

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.06.2017

Coram

The Hon'ble Mr.Justice M.M.SUNDRESH

W.P.Nos.22798 to 22800 of 2016
and W.M.P.Nos.19473 to 19478 of 2016

C.Rajendran

... Petitioner in
W.P.Nos.22798 & 22799 of 2016

R.Karpagam

... Petitioner in
W.P.No.22800 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 - 604410,
Tiruvannamalai District.

... Respondents in all W.Ps

Prayer in W.P.No.22798 of 2016: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records relating to order dated 22.06.2016 made in Lr.no.AEE/O&M/Vembakkam/F.Theft/D.No.112/2016 passed by the 2nd respondent and quash the same.

Prayer in W.P.No.22799 of 2016: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records relating to order dated 22.06.2016 made in Lr.no.AEE/O&M/Vembakkam/F.Theft/D.No.111/2016 passed by the 2nd respondent and quash the same.

Prayer in W.P.No.22800 of 2016: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records relating to order dated 22.06.2016 made in Lr.no.AEE/O&M/Vembakkam/F.Theft/D.No.113/2016 passed by the 2nd respondent and quash the same.

For Petitioner
in all W.Ps. : Mr.R.Thiagarajan

For Respondents
in all W.Ps. : Mr.Varunkumar For TNEB

COMMON ORDER

Considering the commonality of the issues involved in all these writ petitions, they have been taken up and disposed off by a common order.

2. This is the fourth round of litigation. On the earlier two occasions, the matter have been remitted for fresh consideration. During the third round, this Court in W.P.Nos.13448 to 13450 of 2016 dated 15.04.2016 once again remitted the matter only with respect to the fixation of appropriate nominator. The following is the relevant portion of the order passed:

"3. Admittedly, both the petitioners are merely farmers who have been granted agricultural service connection. Therefore, they ought not to have resorted to illegal obstruction of electricity supply by using a direct hook. The petitioners have done so presumably because they wanted to pump water to their field right from the river and the voltage granted to them would not have been in a position to withstand the power required to operate a motor for pumping water directly from the river. The petitioners are not given permission to draw water from the river. That also is illegal. Apart from that they have also obstructed electricity supply from the common source illegally. However, while computing the amount payable by the petitioners, the respondent have calculated as if the petitioners were operating the motor and using electricity supply for 365 days a year. This aspect is beyond anybody's perception. A person cannot draw water from the river for all the 365 days. The learned standing counsel appearing for the respondents submit that this is a standard format which is being adopted in all the cases involving theft of energy. There cannot be a single formula for all the cases involving theft of energy. The facts of each case has to be considered while applying the formula. Petitioners could not have drawn water for 365 days viz. throughout the year

and if that had been done, then the consequences would have been different and by now the petitioners would have been in jail. Therefore, only to that extent the matter requires to be reconsidered.

4. Accordingly, while dismissing the writ petitions upholding the impugned proceedings, the matter is remanded to the 2nd respondent only to consider the aspect as to whether the formula of 365 days could be adopted and taking into consideration the factual scenario. The 2nd respondent is directed to apply appropriate nominator instead of 365 and issue a revised calculation sheet so as to enable the petitioner to comply with the same. The above direction shall be complied with by the respondents within a period of three weeks from the date of receipt of a copy of this order. Connected miscellaneous petitions are closed. There shall be no order as to costs."

3. Learned counsel appearing for the petitioners would submit that the nominator fixed is factually not correct. Therefore, the order would require modification.

4. Learned counsel appearing for the respondents would submit that the nominator has been fixed based on the adangal for the relevant fasali years obtained from the revenue records.

5. This Court cannot conduct a detailed enquiry any more. The liability of the petitioners has already been crystallized even in the earlier order. The second respondent has taken into consideration of the revenue records, especially, the adangal for the relevant fasali years. It is a case of theft of electricity though the petitioners are farmers.

6. Accordingly, the writ petitions stand dismissed. However, taking into consideration of the fact that the petitioners are admittedly farmers, this Court is inclined to extend its discretion, though it is in limited way, by permitting the petitioners to pay the amount demanded in the impugned order in ten equal monthly installments payable on or before 15th of every calendar month starting from the month of July 2017. As the orders of remand having been passed not due to the fault of the petitioners, it is made clear that the respondents shall not levy any interest for the amount mentioned in the impugned orders. It is also made clear that this order may not be quoted as precedent as it is rendered based on the facts and situation.

7. With the above said observations, the writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

cse

To

1. The Chairman,
Tamil Nadu Electricity Board,
144, Anna Salai, Chennai - 2.
2. Assistant Executive Engineer,
O&M/TEDC/TANGEDCO,
Vembakkam - 604410,
Tiruvannamalai District.

+1cc to Mr.Varunkumar, Advocate, S.R.No.43849

+2cc to Mr.R.Thiagarajan, Advocate, S.R.No.43330 & 43331

W.P.Nos.22798 to 22800 of 2016

AD(C0)
CS/27/06/17

सत्यमेव जयते

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