

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.06.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.33477 of 2007

and

M.P.Nos.1 & 2 of 2007

V.M.Prabakaran

...Petitioner

Versus

1. The Executive Engineer,
(Operation and Maintenance),
Vellore Electricity Distribution Circle,
Arakkonam,
Vellore District.

2. The Assistant Executive Engineer,
Arakkonam Town,
Tamil Nadu Electricity Board,
Vellore District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the 2nd respondent in his Lr.No.AEE/Town/ARK/F.DOC/D.No.328/07 dated 13.09.2007 and quash the same.

For Petitioner : Mr.P.Krishnan

For Respondents: Mr.M.Varunkumar, SC for TNEB.

O R D E R

The above Writ Petition is filed for issuing a Writ of Certiorari calling for the records of the 2nd respondent in his Lr.No.AEE/Town/ARK/F.DOC/D.No.328/07 dated 13.09.2007 and to quash the same.

2. The petitioner is the owner of the water service station and got electric service connection bearing S.C.No.611. He is running a water service station for the two wheelers for which he possesses S.S.I Certificate and is entitled to concessional rate of electricity. However, by proceedings dated 10.10.2000, the 2nd respondent raised a demand for consumption charges at commercial rates. Aggrieved by the action, the petitioner filed a writ petition in W.P.No.18900 of 2000 before this Court and obtained a stay in W.M.P.No.27390 of 2000 on 10.11.2000.

3. While so, on 30.01.2006, the Electricity Officials, Anti Theft Squad inspected the petitioner's unit in his absence and found that the petitioner was tapping electricity directly from the main unit by-passing the meter. Accordingly, the Theft Squad lodged a police complaint. In the police station, the petitioner was forced to compound offence by collecting a sum of Rs.1,00,000/- as compounding fee and imposed an unauthorized usage of conception charges. Accordingly, the petitioner paid Rs.14,216/- as the first instalment and challenged the said demand before this Court in W.P.No.7145 of 2006. This Court, by its order dated 07.04.2006 arrived at a conclusion that the procedures contemplated under Section 126 of the Indian Electricity Act was not followed and thereafter, set aside the demand notice and consequently remitted the matter back to the authority. Thereafter, the authority passed a fresh order on 05.06.2006 and again, the petitioner filed a W.P.No.18364 of 2006 challenging the said order and this Court passed a final order issuing direction to the petitioner to pay Rs.50,000/- within a period of six weeks after giving an opportunity to the petitioner and as against the said order, the petitioner filed an appeal before the Division Bench of this Court in W.A.No.718 of 2007. The Division Bench, by an order dated 02.05.2007, confirmed the order of learned Single Judge. Thereafter, the Assessment Officer after giving an opportunity, passed the present impugned order, directing the petitioner to pay a sum of Rs.1,24,200/- after deducting Rs.14,216/- from Rs.1,38,416. Aggrieved by the said order, the present writ petition is filed.

4. The learned counsel for the petitioner submitted that the present impugned order is in violation of the order passed by this Court dated 07.04.2006 made in W.P.No.7154 of 2006 and that the direction of this Court to comply with the mandatory procedure contemplated under Section 126 of Indian Electricity Act has not been followed by the respondent. It is his further submission that no opportunity whatsoever, has been granted to the petitioner to offer his explanation. The learned counsel submitted that the demand can be raised only for a period of six months prior to the date of inspection, whereas, contrary to the statutory provisions, the impugned assessment has been made for 365 days. And no reason whatsoever, has been given as to how the penal assessment at Rs.1,24,200 has been arrived at. Further he submitted that the amount which has been received from the petitioner for compounding the offence has been obtained by playing fraud, forced and threat. It is his further submission that the electricity service connection has been disconnected due to which the petitioner has been put to grave hardship and irreparable loss and hence, prays for setting aside of the impugned order.

5. Per contra, Mr.M.Varunkumar, learned standing counsel appearing for the respondents would submit that the Electricity Board, after following the mandatory provisions duly and only after affording reasonable opportunity to the petitioner, the present impugned order has been passed which according to him requires no interference of this Court and prays for dismissal of the writ petition. This Court has considered the rival submissions and also perused the materials placed before it.

6. A perusal of the record shows that the petitioner committed theft of electricity by tapping the same directly from the main unit by-passing the meter. Further, it is seen that he had accepted his guilt and paid the compounding fee also apart from agreement to pay consumption charges. Once the petitioner accepts the guilty and pays the balance, he is liable to pay the conception charges. In the present case, no record was produced before this Court to show as to whether the petitioner complied the condition imposed by this Court in W.P.No.18364 of 2006 dated 12.07.2006. However, the petitioner produced the receipt dated 23.11.2007. On perusal of the above said receipt, the petitioner complied the condition imposed by this Court. While entertaining the writ petition a conditional order of stay was passed and the petitioner was directed to pay Rs.50,000/-. After deducting the said amount, the petitioner has to pay Rs.74,000/- in favour of the respondent corporation.

7. In view of the above, I do not find any illegality in the demand notice issued by the respondent-Corporation. Hence, the petitioner is directed to pay the balance amount of Rs.74,000/- within a period of eight weeks. Accordingly, the present writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Insp.Cell)

//True Copy//

Sub Assistant Registrar

sni

To

1. The Executive Engineer,
(Operation and Maintenance),
Vellore Electricity Distribution Circle,
Arakkonam,
Vellore District.

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2. The Assistant Executive Engineer,
Arakkonam Town,
Tamil Nadu Electricity Board,
Vellore District.

+1cc to Mr.G.Jeremiah, Advocate, S.R.No.46693
+1cc to Mr.M.Varunkumar, Advocate, S.R.No.47598

W.P.No.33477 of 2007
and
M.P.Nos.1 & 2 of 2007

BP (CO)

RRS (19/07/2019)



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