

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.35093 of 2003
and W.P.M.P.No.42663 of 2003

K.Balasubramanian

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep. by its Secretary,
Electricity Department,
Fort St. George,
Chennai - 600 009.

2. The Chairman,
Tamil Nadu Electricity Board,
Anna Salai, Chennai 600 002.

3. The Superintending Engineer,
Tamil Nadu Electricity Board,
Mettur, Salem District.

4. The Assistant Engineer,
(Operation & Maintenance),
Tamil Nadu Electricity Board,
Kokkarayanpettai,
Thiruchengodu Taluk,
Namakkal District.

5. The Special Officer,
SN 258, Molasi Lift Irrigation Co-op Society,
Erayamangalam,
Solasiramani (via),
Tiruchengodu Taluk,
Namakkal District.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the respondents 1 to 3 which has culminated in the order of the 4th respondent made in proceedings No.AE/O & M/Kokkarayanpettai/Ko. Varu/No.484/2003, dated 17.03.2003

demanding to pay consumption charge of Rs.250/- per Horse Power per half yearly, which has been worked out for the period of three years from first half of year 2000 and has thereupon arrived at the total sum of Rs.1,30,875/- towards the total consumption of 174.5 Horse Power connection availed by the members of the society in respect of service connection (Erayamangalam) Nos.198, 199, 206, 207, 208, 210, 211, 212, 214, 215, 216, 217, 219, 220, 221, 400, 401, 404, 406, 407, 408, 409, 410, 411, 510, 511, 972 and 973 and quash the same.

For Petitioner: M/s.C & K Law Firm

For Respondents: Mr.S.Suresh KUMar, G.A., for R1

Mr.S.K.Rameshwar,
Standing Counsel, for RR2 to 4
Mr.M.S.Palanisamy, for R5

O R D E R

This petition has been filed to quash the proceedings of the fourth respondent made in No.AE/O & M/Kokkarayanpettai/Ko. Varu/No.484/2003, dated 17.03.2003.

2. It is seen that the service connections are effected in the name of the President of the Molasi Lift Irrigation Co-operative Society. The petitioner herein is a member of the Society, who has been issued with the impugned order, whereby, the respondents had demanded consumption charges retrospectively for a period of three years from the first half of the year 2000.

3. When the service connection was given in the name of the President of the Molasi Lift Irrigation Co-op Society / 5th respondent herein and the Board has chosen to demand consumption charges from the individual member of the Society retrospectively for a period of three years, there is a duty cast upon the respondents to issue a prior notice calling upon them to show cause as to why such a demand should not be made retrospectively.

4. On perusal of the impugned notice, it is apparent that no such notice is given to the individual member of the Society and on this short ground, the Writ Petition deserves to be allowed. Even otherwise, it is seen that there is no Regulations or Rules empowering the respondent Board to demand consumption charges retrospectively for a period of three years. In the absence of any such Regulations or Rules, the respondents may not be justified in making such a demand.

5. The learned Standing Counsel for the respondents by relying upon the Board's Circular, dated 19.07.2002, submitted that the respondents are empowered to collect the consumption charges retrospectively, in view of the financial precarious condition of the Electricity Board.

6. I am unable to accept such a contention that in the absence of any Regulations or full board proceedings empowering the collection of consumption charges retrospectively, the Chief Engineer Commercial may not have the power to issue such a circular. As such, the impugned demand notice itself is bad in law.

7. It is now brought to the notice of this Court that subsequently, the Electricity Supply connections to the Members of the Lift Irrigation Co-operative Society have been made free. When the Board has decided to relax the demand of consumption charges for these members subsequently, it can only be construed that the Board has relaxed and condoned its precarious financial condition as revealed in its circular, dated 19.07.2002.

8. In the light of the above observations, the impugned notice No.AE/O & M/Kokkarayanpettai/Ko. Varu/No.484/2003, dated 17.03.2003 is quashed and the Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

सत्यमेव जयते Sub Assistant Registrar

To

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3. The Superintending Engineer,
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W.P.No.35093 of 2003

srg 10/04/2019



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