

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 21.12.2018

CORAM
THE HON'BLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.34250 of 2018
and
W.M.P.No.39797 of 2018

S.Ravichandran

... Petitioner

Vs.

1.The Chairman
Tamil Nadu Generation & Distribution
Corporation Limited,
N.P.K.R.Ramasamy Maligai,
144, Anna Salai, Chennai 600 002.

2.The Superintending of Engineer,
Operations & Maintenance,
TANGEDCO,
Revenue Branch - Division,
Capper Hills,
Cuddalore - 4.

3.The Executive Engineer,
Operations & Maintenance,
TANGEDCO,
Chidambaram.

... Respondents

PRAYER: Writ Petition filed under Article 226 of The
Constitution of India praying for issuance of a Writ of
Mandamus, directing the second respondent to restore the
Electricity Connection in L.T.C.T.S.C.No.097003773 and to accept
the consumption charges for the month of November 2018.

For Petitioner :Mr.Jerry V.V.Sundar

For Respondents :Mr.M.Varunkumar
Standing Counsel for EB

O R D E R

The relief sought for in the present writ petition is for a
direction to direct the second respondent to restore the
Electricity Connection in L.T.C.T.S.C.No.097003773 and to accept
the consumption charges for the month of November 2018.

2. The learned counsel appearing on behalf of the writ petitioner states that the petitioner is in the business of aquatic farming for more than 10 years. The petitioner is the sole-proprietor of SDPS Aquatic farm having administrative office at E-9, Anna Road, Block-24, Neyveli, 607801 and operating at Theethampalam, Agaram. The main business involves farming of shrimps and prawns. The petitioner is having the electricity service connection in L.T.C.T.S.C.No.097003773 with a sanctioned demand of 98.91 KW. The learned counsel for the petitioner further states that the petitioner is regularly paying electricity consumption charges without any arrears. While so, based on the inspection, the electricity consumption charges was demanded for the month of November 2018 and the penalty is also imposed. The learned counsel for the writ petitioner further states that the respondents ought to have issued notice enabling the writ petitioner to raise their objections in respect of the consumption charges and penalty amount now demanded by the respondents' Board.

3. Contrarily, the Board has unilaterally taken a decision and imposed the payment of consumption charges as well as the penalty on the writ petitioner. Thus, the Writ Petitioner is constrained to move the present Writ Petition.

4. The learned counsel for the respondents state that the consumption charges are nothing but the electricity actually consumed by the petitioner in his premises. The penalty is imposed when the usage exceeds the demand charges. When the petitioner had exceeded the limit, the imposition of penalty is a statutory requirement and therefore, the said penalty cannot be waived, even by the authorities concerned. When the usage of the electricity is found to be excess than that of the sanctioned one, then the penalty is inevitable and the statute provides the same.

5. The learned counsel for the petitioner states that even in respect of the excess usage and imposition of penalty, a notice to the consumer is mandatory and the authorities have not complied with the procedure. Thus, their actions are perverse.

6. This Court is of the considered opinion that the actual consumption charges are liable to be paid by the Writ Petitioner. The penalty is also said to be a statutory requirement. Issuance of notice, though the procedure requires, the same would not affect and would or cause prejudice to the interest of the Writ Petitioner. Even if the demanded charges are paid and thereafter, the writ petitioner raised the objection, the Electricity Board provides the payment of advance in respect of the usage of electricity even for future purpose and in the event of any excess payment, if any made by the writ petitioner, the same shall be adjusted towards the

future bills, in respect of the electricity service connection of the petitioner. Thus, the non issuance of notice in respect of the current consumption charges as well as the penalty, no prejudice would be caused to the writ petitioner, even if he is directed to pay demanded amount as per the orders of the respondents.

7. Under these circumstances, this Court is of the opinion that the Writ Petitioner shall be provided with the electricity service connection, on payment of the demanded amount of Rs.10,46,487/- and thereafter, adjudicate the matter in the manner known to law.

8. The disputes and complex facts and circumstances raised by the writ petitioner in respect of usage of the electricity as well as the penalty clause, this Court cannot adjudicate such factual issues and such facts and circumstances of the case ought to be adjudicated by producing original documents and by adducing evidence, if required before the competent Forum.

9. This being the principles to be adjudicated, the following orders are passed:-

(i) The writ petitioner is directed to pay the demanded current charges as well as the statutory penalty amounting of Rs.10,46,487/- and on receipt of the payment, the respondents are directed to restore the electricity service connection of the writ petitioner, with immediate effect.

(ii) In respect of the factual disputes, the writ petitioner is at liberty to approach the Consumer Grievances Redressal Forum constituted under clause 18 of the Tamil Nadu Electricity Distribution Supply Code and in the event of any such appeal, the Forum shall adjudicate the issues on merits and by affording an opportunity to the writ petitioner and pass orders, within a period of twelve weeks from the date of submission of the appeal, if any, by the writ petitioner.

10. With the above directions, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

dna/sai

To

1.The Chairman

Tamil Nadu Generation & Distribution
Corporation Limited,
N.P.K.R.Ramasamy Maligai,
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2.The Superintending of Engineer,
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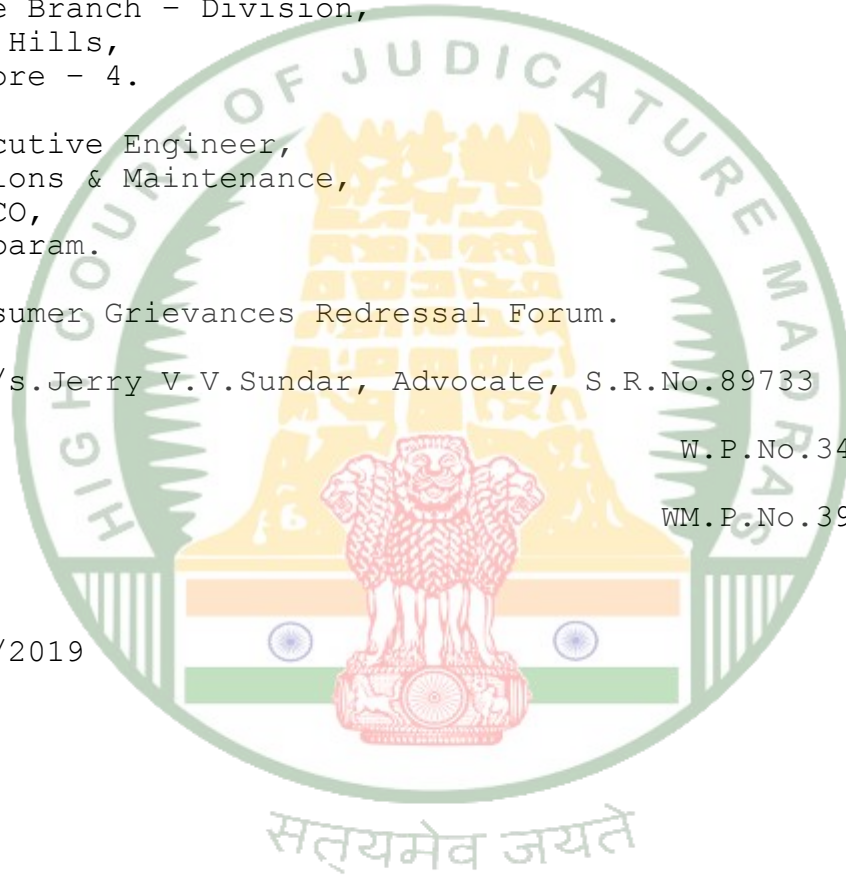
4.The Consumer Grievances Redressal Forum.

+1cc to M/s.Jerry V.V.Sundar, Advocate, S.R.No.89733

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SJ(CO)

rrs 11/01/2019



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