

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.25600 of 2004
and
W.P.M.P.No.31111 of 2004

M/s.Manojkumar Spinners Private Limited
Rep. by the Managing Director
Mill at :Subramania Nagar
Thathaiyangarpatti Post
Kararaikurichi (via)
Namakkal 637 014

...Petitioner

Vs.

1.Tamil Nadu Electricity Board
Rep. by its Chairman
800, Anna Salai
Chennai 600 002

2.The Superintending Engineer
TNEB - Mettur Electricity
Distribution Circle
Mettur Dam

3.The Executive Engineer / O & M
Tamil Nadu Electricity Board
Namakkal-1

4.The Asst. Executive Engineer (MRT)
TNEB - Mettur Electricity Distribution Circle
Mettur Dam

... 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 of the second respondent in Lr.No.SEM/A/C's.Br.AOR/HT/A3/PF .107/PR.471/04 dated 5.7.04 and the connected proceedings of the third respondent in Lr.No.EEN/TA/II/F.HT.SC.No.107/PR.No.298/2004 dated 16.08.2004 and quash both as illegal.

For Petitioner : Mr.S.Sivanandam
For Respondents : Mr.S.K.Rameshwar (TNEB)

O R D E R

The petitioner filed this Writ Petition, to issue a writ of Certiorari, to call for the records of the second respondent in Lr.No.SEM/A/C's.Br.AOR/HT/A3/PF .107/PR.471/04 dated 5.7.04 and the connected proceedings of the third respondent in Lr.No.EEN/TA/II/F.HT.SC.No.107/PR.No.298/2004 dated 16.08.2004 and quash both as illegal.

2.The case of the petitioner is that the petitioner is the registered company and a High Tension Electricity consumer within the area of the 2nd respondent with service connection No.107 having permitted demand capacity of 265 KVA. For non payment of consumption charges, his service was disconnected in the year 2000. Thereafter, the petitioner made an application for reconnection in the year 2001. The Electricity Board after collecting the entire charges gave reconnection on 21.07.2001 by fixing a new meter. Thereafter, on 29.06.2002 the Executive Engineer found the meter was not properly working and reported to the Electricity Board. Thereafter, in the year 2004 by way of impugned order, the Superintending Engineer demanded short fall amount for 17077 units towards energy to be included in the current consumption bill for the metering set defective period from 21.07.2001 to 29.06.2002. Aggrieved by the said impugned order, the present writ came to be filed.

3.The learned counsel for the petitioner would submit that as per Section 26(6), if any meter is defective, the original authority after receiving the inspection report shall issue a show cause notice and reasonable opportunity of notice not less than 7 days and then conduct enquiry and pass orders. In the present case, the respondents without conducting any enquiry as contemplated under Section 26(6) of the Act, and based on the Inspection report, passed the present impugned order. The same is contrary under Section 26(6) of the Indian Electricity Act, 1910. The petitioner relied upon the decision of this court wherein the very same issue has been dealt by this Court in 1993 II MLJ 287 in S.A.No.1808 of 1992, The Superintending Engineer, Tamil Nadu Electricity Board, Erode and others vs. Uchappa Gounder, this court clearly held that the procedures not followed as contemplated under Section 26(6) of the Indian Electricity Act, 1910 is vitiated. The relevant portion is extracted hereunder:

"12.Even in the case of the quantification of the amount by the Electrical Inspector in case of

reference to him, he cannot quantify the amount for actual consumption of electrical energy not recorded for a period in excess of six months and even in such a case, an opportunity has to be provided to the consumer before every such a demand is made."

4..Mr.S.K.Rameshwar, the learned counsel appearing for the respondent Board did not dispute the fact submitted by the petitioner.

5.In view of the above decision held by this Court, without expressing any opinion on merits of the case, I am inclined to set aside the impugned order passed on 05.07.2004 by the 2nd respondent. The matter is remanded back to the 2nd respondent for fresh consideration. The 2nd respondent is hereby directed to follow the procedures contemplated under Section 26(6) of the Old Act and Regulation 18 of the Tamilnadu Electricity Supply Board and pass appropriate orders on merits in accordance with law.

6.This writ petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.Tamil Nadu Electricity Board
Rep. by its Chairman
800, Anna Salai
Chennai 600 002

2.The Superintending Engineer
TNEB - Mettur Electricity
Distribution Circle
Mettur Dam

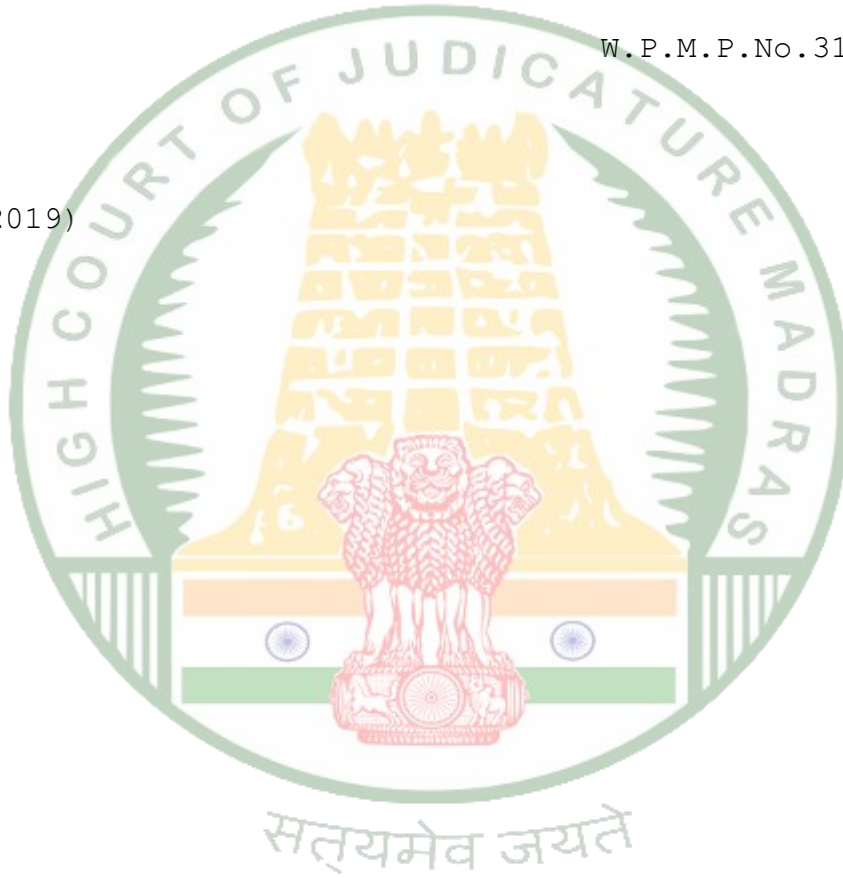
3.The Executive Engineer / O & M
Tamil Nadu Electricity Board
Namakkal-1

4.The Asst. Executive Engineer (MRT)
TNEB – Mettur Electricity Distribution Circle
Mettur Dam

+1 CC to Mr.S.Sivanandam, Advocate sr 52574.
+1 CC to Mr.S.K.Rameshwar, Advocate sr 52787.

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EV(CO)
SP(15/07/2019)



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