

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.35301 and 35971 of 2006
and M.P.No.2 of 2006 in W.P.No.35971 of 2006

The President,
Odapalli Mukkumarai
Neeretturu Pasana Sangam,
Pappampalayam
Cauvery RS
Erode - 638 007.

.... Petitioner in
W.P.No.35301 of 2006

The President,
Odapalli Pappampalayam,
Neeretturu Pasana Sangam,
Pappampalayam
Cauvery RS,
Erode - 638 007.

.... Petitioner in
W.P.No.35971 of 2006

Vs.

1. The Secretary,
Energy Department,
Government of Tamil Nadu,
Fort St. George,
Chennai 600 009.
2. The Chairman,
Tamil Nadu Electricity Board,
NPKRR Maaligai,
800, Anna Salai,
Chennai 600 002.
3. The Superintending Engineer,
Tamil Nadu Electricity Board,
Mettur Electricity Distribution Circle,
Mettur Dam 636 401.

... Respondents in
both the petitions

Prayer in W.P.No.35301 of 2006 and WP.35971 of 2006:-

Writ petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus and quash the order of the first respondent in proceedings No. (ID) Nos.44/C3/2006, 43/C3/2006 respectively dated 03/08/2006 and direct the third respondent to refund the excess amount collected towards electricity charges from the petitioner together with interest at such rate as this Court would deem fit.

For Petitioners : Mr.V.Perumal

For Respondents : Mrs.K.Bhuvaneswari,
AGP, for R1

(in both the petitions) Mr.S.K.Raameshuwar,
for RR2 & 3

C O M M O N O R D E R

By relying upon the Tamil Nadu Electricity Board proceedings in (Per.) B.P. (F.B.) No.120, (Technical Branch), dated 08.08.2002, the learned counsel for the petitioners submitted that the lift irrigation HT Tarrif charges from 15.02.1997 onwards should be returned to the petitioners and also in view of the Board proceedings, wherein, three other similarly placed Societies have been extended the benefit. On this ground of discrimination, the Writ Petitions have been filed.

2. On perusal of records, it is seen that the petitioners herein had not made such a request to the respondents by placing reliance of the Tamil Nadu Electricity Board Proceedings, dated 08.08.2002 and as such, the Board cannot be found fault for not considering such a plea of discrimination. Nevertheless, when the respondent Board has chosen to write off all the charges for the similarly placed Societies, it would be appropriate that the petitioners herein also be extended the similar benefit. Quoting the earlier order of this Court dated 10.04.1995 passed in WMP.Nos.12472 and 12473 of 1994 in W.P.Nos.8207 and 8208 of 1994, may not be proper, since it was an interim order for the purpose of granting interim protection alone such an order came to be passed.

3. Since the petitioners have not made a request to the Board to consider their case in the light of the proceedings dated 08.08.2002, it would be appropriate to give an opportunity to make a suitable representation.

4. In the light of the above observations, the petitioners

are granted liberty to make a representation to the second respondent within a period of thirty days from the date of receipt of a copy of this order. On receipt of such representation, the second respondent shall consider the same on its own merits, by considering the observations made in this order and without placing reliance on the impugned order dated 03.08.2006. Such an exercise shall be completed within a period of sixty days therefrom.

5. With the above observation and directions, these Writ Petitions stand disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

pvs

To

- 1.The Secretary,
Energy Department,
Government of Tamil Nadu,
Fort St. George,
Chennai 600 009.
- 2.The Chairman,
Tamil Nadu Electricity Board,
NPKRR Maaligai,
800, Anna Salai,
Chennai 600 002.
- 3.The Superintending Engineer,
Tamil Nadu Electricity Board,
Mettur Electricity Distribution Circle,
Mettur Dam 636 401.

+1cc to Mr.V.Perumal, Advocate, S.R.No.11715
+1cc to the Government Pleader, S.R.No.12901

W.P.No.35301 and 35971 of 2006
and M.P.No.2 of 2006 in W.P.No.35971 of 2006

VSNII(CO)
CS/13/03/2019