



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2019

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.21322 of 2004

and

W.M.P.No.25745 of 2004

T.Kothandapani

...Petitioner

Vs.

1.The Superintending Engineer
Tiruppattur Electricity Division
Tamil Nadu Electricity Board
Tiruppattur, Vellore District

2.The Junior Engineer
Operation and Maintenances
Tamil Nadu Electricity Board
Ambalur, Vellore District.

... Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari, to call for the records on the file of the 1st respondent in proceedings in Ka.No.338/Me Po/ The.me.pa.va./ Ka.Aa/Va/Ka.Me/Aa.Pa/O.1/2004 dated 16.06.2004 and quash the same as illegal, incompetent and unconstitutional.

For Petitioner : Mr.V.Lakhsminarayanan

For Respondents : Mr.M.Varun Kumar

ORDER

The writ petition has been filed by the petitioner under Article 226 of the Constitution of India, to issue a writ of Certiorari, to call for the records on the file of the 1st respondent in proceedings in Ka.No.38/Me Po/ The.me.pa.va. / Ka.Aa/Va/Ka.Me/Aa.Pa/O.1/2004 dated 14.06.2004 and quash the same as illegal, incompetent and unconstitutional.

2.The case of the petitioner is that the petitioner is running a Mini Flour Mill in the name and style of Kamaraj Mini Flour Mill. The said mill is classified as tiny unit by the District Industries Centre and registered with the Director of Industries and commerce, District Industries centre at Vellore on 15.03.1999. A permanent certificate had been issued as "tiny



unit". On the basis of the nature of business the respondents had effected service connection in S.C.343. At that relevant point of time, the business involved by the petitioner is rice polishing, grinding of flour and chillies and the rates collected for Ragi is 50 naya paise and for chillies it is for 60 paise per Kg. Grinding of rice per kg is 0.25 paise. The petitioner has purchased a machine which is worth Rs.7,500/-. While being so, as per the terms and conditions pertaining to tariff III A the charge per unit from 1 to 1500 is Rs.1.30 per unit. Between 1500 it is Rs.2.50 bound 1501 it is 2.40. The petitioner was regular in payment of the consumption charges. When that being so, the 2nd respondent without any intimation issued a notice calling upon the petitioner to pay Rs.11,733/- for the period commencing from 14.02.1997 to March 1999 within 30 days. Aggrieved by the said notice, the petitioner filed a suit in O.S.No.85 of 1999 for declaration, declaring the proceedings of the 2nd respondent is void abinitio and the O.S.No.85 of 1999 was disposed of with an observation that the court has no jurisdiction to entertain the suit. In the meantime, the 2nd respondent had issued another notice demanding charges under tariff III B for the period 3 of 1997 to 11 of 2003 by its notice dated 13.01.2004. As against the said notice, the petitioner preferred an appeal before the 1st respondent. The 1st respondent without conducting any enquiry arrived to a conclusion that the service connection should be classified as tariff III B. Aggrieved by the said order, the present writ petition came to be filed.

3.Mr.V.Lakshminarayanan, the learned counsel appearing for the petitioner would submit that the petitioner Mills is classified as tiny units and are to be classified only under Tariff IIIA and not IIIB. The 1st respondent has no right to collect the consumption charges under Tariff III B as the petitioner's unit is different from the Industries. The District Industries Centre has issued a permanent certificate for consideration of electricity tariff to the Electricity Board. Accordingly, the petitioner has also secured a permanent certificate from the District Industries Centre, issued by the General Manager dated 12.04.2004 for the purpose of securing electricity connection. The 1st respondent without considering the said letter issued by the District Industries Centre, the Original Authority, passed an impugned order, which is unsustainable one.

4.The learned counsel would further submit that this Court while entertaining the writ petition, imposed a condition in W.P.M.P.No.25745 of 2004 to the petitioner to pay 50% of the amount demanded in the notice. The condition imposed by this Court has been complied with by the petitioner. As the petitioner had already paid 50% of the demanded amount, the remaining 50% of amount only has to be paid by the petitioner



for the relevant period. The learned counsel would further submit that it is suffice that this Court remands the matter back to the original authority, i.e. the 2nd respondent herein and thereafter the 2nd respondent may be directed to pass appropriate orders in this regard.

4.The learned standing counsel appearing for the Electricity Board would concede to the limited request made by the petitioner.

5.In view of the limited request made by the learned counsel for the petitioner, this court is inclined to remand the matter back to the 2nd respondent i.e. the original authority. The petitioner is hereby permitted to place the entire records before the 2nd respondent for the ready reference. The 2nd respondent shall pass appropriate orders on merits and in accordance with law.

6.Accordingly, this writ petition stands disposed of and the impugned order in the proceedings in Ka.No.338/Me Po/The.me.pa.va./ Ka.Aa/Va/Ka.Me/Aa.Pa /O.1/2004 dated 16.06.2004 passed by the 1st respondent is hereby set aside. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To.

1.The Superintending Engineer
Tiruppattur Electricity Division
Tamil Nadu Electricity Board
Tiruppattur, Vellore District

2.The Junior Engineer
Operation and Maintenances
Tamil Nadu Electricity Board
Ambalur, Vellore District.

+1cc to Mr.M.Varunkumar, Advocate, S.R.No.51306

W.P.No.21322 of 2004

and

W.M.P.No.25745 of 2004

GP(CO)

RRS(21/08/2019)