

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.17815 of 2017
and
W.M.P.Nos.19324 to 19326 of 2017

V.Kavitha

.. Petitioner

Vs.

1. The Managing Director/ Principal Secretary,
Tamil Nadu Civil Supplies Corporation,
No.12, Thambusamy Road,
Kilpauk,
Chennai - 600 010.
 2. The Senior Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Chennai North Region,
Gopalapuram,
Chennai - 600 086.
 3. The Assistant Engineer,
O & M/ Sothuperumbedu Section,
Tamil Nadu Generation and Electricity
Distribution Corporation Ltd.,
Tamil Nadu Electricity Board,
Chennai Electricity Distribution Circle/ West
Chennai - 600 067.
- .. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the entire records relating to the impugned order passed by the 1st respondent in his proceedings Na.Ka.No.MH6/30865/2016 dated 07.06.2017 confirming the order passed by the 2nd respondent in his proceedings Na.Ka.No.M6/0055395/2016 dated 01.12.2016 and quash the same and consequently direct the respondents 1 and 2 to supply the paddy to the petitioner's rice mill viz., Sree Mahalakshmi Agencies, No.2/6, Dharmaraja Koil Street, Karnodai, Chennai.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.S.T.S.Murthy,
Additional Advocate General
assisted by
Mr.L.P.Shanmugasundaram,
Special Government Pleader
for R1 and R2
Mr.P.R.Dilipkumar,
Standing Counsel for R3.

O R D E R

The petitioner is running a Modern Rice Mill and a hulling agent under the Tamil Nadu Civil Supplies Corporation. In pursuant to an inspection conducted on 17.06.2016 by the Vigilance parties of the Tamil Nadu Civil Supplies Corporation and after giving a notice to the petitioner and considering her explanation, the 2nd respondent passed an order on 01.12.2016, blacklisting the petitioner with effect from the date of the said order. The reasons stated for blacklisting the petitioner are that the electricity meter reading taken on the date of inspection was not in consonance with the actual number of units ought to have been consumed by the petitioner for hulling the paddy and thus, there was some foul play and that there was some shortage of gunny bags found at the time of inspection. Challenging the said order, the petitioner, preferred an appeal before the 1st respondent, who in turn, passed an order on 07.06.2017 confirming the order of the 2nd respondent.

2. Mr.C.Prakasam, the learned counsel appearing for the petitioner submitted that the very reasoning of the 2nd respondent in respect of meter reading is erroneous, that too, on a mistaken impression, without verifying the actual state of affairs. He further submitted that the vigilance people of the respondent Corporation, by mistake has taken the "KWH HI" parameter reading, instead of "KWH C" parameter, which alone shows the actual recorded energy consumption at the relevant point of time. Therefore, he contended that based on such mistaken impression, the impugned order passed by the 2nd respondent confirmed by the 1st respondent, cannot be sustained. Apart from the above said submission, learned counsel also stated that the impugned blacklisting of the petitioner is not for any limited period, but on the other hand, it is permanent, which is not permissible in the eye of law.

3. On the other hand, the learned Additional Advocate General for the respondents 1 and 2 submitted that the impugned order was passed based on the inspection and the report submitted by the vigilance people.

4. The 3rd respondent filed a counter wherein at paragraph Nos.10, 14, 16 and 17 it has been sated as follows:

10. I further submit that on 17.06.2016, the Tamil Nadu Civil Supplies Corporation Officers inspected the service connection. By mistake, they had taken the "KWH Hi" parameter reading of 19681.30 KWH instead of "KWH C" parameter (which shows the actual recorded energy consumption at that time) and calculated the consumption from the last billing reading "KWH C" (28.05.2016) of 19652.2 KWH and arrived for an energy consumption of 873 units (29.1 x MF30) which was the actual consumption from 28.05.2016 to 01.06.2016 up to 00:00 hrs.

.....
.....

14. I further submit that as per the MRT report based on CMRI downloaded data, the "KWH C" was recorded on 01.06.2016@ 00:00 hrs was 19681.30 KWH which only updated as the "KWH HI" reading for the month of 06/2016 from 01.06.2016 to 30.06.2016. Thus, it became clear that the Tamil Nadu Civil Supplies corporation Vigilance Officers had actually taken the "KWH C" reading recorded on 01.06.2016 and by mistake, they had calculated for 17.06.2016.

.....
.....

16. I further submit that actually the service connection meter is healthy one. No glass was broken in the meter. On 22.06.2016, during inspection, I wrongly entered in the consumer Electricity Board online consumption print out that the glass was broken, meter to be replaced, but only the reset push button was broken. It does not affect the healthiness of the meter. The consumer also requested not to replace the meter since the main content of their issue was the Tamil Nadu Civil Supplies Corporation is the service connection meter.

17. I further submit that based on the consumer request on 07.12.2016, the MRT report was obtained from the Assistant Executive Engineer/MRT/ Metering vide Lr.No.AEE/MRT/ M/ AE/ Lab/ F.Meter/ D.269 Dt.11.01.2016, in that report, based on the downloaded data on 04.11.2016, the Assistant

Executive Engineer/Metering /MRT stated as follows: "The CMRI downloaded data of the LTCT service connection No: 057-002-165 in the name of Thangaiah Nadar, Meter make: Secure, Sl.No.TEB 308983, 3x240V, -/5A, LTCT meter, received from you were uploaded in the bCS and there is no tamper occurred in the meter to above said data."

5. The 2nd respondent has also filed a counter affidavit reiterating the contentions made in the impugned order.

6. Heard both sides.

7. It is seen that the impugned order of blacklisting the petitioner came to be passed mainly on the reason that there was a foul play indulged by the petitioner in tampering with the electric meter in order to show as if the petitioner was doing the hulling process. The above contention raised by the respondents is disputed and denied by the petitioner by specifically stating that the vigilance people committed mistake in taking the reading in wrong meter called 'KWH HI' parameter, instead of 'KWH C' parameter. The above stand taken by the petitioner is also supported by the 3rd respondent in the counter affidavit as extracted supra. Therefore, it is evident that the vigilance people of the Tamil Nadu Civil Supplies Corporation had committed the mistake in noting down the reading in a wrong meter viz., in 'KWH HI' parameter instead of noting down the same in 'KWH C' parameter. Therefore, it is evident that based on such mistaken identity of the meter and the consequential reading taken from the same, the impugned order of black listing was passed against the petitioner. Hence, based on the categorical stand taken by the 3rd respondent in their counter affidavit as extracted supra, I find the the order of blacklisting the petitioner cannot be sustained. Even otherwise, the 2nd respondent has chosen to black list the petitioner indefinitely without fixing any period of such disqualification, which I consider is not proper going by the facts and circumstances of the present case. Therefore, this Court is of the view that on both grounds, the impugned order cannot be sustained. Consequently, the writ petition is allowed and the impugned orders, are set aside. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

vsi

To

1. The Managing Director/ Principal
Secretary,
Tamil Nadu Civil Supplies Corporation,
No.12, Thambusamy Road,
Kilpauk,
Chennai - 600 010.
 2. The Senior Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Chennai North Region,
Gopalapuram,
Chennai - 600 086.
 3. The Assistant Engineer,
O & M/ Sothuperumbedu Section,
Tamil Nadu Generation and Electricity
Distribution Corporation Ltd.,
Tamil Nadu Electricity Board,
Chennai Electricity Distribution Circle/ West
Chennai - 600 067.
- +1 cc to Mr.P.R.Dhilipkumar Advocate sr 13849
+1 cc to Mr.L.P.Shanmugasundaram Advocate sr 14003
+1 cc to Mr.Prakasam Advocate sr 14180

W.P.No.17815 of 2017

sj(co)
aa26/02/2018

सत्यमेव जयते

WEB COPY