

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :08.07.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.14316 of 2009
and
M.P.No.2 of 2009

The Superintending Engineer
Coimbatore Electricity Distribution Circle/
South/Coimbatore.

..Petitioner

Vs

1. Tamil Nadu Electricity Ombudsman
No.17 Third Main Road
Seethammal Colony, Alwarpet,
Chennai 600 018.

2. Thiru.P.K.Ravi
Managing Partner
M/s.Fabrocrets, "Scorpio Gardens"
Peruntholuvu Post,
Tiruppur 641 665.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ order or direction in the nature of writ of Certiorari, calling for the records relating to the first respondent in O.P.No.7/2006, dated 05.07.2006 and quash the same being illegal and arbitrary.

For Petitioner : Mr.S.K.Rameshwar
For Respondents : M/s.Tanushree Arvind, for R1
M/s.R.Parthasarathy
for R2.

O R D E R

The prayer sought for herein in this Writ Petition is for issuance of a Writ of Certiorari, calling for the records relating to the first respondent in O.P.No.7/2006, dated 05.07.2006 and to quash the same.

2. The learned counsel appearing for the petitioner would submit that the Tamil Nadu Electricity Board is a body constituted under the Electricity (Supply) Act, 1948 (Central Act 54 of 1948). The present writ petition is arising out of the order passed by the Tamil Nadu Electricity Ombudsman, the first

respondent herein in O.P.No.7 of 2006 dated 05.07.2006. He would further submit that under the Electricity Act 2003, every distribution licensee has to constitute and appoint the consumer Grievance Redressal Forum in respective divisions. The said forum is having jurisdiction to decide the disputes between the licensee and the consumer regarding the matters referred under Regulation 3 to 17, under Tamil Nadu Electricity Code - 2004. The second respondent herein who is a H.T. Consumer with the Petitioner/Board, raised an objection to the demand made by the Petitioner/Board, for a sum of Rs. 11,05,021/- toward Tariff minimum charges with meter rent for the disconnected period from April 2001 to August 2004.

3. The learned counsel appearing for the petitioner would further submit that the Regulations 6 and 22 (6) of the Tamil Nadu Electricity Supply Code, enable the Board to levy and collect the tariff minimum charges in respect of H.T. services or the entire period of disconnection. Therefore, he would submit that the impugned order passed by the first respondent is contrary to the above provisions and prayed to set aside the same.

4. For better understanding, Regulations 6 and 22 (6) of the Tamil Nadu Electricity Supply Code and the Terms and Conditions of Supply of Electricity of Tamil Nadu Electricity Board is extracted here under;

"Regulation- 6 (b) for the HT services disconnected on the request of the consumer the monthly minimum charges based on the KVA demand shall be the actual recorded demand (when the disconnection is for part of a month) or such percentage of sanctioned demand declared by the Commission whichever is higher.

Regulation - 22 (6) when the service connection remain disconnected for non-payment of electricity charges beyond the notice period of three months, if the consumer comes forward to pay the actual dues and agrees to remit the tariff minimum charges in respect of HT services, monthly minimum in respect of LT services for the period of disconnection after termination of agreement period with reconnection charges, the licensee may grant extension of time beyond such notice period and revoke the termination of agreement, provided that the lines feeding the service connection have not been dismantled so as to facilitate re-connection of the disconnected service."

Terms and Conditions of Supply of Electricity of Tamil Nadu Electricity Board reads as follows:

" 29.00 Consumer's Request To Disconnect Supply:

29.01 A consumer's request to disconnect the service connection temporarily upto a period of one year will be considered for bona fide reasons such as, seasonal conditions, demolition, remodelling of building or alteration of electrical wiring in the building. The Consumer will however have to pay the minimum monthly charges as provided in the tariff and in Clause 19.02 during the period of disconnection.

If any tenant enjoying a separate service connection in the building requests continuance of supply, the Board will endeavour to give alternative supply, provided that the tenant produces proof of lawful occupation. Such cases will be treated similar to cases under clauses 6.02 and 6.03."

4. In view of the above regulations, it is clear that the order passed by the first respondent herein is liable to be set aside. Therefore, the present writ petition stands allowed and impugned proceedings are quashed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Insp Cell)

//True Copy//

Sub Assistant Registrar

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To

1.The Superintending Engineer,
Coimbatore Electricity Distribution Circle/South,
Coimbatore.

2. Tamil Nadu Electricity Ombudsman
No.17, Third Main Road
Seethammal Colony, Alwarpet,
Chennai 600 018.

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PA (CO)
GN(14/10/2019)