



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.30324 of 2004
and
W.M.P.No.36784 of 2004

K.Shanmugam

...Petitioner

Vs.

1.The Tamil Nadu Electricity Board
Rep. by its Assistant Executive Engineer
(Operation and Maintenance)
Erode Electricity Distribution Circle
Perundurai
Erode District

2.The Assistant Engineer
Operation and Maintenance
Erode Electricity Distribution Circle
Tamil Nadu Electricity Board
Sengapalli 638 812
Erode District

... Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari, calling for the records pertaining to the impugned order dated 22.09.2004 made in Letter No.AE/O&M/S.Palli/Dn.S.E.117/V.No.297/2004 and the consequential order dated 05.10.2004 made in Letter No.AE/O&M / S.Palli/Dn.Spl./No.324/2004 issued by the 2nd respondent herein, quash the same.

For Petitioner : Mr.S.J.Mohamed Sathik
for M/s.N.Manokaran

For Respondents : Mr.S.K.Rameshwar for TNEB

O R D E R

The writ petition has been filed by the petitioner under Article 226 of the Constitution of India, to issue a writ of Certiorari, calling for the records pertaining to the impugned order dated 22.09.2004 made in Letter No.AE/O&M/S.Palli/Dn.S.E.117/V.No.297/2004 and the consequential order dated 05.10.2004 made in Letter No.AE/O&M /



S.Palli/Da.Spl./No.324/2004 issued by the 2nd respondent herein, quash the same.

2.The brief facts of the case is that the petitioner is having a share in common well situated in R.S.No.81 of Muthampalayam, Perundurai Taluk in which the petitioner has obtained 7.5 H.P. Electric Service connection in S.C.No.117 from the respondent Board. The petitioner is very regular in payment of current consumption charges to the respondents. On 21.01.2004, the 1st respondent sent a notice to the petitioner stating that on 13.08.2003 at about 5.30 p.m. when the 1st respondent official inspected the service connection and found that the petitioner has unauthorisedly extended the supply of 7.5 H.P. to the Air compressor to lift water for commercial purpose and also no capacitor was fixed in the service connection as per Clause 18.01 of the terms and supply of electricity. Immediately, thereafter the petitioner made a request to the 1st respondent to send all the relevant documents regarding the alleged inspection to enable him to give a suitable reply through his lawyer. Thereafter, the petitioner received a letter dated 24.02.2004 from the 2nd respondent stating that the petitioner has extended the service connection in S.F.No.117 for selling water for commercial purpose and thereby directed the petitioner to pay a sum of Rs.4,000/- in 8 installments.

3.The learned counsel for the petitioner would submit that questioning the order dated 21.01.2004 and the consequential order dated 24.02.2004, the petitioner filed a suit along with other co-sharers in O.S.No.94 of 2004 before the District Munsif Court Perundurai praying for the relief of declaration and consequential permanent injunction. When the suit is pending before the competent court, the respondents herein by an order dated 10.08.2004 has conveniently changed the service connection from Tariff IV to Tariff V, by taking advantage of the fact that there is no interim order in the suit. Hence, prays for allowing this writ petition.

4.Per contra, the learned counsel appearing for the Electricity Board would submit that the notice dated 21.01.2004 was issued to the petitioner, directing him to pay a sum of Rs.4,000/- for misusing the service connection in S.F.No.117 for commercial purpose. The said issue is challenged by the petitioner in O.S.No.94 of 2004 before the District Munsif Court, Perundurai and the same is pending.

5.The learned counsel for Electricity Board would further submit that the present impugned order dated 22.09.2004 is passed on the ground that the petitioner's service connection in S.F.No.117 is changed from Agricultural category to commercial tariff. On 05.10.2004, the 2nd respondent also issued a notice to the petitioner, directing him to pay a sum of Rs.4,448/- towards



compensation for not fixing the capacitor in S.F.No.117. Accordingly, prays for dismissal of the same.

6.In view of the above submissions made by the learned counsel for the Electricity Board and it is also seen from the records that the petitioner had already instituted a suit raising the very same issue before the District Munsif Court, Perundurai. The present impugned order relates to the change of service connection from Tariff IV to Tariff V. However, the fact reveals that the present impugned order dated 05.10.2004 is issued to the petitioner due to loss of consumption charges caused to the Electricity Board for not fixing the capacitor. Hence, this court is not inclined to allow this writ petition.

7.This writ petition stands dismissed accordingly. The petitioner is hereby directed to deposit the demanded amount as per the impugned order issued by the 2nd respondent for consumption charges within a period of two weeks from the date of receipt of a copy of this order. 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 Assistant Executive Engineer, TNEB
(Operation and Maintenance)
Erode Electricity Distribution Circle
Perundurai
Erode District

2.The Assistant Engineer
Operation and Maintenance
Erode Electricity Distribution Circle
Tamil Nadu Electricity Board
Sengapalli 638 812
Erode District

+1cc to Mr.N.Manokaran, Advocate, S.R.No. 51441

W.P.No.30324 of 2004
and
W.M.P.No.36784 of 2004

RSV(CO)
GN(07/08/2019)