 The Assistant Engineer(O&M)
Tamil Nadu Generation and Distribution
Corporation Ltd Palayakottai Nathakadaiyur
Tiruppur-638 108
- 4 The Accounts Officer/ Revenue
Supervisor Tamil Nadu Generation and
Distribution Corporation Ltd Kangeyam
Tiruppur-638 701. ...Respondents in both the
WPs

Writ Petitions filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorari to call for the records on the file of third respondent in Ka.No. U.Mi.Po/ E & Phe/ Pa.Kho./ Kattu.Thani/ A.No.331/15-16 dated 21.7.2015 and consequential Communication issued by the third respondent in Ka.No. U.Po/ E & Phe/ Pa.Kho./ Kho.Manu/ A.No.383/15-16 dated 17.8.2015 and quash the same.

For Petitioners	:	Mr.P.Kannan Kumar
For Respondents	:	Mr.S.K.Rameshuwar

C O M M O N O R D E R

Heard Mr.P.Kannan Kumar, learned counsel appearing for the petitioners and Mr.S.K.Rameshuwar, learned counsel appearing for the respondents.

2. The petitioners are aggrieved by the impugned proceedings by which an amount of Rs. 66,495/- and Rs.77,085/- has been demanded from the petitioners on the ground that they had drawn excess load from the service connection given in their favour. The petitioners has challenged the impugned proceedings primarily on the ground that they were not informed as to the grounds on which the penalty amount has been arrived and has not been furnished any calculation sheet or copy of the inspection report.

3. At the time, when the writ petition was entertained, a conditional order was passed on 08.09.2015, directing the petitioners to deposit 1/3rd of the demand, this has been complied with by the petitioners. As a result, the petitioners still continue to enjoy the service connection.

4. Though the impugned order is a brief order, the counter affidavit runs to almost fifteen paragraphs. It is a settled legal principle, the impugned order cannot be sustained by supplementing reasons in the form of counter affidavit as the impugned order should speak for itself. In paragraph 13 of the counter affidavit various reasons have been assigned which appear to be the basis for the demand.

5. However, the petitioners have not been put on notice about the same and the impugned demand has been issued on the ground that they have downloaded excess electrical energy. Since, the petitioner has already remitted 1/3rd of the impugned demand, there will be a direction to the 3rd respondent to issue a show cause notice, clearly specifying as to how the amount has been arrived at and if there is any inspection report or any other material, copy of the same shall also be furnished to the petitioners. The show cause notice shall be accompanied by a calculation sheet. This direction shall be complied with by the 3rd respondent within a period of two weeks from the date of receipt of a copy of this order. After which the petitioners will be entitled to submit their objections/reply within a period of two weeks thereafter and on receipt of the reply, the 3rd respondent shall consider the same and pass orders on merits and in accordance with law within a period of three weeks. Since the petitioners have already remitted 1/3rd of the demand, the electricity supply shall not be disconnected till orders are passed in terms of the above direction subject to the petitioner paying the current consumption charges.

6. Writ petition is disposed of with the above direction.
No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

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Supervisor Tamil Nadu Generation and
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Tiruppur-638 701.

+1 cc to Mr.S.K.Rameshuwar Advocate sr.16489

सत्यमेव जयते
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