



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.03.2018

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.6094 of 2017

and

W.M.P(MD)Nos.4799 and 4800 of 2017

M/s.Amaravathi Spinning Mills,
rep. by its Managing Partner,
Erode Road, Authur (P.O.),
Karur - 639 002.

... Petitioner

Vs.

1.The Tamil Nadu Generation and
Distribution Corporation Limited (TANGEDCO),
rep. by its Chairman,
10th Floor, NPKRR Maaligai,
144, Anna Salai, Chennai - 600 002.

2.The Consumer Grievance Redressal Forum,
rep. by its Chairperson,
Karur Electricity Distribution Circle,
TNEB Complex, Kovai Road,
Karur District.

3.The Superintending Engineer,
TANGEDCO (TNEB),
Karur Electricity Distribution Circle,
TNEB Complex, Kovai Road,
Karur District.

4.The Executive Engineer,
Operations and Maintenance (Urban)
TNEB Complex, Kovai Road,
Karur District.

5.The Deputy Financial Controller,
Karur Electricity Distribution Circle,
TNEB Complex, Kovai Road,
Karur District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order issued by the 2 respondent Chairperson of the Consumer Grievance Redressal Forum in CGRF Petition No.002/16-17, dated 21.02.2017 and



quash the same and further direct the 1st respondent herein to refund to the petitioner the sum of Rs.20,04,323/- with interest thereon.

For Petitioner : Mr.Issac Mohanlal,
Senior counsel for
Mr.T.Cibichakraborty

For Respondents : Mr.S.M.S.Johny Basha

ORDER

The petitioner has filed this writ petition challenging the order passed by the 2nd respondent / Consumer Grievance Redressal Forum and consequently, seeking a direction to refund the amount paid with penalty.

2. The writ petitioner is a partnership firm registered under the Indian Partnership Act, 1932. The petitioner was running the firm by obtaining electricity service connection in High Tension Service Connection No.19 from TANGEDCO. While so, the petitioner installed three Wind Electric Generators each of 750 KW capacity under the Captive Consumption Scheme during the year 2004-2005. Subsequently, the petitioner sold two Wind Electric Generators. Due to reduction in the Wind Power Generation, the petitioner requested the 3rd respondent to refix the petitioner's Energy quota and demand quota on par with that of a normal consumer on 02.07.2011. But, the 3rd respondent, vide order dated 25.07.2011, directed the petitioner to pay a sum of Rs.38,89,059/- as the outstanding amount. Aggrieved by the same, the petitioner filed W.P.(MD).No.8572 of 2011 and obtained an interim order. While so, the petitioner closed down the Mill and intimated the same to respondents on 12.01.2016 for permanent disconnection of HTSC No.19. The 3rd respondent by his letter dated 05.02.2016 informed that due to the pendency of W.P. (MD).No.8572 of 2011 and non payment of dues, the request of the petitioner cannot be considered. While so, on 22.02.2016, the said writ petition was disposed of with liberty to challenge the impugned order before the Tamil Nadu Electricity Regulatory Commission.

3. After about five months, on 26.07.2016, the 3rd respondent directed the petitioner to pay the outstanding due of Rs.11,75,093 as per the fixation of revised quota, along with MD charges and penalty for five months and on compulsion of the 3rd respondent, the petitioner has paid a sum of Rs.20,04,323/- with penalty charges. Aggrieved by the action of the 3rd respondent, the petitioner approached the 2nd respondent / Consumer Redressal Form and filed a petition in CGRF Petition No.002/16-17, dated 06.01.2017. But, the 3rd respondent, who passed the order, was acting as a chairperson of the 2nd respondent. Despite the petitioner's objection, the 2nd respondent proceeded to consider the petition and dismissed the same giving 30 days time to approach the Electricity Ombudsman by way of an appeal. Aggrieved by that order, the petitioner has come up with this writ petition for the aforesaid prayer.



4. When the matter came up for hearing on 12.03.2018, the learned senior counsel appearing for the petitioner submitted that the chairperson of the 2nd respondent has confirmed the order, which was passed by him in the capacity of the Superintending Engineer / third respondent. A person cannot act as an appellate authority to his own order passed during the capacity of executing authority and hence, the impugned order cannot be sustained and the same is liable to be remitted back to the file. After expressing the above view, when this Court posed a question whether the very same Chairperson, who passed the order, is still functioning in the 2nd respondent Office, the learned standing counsel for the respondents sought for time to verify and report the same.

5. Today, when the matter is taken up for hearing, the standing counsel for the respondents submitted that the Chairperson is changed. The learned senior counsel for the petitioner submitted that in that case, the petitioner has no objection for remanding the matter to the file of the 2nd respondent herein for fresh consideration.

6. In view of the above, the order impugned in this writ petition is set aside and the same is remitted back to the file of the 2nd respondent for fresh consideration. The second respondent is directed to dispose of the same on merits and in accordance with law, within a period of six weeks from the date of receipt of copy of this order.

7. This writ petition is accordingly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(Crl.Side)

/True Copy/

Sub Assistant Registrar

To,

1.The Chairman, Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO),
10th Floor, NPKRR Maaligai, 144, Anna Salai, Chennai - 600 002.

2.The Chairperson, Consumer Grievance Redressal Forum,
Karur Electricity Distribution Circle,
TNEB Complex, Kovai Road, Karur District.

+1CC to Mr.Cibi Chakraborty SR.No. 56500

W.P (MD) No.6094 of 2017
19.03.2018

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