

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2017

CORAM

THE HON'BLE MR. JUSTICE M.DURAI SWAMY

W.P.No.19884 of 2017

M/s.Saravana Selvarathnam Textiles
Rep. by its Managing Director
S.Saravana Arul
No.75,Usman Road
T.Nagar
Chennai - 600 017

... Petitioner

The Assistant Engineer
O & M, TANGEDCO
Chennai EDC/Central
T.Nagar /South
Chennai - 600 017

v.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India
praying for the issuance of a writ of Certiorari to call for the records
pertaining to the impugned order passed by the respondent herein
in letter No.AEE/O&M/T.Nagar/South/F.Violation/146/2017, dated
04.07.2017 and quash the same.

For Petitioner : Mr.G.Karthikeyan

For Respondent : Mr.P.R.Dilip Kumar
Standing Counsel

ORDER

Heard Mr.G.Karthikeyan, learned counsel appearing for the petitioner and Mr.P.R.Dilip Kumar, learned Standing Counsel appearing for the respondent.

2. The petitioner has filed the above writ petition to issue a Writ of Certiorarified Mandamus, to call for the records of the order of the respondent dated 04.07.2017 and to quash the same.

3. It is the case of the petitioner that the respondent had passed the impugned order dated 04.07.2017 without giving an opportunity to the petitioner.

4. By the impugned order dated 04.07.2017, the respondent worked out the compensation charges payable by the petitioner under sub-section (5), (6) of the section 126 of the Electricity Act, 2003 to Rs.90,15,147/- (Rupees ninety lakhs fifteen thousand one hundred and forty seven only).

5. Mr.P.R.Dilip Kumar, learned Standing Counsel appearing for the respondent submitted that the petitioner has to file an appeal under section 127(2) of the Electricity Act within 30 days from the date of receipt of the impugned order. Further, the learned counsel contended that under section 127(2) of the Electricity Act, the petitioner has to pay 50% of the demand for filing the appeal before the appellate authority, viz., The Superintending Engineer/Operation/Korattur.

6. Since the petitioner has contended that no opportunity was given to the petitioner before passing the impugned order, which is violative of principles of natural justice, I am of the view that the petitioner should be given an opportunity of personal hearing. However, the petitioner can be given an opportunity of personal hearing provided they make the payment of 50% of the demand, i.e. 50% of Rs.90,15,147/-.

7. Accordingly, the impugned order dated 04.07.2017 is set aside and remanded back to the respondent for fresh consideration on condition that the petitioner making payment of 50% of the demand as stated above on or before 24.08.2017. The petitioner is also directed to

appear before the respondent on 24.08.2017 and the respondent is directed to decide the matter afresh after hearing the submissions of the petitioner, within a period of two weeks from 24.08.2017. It is made clear that in the event of failure, to make payment on or before 21.08.2017, it is open to the respondents to proceed further and disconnect the service connection.

With these observations, the writ petition is allowed. No costs.

18.08.2017

Index: Yes/No

Note : Issue order copy by 21.08.2017

Rj

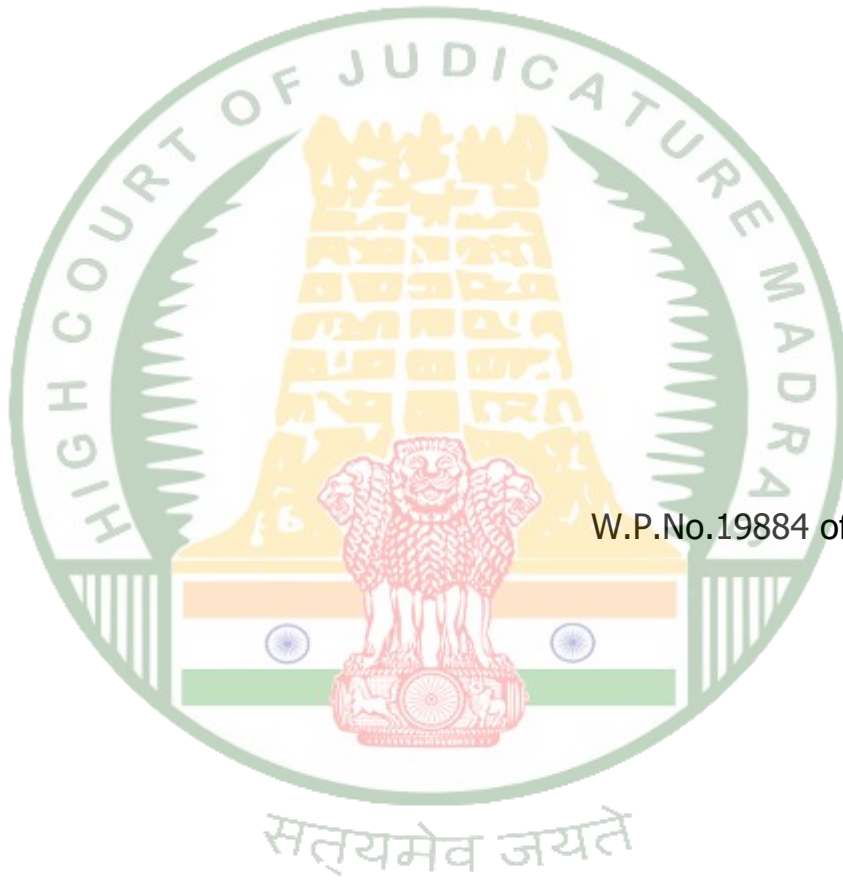
To

The Assistant Engineer
O & M, TANGEDCO
Chennai EDC/Central
T.Nagar /South
Chennai - 600 017

Nungambakkam, Chennai - 600 034

M.DURAI SWAMY, J.

Rj



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