

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2016

CORAM:

THE HONOURABLE MR. JUSTICE T.S. SIVAGNANAM

W.P. NOs. 3794 to 3796 of 2016
and
W.M.P. Nos. 3145 to 3150 of 2016

C. Rajendran .. Petitioner in
WP Nos. 3794 & 3795 of 2016

R. Karpagam .. Petitioner in
WP No. 3796 of 2016

-vs-

1. Tamil Nadu Electricity Board
rep. by its Chairman
144, Anna Salai
Chennai -2.
2. Assistant Executive Engineer
O & M/ TEDC/ TANGEDCO
Vembakkam - 604 410
Tiruvannamalai District. Respondents
in all WPs

PRAYER in all the WPs: These Petitions are filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records relating to the orders dated 14.01.2016 made in Lr. No. AEE/O&M/Vembakkam/F.THEFT/D. No.328 to 330/2016 passed by the 2nd respondent and quash the same and pass further orders.

For petitioner : Mr. R. Thiagarajan
For respondents : Mr. M. Varun Kumar for R1 & R2

O R D E R

Heard Mr. R. Thiagarajan, learned counsel for the petitioners and Mr. M. Varun Kumar, learned counsel accepts notice for the respondents. With the consent of both parties, the writ petitions are disposed of, at the stage of admission itself.

2. The challenge is against the orders dated 14.01.2016, by which assessments are made by the respondents, on the petitioners, for theft of energy. Earlier, the petitioners have filed W.P. Nos. 37043 to 37045 of 2015, to quash the proceedings dated 06.11.2015, issued by the 2nd respondent. This Court, instead of setting aside the order, directed the petitioners to treat the proceedings dated 06.11.2015, as show cause notice and to submit their explanation and the 2nd respondent was directed to pass fresh orders of assessment after affording an opportunity of hearing. The petitioners submitted objections on 26.12.2015 and an opportunity of personal hearing was also granted. However, in the impugned order, the following is the only observation, for rejection of the petitioner's objection.

" On personal hearing dated 05.01.2016, your statement is completely different as accepted in Parvai Mahazar dated 27.10.2015 and the record produced on personal hearing is not relevant for this theft. So your statement and record produced by you could not be accepted. Hence theft of energy has been proved."

On perusal of the above, it is evident that the 2nd respondent has not given reasons, as to why the objections given by the petitioners cannot be accepted and as to how they are entitled to rely only on the statement found in the Observation Mahazar dated 27.10.2015.

3. Further, no reasons have been given as to why the record produced by the petitioners, during the personal hearing is not relevant for the theft. That apart, there is no discussion as to what is the nature of the record produced by the petitioners. The 2nd respondent, being the Assessment Officer, is bound to assign reasons and the order should be a speaking order. However, he is not expected to write a judgement as that of a Civil Court. But the order should speak for itself and it should contain reasons so that the aggrieved persons will be in a position to know as to why his case was rejected. Thus, in the absence of reasons assigned by the 2nd respondent, in the impugned order, it has to be held that the impugned orders are in violation of principles of natural justice and does not satisfy the test of Article 14 of the Constitution of India.

4. In the light of the above, the Writ Petitions are allowed and the impugned orders are quashed and the matters are remanded to the 2nd respondent for fresh consideration, who shall pass a speaking order, dealing with all the objections of the petitioners and communicate the same to the petitioners, within

two weeks from the date of receipt of a copy of this order. Thereafter, it is open to the petitioners to work out their remedy, under the relevant statute. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

avr

To

1. Tamil Nadu Electricity Board
rep. by its Chairman
144, Anna Salai
Chennai -2.
2. Assistant Executive Engineer
O & M/ TEDC/ TANGEDCO
Vembakkam - 604 410
Tiruvannamalai District.

+ 3 ccs to Mr.R. Thiagarajan, Advocate SR.7041, 7040, 7042
+ 2 ccs to Mr.M. Varunkumar, Advocate Sr.6791, 6790

W.P. Nos. 3794 to 3796 of 2016
and
W.M.P. Nos. 3145 to
3150 of 2016

SVI(CO)
Eu 15.02.16

सत्यमेव जयते

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