

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-02-2016

CORAM:

THE HONOURABLE MR. JUSTICE T.S. SIVAGNANAM

W.P.No.3913 of 2015

K. Anandhi

.. Petitioner

Vs

1. The Assistant Engineer (O& M)
TANGEDCO, Tamil Nadu Generation and
Electricity Distribution
Corporation Limited
TNEB, Anumandhai - 604 303
Tindivanam Taluk
Villupuram District
2. The Executive Engineer (O&M)
TANGEDCO, TDMRB Revenue Branch
Villupuram Electricity
Distribution Circle
Villupuram

... Respondents

Writ Petition under Article 226 of the Constitution of India praying for a writ of Certiorari Calling for the entire records relating to the impugned order passed by the 1st Respondent in his Letter No. JE/O&M/ Anumandhai / Ko.Audit / A.181 / 14.15 dated 29.11.2014 and consequential order passed by the 2nd Respondent in his Letter No. EE/ O&M / AAO /RB /F/D.No. Nil dated 12.01.2015 and quash the same.

For petitioner : Mr. C. Prakasam

For respondent : Mr. M. Varun Kumar

ORDER

The petitioner has filed the writ petition challenging the proceedings of the first respondent dated 29-11-2014 of the demand dated 12-01-2014.

2. By the impugned proceedings, the petitioner has been stated that his electricity connection has been disconnected on and from 17-09-2014 on the ground that he has not paid a sum of Rs.7,32,093/-(Rupees Seven lakhs thirty two thousand ninety three only). It is not in dispute that the petitioner has been regularly paying the current consumption charges. However, this

amount which is calculated by the respondent-Board in the impugned order appears to be audit shortfall. For the first time, this was pointed out by proceedings dated 29-11-2014 wherein the petitioner was called upon to pay a sum of Rs.4,71,924/- (Rupees Four lakhs Seventy One thousand Nine hundred and Twenty Four Only) being the audit shortfall. The said proceedings does not show as to on what basis the same has been demanded, that too, alleging the same is due and payable in 2007, whereas the notice was issued only after seven years. Therefore, it is very doubtful that such a demand is sustainable in the light of the limitation stipulated under the statutory provisions.

3. Be that as it may. That could not have been a sole reason to disconnect the petitioner's electricity supply and now there is a shortfall to terminate the agreement. Therefore, the respondent-Board having slept over the matter for a long time woke up on the audit verification wherein certain discrepancies have been stated to be found, based on which a demand has been made for Rs.4,71,924/- (Rupees Four lakhs Seventy One thousand Nine hundred and twenty four only). However, the said demand has suddenly been increased to Rs.7,32,093/- (Rupees Seven lakhs thirty two thousand and ninety three only) in the impugned notice of termination of agreement. Therefore, this could not have been a reason to disconnect the petitioner's electricity supply, moreso, when he has no opportunity to dispute the correctness of the said demand. Further, in the counter affidavit, the respondent has also admitted that the audit objection relates to the year 2007.

4. For the above reasons, the writ petition is allowed. The impugned orders are set aside and the respondents are directed to restore the power connection forthwith to the petitioner after correcting the current consumption charges payable, if any.

5. However, the respondents are not entitled to demand anything towards the audit shortfall, for which liberty is granted to the respondents to issue show cause notice to the petitioner, furnish full particulars and after affording fair and reasonable opportunity to the petitioner, proceed against him, on merits and in accordance with law.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

glp

TO

1. The Assistant Engineer (O& M)
TANGEDCO, Tamil Nadu Generation and
Electricity Distribution
Corporation Limited
TNEB, Anumandhai - 604 303
Tindivanam Taluk
Villupuram District

2. The Executive Engineer (O&M)
TANGEDCO, TDMRB Revenue Branch
Villupuram Electricity
Distribution Circle
Villupuram

+ 1 cc to Mr.C. Prakasam, Advocate SR.7559
+ 1 cc to Mr.M. Varun Kumar, Advocate sr.7484

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CTK(CO)
Eu 07.03.16



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