

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 28.01.2019

CORAM

THE HONOURABLE Mr.JUSTICE S.M.SUBRAMANIAM

W.P.No.15547 of 2004
and
MP.No.18449 of 2004

M/s. Sterling Lab,
Rep. by its Proprietor,
Jayanthilal Surana,
Plot 57, SIPCOT Industrial Complex,
Hosur, Dharmapuri District. ..Petitioner

vs

- 1.The Tamil Nadu Electricity Board,
Rep. by its Chairman, Annasalai,
Madras.
- 2.The Chief Engineer (Distribution).
Tamil Nadu Electricity Board,
Vellore Region, Gandhi Nagar,
Vellore Town and District.
- 3.The Superintending Engineer,
Dharmapuri Electricity,
Distribution Centre, Dharmapuri-5.
Dharmapuri District. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records on the file of the 2nd respondent in Proc.Lr.99603/5747/CE/D/VLR/Accts/F.HT.D/2004 and dated 21.02.2004 in confirming the proceedings of the 3rd respondent in Proc. Lrr.SED/DEDC/RCS/A3/HT.SC.No.243/M/s sterling lab/03 dated -.04.2003.

For Petitioner :Mr.V.Raghavachari
For Respondents : Mr.M.Varun kumar for R1&R2

O R D E R

The grievances of the writ petitioner is that in respect of the defective meter identified during the year 1999, the notice was issued to the writ petitioner only

during the year 2002. Thus, there was an enormous delay on the part of the respondents in issuing the notice to the writ petitioner and the delay has not been explained by the Tamil Nadu Electricity Board and therefore, the impugned orders are liable to be scrapped.

2. The learned counsel for the writ petitioner states that the order is non-speaking and no reasons are provided. The respondents have not established the fact that they had taken action within the permissible time limit and the delay also has not been explained. Therefore, the writ petitioner is not liable to pay the average consumption charges which was erroneously calculated by the respondent Board.

3. The learned counsel for the writ petitioner urged this Court by stating that the meter was found defective by the Authorities of the Board in respect of the period commencing from 23.08.1999. The said findings are incorrect and therefore, the Authorities are bound to establish that the meter was found defective during the relevant point of time.

4. The learned counsel appearing on behalf of the respondents states that the defective meter was subsequently identified by the Authorities during an inspection. Undoubtedly, there is a delay in identification. However, the same will not preclude the respondent from initiating actions to collect the consumption charges based on the average usage of the previous months. This apart, the Authorities found during the inspection that the meter reading was fluctuating and therefore the writ petitioner is liable to pay the difference amount in respect of the consumption charges.

5. Accordingly, the writ petitioner is liable to be rejected. This Court is of an opinion that crores and crores of users of electricity are there in our State. Electricity being an essential one, large number of consumers are using electricity. The Board being an Authority to regulate the consumption of electricity certainly bound to conduct periodical inspection and identify the theft of energy or defective meter, or other aspects of the matter. There may be some delay in identifying the defective meters or theft of energy or any other offences relating to the usage of electricity.

6. Electricity being an essential one, almost all the citizens are utilizing the power supply from the Tamil Nadu Electricity Board across the State. The mere delay in identifying the defective meter will not confer any right

on the writ petitioner to claim that he is not liable to pay the difference of consumption charges based on the calculation made in respect of the average usage of previous months.

7. The learned counsel for the writ petitioner disputes the very allegations set out in the impugned orders. The learned counsel for the writ petitioner states that the meter was not defective and the meter was in order. When the meter itself was not defective, there is no reason to issue the impugned order. When the writ petitioner himself states that the meter itself was not defective during the relevant point of time, this Court is of an opinion that such a disputed facts can never be adjudicated in a writ jurisdiction under Article 226 of the Constitution of India. When the fact regarding the defective meter itself is disputed by the writ petitioner, this Court is of an opinion that the issues ought to be adjudicated by verifying the original documents and by adducing evidences if required.

8. This Court in the present writ petition cannot conduct such an enquiry so as to find out whether the electric meter commissioned in the premises of the writ petitioner was defective or in order. Such facts ought to be identified only with the help of the experts and verifying the original records and by recording the statements of the persons concerned. Such an exercise is to be done before the Competent Forum.

9. Clause 18 of the Tamil Nadu Electricity Supply Code provides such an adjudication of disputes before the Consumer Grievances Redressal Forum. The forum is constituted more specifically for adjudication of such factual with reference to the original files and by adducing evidences and by providing opportunity to the aggrieved persons concerned.

10. When such a provision is available under the Electricity Supply Code, this Court is of the considered opinion that the writ petitioner has to approach the Consumer Grievances Redressal Forum for the purpose of adjudicating all such disputed facts and circumstances. It is needless to state that the Forum must provide an opportunity to all the persons and verify the original records and thereafter, pass an order on merits and in accordance with law.

11. This being the factum of the case, the writ petitioner is permitted to submit an appeal to the Consumer Grievances Redressal Forum constituted under Clause 18 of

the Tamil Nadu Electricity Supply Code within a period of 4 weeks from the date of receipt of a copy of this order. On receipt of any such appeal from the writ petitioner, the Forum shall adjudicate the matter by affording opportunity to the writ petitioner and to all the parties concern and decide the matter on merits and in accordance with law and pass orders without causing any undue delay as the issues are pending for long years.

12. With these observations, the writ petition stands disposed of. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

Pkn

To

- 1.The Chairman,
Tamil Nadu Electricity Bord,
Annasalai,
Madras.
- 2.The Chief Engineer (Distribution).
Tamil Nadu Electricity Board,
Vellore Region, Gandhi Nagar,
Vellore Town and District.
- 3.The Superintending Engineer,
Dharmapuri Electricity,
Distribution Centre, Dharpmapuri-5.
Dharmapuri District.

+1cc to Mr.M.Varun kumar , Advocate SR.No. 6564
+1cc to Mr. V.Raghavachari, Advocate SR.No. 6417

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A.SK (20/02/2019)

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