



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.04.2018

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THE HONOURABLE MR.JUSTICE **M. S. RAMESH**W.P. (MD) No.6500 of 2018andW.M.P. (MD) Nos.6319 and 6320 of 2018

WEB COPY

Creamline Dairy Products Ltd,
6-3-1238/B/21, Asif Avenue,
Rajbhavan Road, Somajiguda,
Hyderabad - 500 082.

... Petitioner

-Vs-

1. The Superintending Engineer,
Tirunelveli Electricity Distribution Circle,
Tamil Nadu Generation and Distribution
Corporation Ltd, (TANGEDCO),
Tirunelveli.
2. The Chairman,
Tamil Nadu Generation and Distribution
Corporation Ltd (TANGEDCO),
10th Floor, 144,
Anna Salai,
Chennai - 600 002.

3.R.Subramaniam

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India for issuing a Writ of Certiorarified Mandamus, to call for the records relating to the letter dated 15.09.2017 bearing reference Lr.No.SE/TEDC/TIN/AO/AAO/ HT/AS/WEG.HT Sc No.1747, 1844/17 issued by the first respondent and quash the same as illegal and direct the first and second respondent to transfer HTSC No.235 to the name of the petitioner.

For Petitioner :Mr.Krishna Srinivasan
for M/s.S.Ramasubramanian and Associates

For R-1 and R-2 :Mr.Kasinathadurai

For R-3 : No appearance

ORDER

By a sale deed dated 27.01.2017 the petitioner's Company had acquired the business and assets excluding the liability of M/s.RBS Dairy farm at V.K.Pudur, Tirunelveli. Pursuant to the acquisition, a requisition was made to the second respondent to

transfer the name of the HT service in connection No.235 from RBS Dairy farm.

2.By an order dated 15.09.2017, the first respondent herein had rejected the petitioner's request for name transfer on the ground that an objection for an amount of Rs. 54,57,918/- has been raised, in respect of WEG HTSC Nos.1844 and 1747 adjusted in HTSC No.1697 of Chennai EDC (West). The said order is impugned, in the present Writ Petition.

3.The learned counsel for the petitioner, by relying upon an earlier order of the Principal Bench of this Court, submitted that the demand of Rs.54,36,343/- under the heading of adjustment charges has been challenged by this writ petition in W.P.No.2673 of 2018 and the High Court had clarified that the demands raised by the respondents bill was kept in abeyance and as such there was no justification to refuse the petitioner's request for name transfer.

4.The learned counsel further submitted that even otherwise the respondent was not justified in quoting the objections pending in Tirunelveli EDC, in view of the first respondent's letter dated 15.09.2016 whereby it was admitted that "three months generation" had not been taken in to account for the period 4/2012, 11/2012 and 12/2012 and thereby, had observed therein, that the norms have been fulfilled and hence, the audit can be dropped.

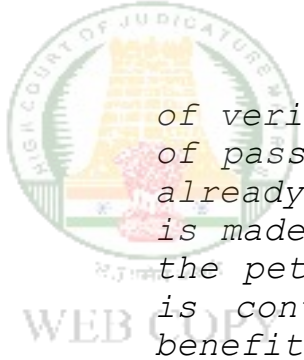
5.The learned Standing Counsel for the respondents on the other hand, opposed the submissions made by the petitioner and submitted that in view of the objections pending with Tirunelveli EDC, the respondents are justified in issuing the impugned letter. The learned Standing counsel further submitted that if at all the petitioner is of the view that the objections has no basis, it is always open to him to approach the authorities, seeking for clarification.

6.I have given careful consideration on the submissions made by the respective counsel.

7.The impugned order *prima facie* is deemed to be non-est. It is useful to refer to the order, dated 07.02.2018 passed in W.P.No.2673 of 2018 and the relevant portion of the said order is as follows:

"6.In the meantime, the following interim order is passed:

Considering the submissions made, this Court is of the view that the matter requires a deeper consideration. It is submitted that only in few cases, demands have been raised, after conclusion of the process of verification. Therefore, this Court is of the view that while permitting the process



of verification to go on, no new demand can be raised by way of passing appropriate orders. In cases, where demands have already been raised, they shall not be given effect to. It is made clear that this order will not stand in the stay of the petitioners contending that the process of verification is contrary to law. It is further made clear that the benefits which the petitioners are enjoying till now shall not be disturbed until further orders, so is the case of the entitlement for the future, on merits, if any."

8.The above extract is self explanatory. This Court, in categorical terms, had made it clear that no new demand can be raised and that the demands, which have already been raised, will not be given effect to. As such quoting the earlier objection for demand of Rs.54,36,918/-, would amount total contravention and violation of the order of this Court dated 07.02.2018. More over, the impugned order would also amount to non application of mind, in view of the proceedings of the same authority, namely the first respondent herein, who, in his letter dated 14.09.2016, opined that the norms have been fulfilled and therefore, the audit could be dropped. In the said letter, it is observed that the three months generation of the petitioner's unit had not been taken into account and it is in this back ground, the audit came to be dropped. While that being so, I am unable to apprehend as to how the same authority can quote the objections of the Tirunelveli EDC for a sum of Rs.54,57,918/- as an impediment for transferring the name for the HD service connection in favour of the petitioner. The impugned order as such, suffers from total illegality and non application of mind and therefore, the petitioner is entitled to succeed in the present writ petition.

9.Accordingly, the order dated 15.09.2017 bearing reference Lr.No.SE/TEDC/TIN/AO/AAO/ HT/AS/WEG.HT Sc No.1747, 1844/17 issued by the first respondent stands quashed. Consequently, the first respondent is directed to transfer the HDSC No.235 to the name of the petitioner herein. Such an exercise shall be completed within a period of two weeks from the date of receipt of a copy of this Order.

10. With the above observations, this Writ Petition stands allowed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(crl side)

/True Copy/

Sub Assistant Registrar



To

1. The Superintending Engineer,
Tirunelveli Electricity Distribution Circle,
Tamil Nadu Generation and Distribution
Corporation Ltd, (TANGEDCO),
Tirunelveli.

2. The Chairman,
Tamil Nadu Generation and Distribution
Corporation Ltd (TANGEDCO),
10th Floor, 144,
Anna Salai,
Chennai - 600 002.

+1cc to Mr.G.Kasinathadurai, Advocate Sr.No.60044
+1cc to Mr.S.Ramasubramanian, Advocate Sr.No.59956

LS/DAS

VB/SV/MMS/SAR2/20.04.2018/4P/5C

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