

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2018

CORAM

THE HONOURABLE Mr.JUSTICE V.PARTHIBAN

W.P.No.29215 of 2011 &
M.P.NO. 2 OF 2011

G.Albert Emmanuel

... Petitioner

Vs

1. The Junior Engineer,
Tamilnadu Electricity Board,
Operation and Maintenance,
Thiruchitrampalam (South)

2. The Tamilnadu Electricity Board,
Rep. By its Chairman,
144, Anna Salai, Chennai-600 002.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for the records relating to the issue of the impugned Demand Notice in Lr.No.JE(EB)/E Pa/Si Palam/Ko-Audit/Issue No.2011/dated 18.11.2011 by the 1st respondent and quash the same and further to direct the respondents to refund the amount collected from the petitioner byway of consumption charges for the period from 6/2010 to 2/2011 for S.C.No.435-002-126 under the guise of average consumption within a time frame as may be fixed by this Court.

For Petitioner : Mr.N.Subramaniyan

For Respondents : Mr.M.Varunkumar

WEB COPY
O R D E R

Heard Mr.N.Subramaniyan, learned counsel for the petitioner and Mr.M.Varunkumar, learned counsel appearing for the respondents.

2. The petitioner has approached this Court seeking the following relief,

"To issue a writ of Certiorarified Mandamus, calling for the records relating to the issue of the impugned Demand Notice in Lr.No.JE(EB)/E Pa/Si Palam/Ko-Audit/Issue No.2011/dated 18.11.2011 by the 1st respondent and quash the same and further to direct the respondents to refund the amount collected from the petitioner by way of consumption charges for the period from 6/2010 to 2/2011 for S.C.No.435-002-126 under the guise of average consumption within a time frame as may be fixed by this Court."

3. The case of the petitioner is as follows:-

The writ petition has been filed challenging the Demand Notice issued by the respondent Electricity Board for the period from June 2010 to February, 2011 for Service Connection No.435-002-126, on the basis of average consumption as received by the respondent Board that the meter was defective in which consumption was taken into consideration.

4. Learned counsel for the petitioner would submit that there was no prior notice issued to the consumer before impugned Demand Notice was given. Even otherwise, according to the petitioner, the meter is perfectly alright and it was not defective at all. Therefore, the impugned action by the respondent is unsustainable.

5. When the matter is taken up for hearing, the learned counsel for the respondent informs this Court that as per Section of 18 of the Tamil Nadu Electricity Board Code 2004, any grievance of the consumer can be referred to Consumer Grievance Redressal Forum constituted under the Supply Code. Section 18 is reproduced below:

THE TAMIL NADU ELECTRICITY SUPPLY CODE, 2004
SECTION 18:

CONSUMER GRIEVANCE REDRESSAL: All grievances of the consumers, relating to the provisions under regulations (3) to (17) of this Code shall be referred by the consumer to the respective Consumer Grievance Redressal Forum [constituted under the Act].

6. Since a specific Committee has been constituted for sorting out the grievance of the petitioner, which grievances can also lead to resolving of disputed question of fact, this Court does not find that on the basis of such provision made available in the Supply Code, it cannot entertain the writ petition directly under Article 226 of the Constitution of India.

7. This Court, therefore, is of the considered view that the writ petition is not maintainable in view of the above provision available in the statute. It is open to the petitioner to approach the Consumer Redressal Grievance Forum as provided in the above provision and raise all the points which were urged before this Court in the present writ petition.

8. In the light of the above, the writ petition stands dismissed. The learned counsel would however submit that, time may be stipulated for the petitioner to approach before the Consumer Grievance Redressal Forum and the Committee may be directed to dispose of the application to be filed by the petitioner under the said provision. In view of the above said circumstances, the petitioner is directed to approach the Consumer Grievance Redressal Forum, within a period of two weeks from the date of receipt of a copy of this order and the Committee, on consideration of the application, dispose of the same within a period of twelve weeks thereafter. Till then, it is made clear that the demand as raised by the respondent Board shall not be insisted upon. No costs.

Sd/-

Assistant Registrar(CS VII)

//True copy//

Sub Assistant Registrar

kal

To

1. The Junior Engineer,
Tamilnadu Electricity Board,
Operation and Maintenance,
Thiruchitrapalam (South)
2. The Chairman,
The Tamilnadu Electricity Board,
144, Anna Salai, Chennai-600 002.

+1cc to Mr.M.Varun Kumar, Advocate SR.No.44689

W.P.No.29215 of 2011

GJII(CO)
GN(24/07/2018)