

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2019

CORAM

THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

W.P. 20424 of 2010

and

M.P. 1 of 2010

K.M.Ramu

.... Petitioner

Vs

1. The Assistant Executive Engineer,
(Operation and Maintenance),
Chennai Electricity Distribution Circle,
(North), Tamil Nadu Electricity Board,
Sembiam, Chennai-600 011.

2. The Chairman,
Tamil Nadu Electricity Board,
Anna Salai,
Chennai-600 002.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents herein to restore the electricity service connection in respect of the petitioner's premises bearing No.1420/1, Ram Nagar, Vinayagapuram, Kolathur, Chennai-600 099 under service connection No.026::003::596.

For Petitioner : Mr.J.Janarthanan

For Respondents : Mr.P.R.Dhilipkumar
Standing Counsel

ORDER

This Writ Petition has been filed seeking a direction directing the respondents to restore the electricity connection in respect of petitioner's premises bearing No.1420/1, Ram Nagar, Vinayagapuram, Kolathur, Chennai under SC.No.026::003::596.

2. Though the prayer of the Writ Petition seeking to issue a direction directing the respondents to restore the electricity connection, however, the fact remains, in the course of inspection, at the scene of occurrence, it was found that theft of energy was indulged in the electricity service connection provided to the subject property. At that time, on 05.06.2010, the service connection in S.C.No.026:003:596) (now renumbered as 045-008-570) Tariff I-A located at No.1420/1, Ram Nagar, Vinayagapuram, Kolathur, Chennai, which was in the name of the petitioner was inspected by the 1st respondent in the presence of son of the petitioner. After inspection and detection of illegality, the Tamil Nadu Electricity Board has lodged a complaint before the police and the petitioner and his son have approached this Court for anticipatory bail in CrI.O.P.No.12969 of 2010 and obtained anticipatory bail order. Thereafter, the

provisional assessment order was worked out as Rs.36,229/-, which was issued in terms of Form-8 prescribed and annexed to the Tamil Nadu Electricity Supply Code, 2004. As against the said order, the present Writ Petition has been filed.

3. The learned counsel appearing for the petitioner would submit that the matter related to the theft of electricity. During the course of the inspection by the respondent board, they found the petitioner has committed theft of electricity and the provisional assessment was prepared for the said illegality at Rs.36,229/- by the 2nd respondent, which is liable to be paid by the petitioner to the Board as per Section 135 of Indian Electricity Act 2003 and the regulations contained in Tamil Nadu Electricity Supply Code 2004. Subsequently, the Division Bench of this court has passed an order in similar writ petitions to proceed with the civil liability. Hence, the petitioner may be permitted to pay as per the provisional assessment order without any BPSC charges and penalty and requests this Court to grant some reasonable time to deposit the same.

3.The said issue has been squarely covered by the decision of the Division Bench of this Court in batch of cases in W.A.Nos.1808, 1811 of 2009, W.P.Nos.29882 of 2004 and 3013

of 2014 and W.P.No.(MD) Nos.2360 and 2361 Of 2008, and the relevant portion of the order reads as follows:

“38. The yet another contention raised by the Petitioners that there should not be any determination of civil liability either by the Special Court or by the Authorities concerned, in the event of the offence being compounded, has no legs to stand. As long as the Act does not stipulate that when there is a compounding of the offence, the Civil Liability will also come to a standstill, it cannot be said in the air that no proceedings under [Section 126](#) can be initiated nor notice be issued.

39. A bare reading of [Section 154](#) (5) of the Act, 2003 in conjunction with the explanation to the provision goes to show that the said provision enables the Special Court to determine the civil liability in terms of money in case guilt is established, is for theft of energy after full fledged trial. If the accused is acquitted, Civil Court has no jurisdiction to decide/foist civil liability and in that event the Board will have to fall back upon [Section 126](#) of the Act, 2003. For the sake of brevity, [Section 154](#) is extracted hereunder: “[Section 154](#). (Procedure and power of Special <http://www.judis.nic.in> Court):

(5) The Special Court shall determine the civil liability against a consumer or a person in terms of money for theft of energy which shall not be less than an amount equivalent to two times of the tariff rate applicable for a period of twelve months preceding the date of detection of theft of energy or the exact period of theft if determined whichever is less and the amount of

civil liability so determined shall be recovered as if it were a decree of civil court.

Explanation. - For the purposes of this section, "civil liability" means loss or damage incurred by the Board or licensee or the concerned person, as the case may be, due to the commission of an offence referred to in [sections 135](#) to [139](#).

41. This Bench, while dealing with an issue falling under the purview of [Electricity Act](#) in the case of [M/s.Sri Radhakrishna Multiple Industries \(P\) Ltd., Madurai vs. The Tamil Nadu Electricity Regulatory Commission, Chennai \[W.P.No.14924 of 2008\]](#) decided on 26.03.2019, has made a passing remark that the Special Court has the power to prosecute under [Section 135](#) of the Act, 2003 and proceed further with <http://www.judis.nic.in> regard to determination of civil liability, in case it comes to the conclusion that offence is made out by the accused. Further, it went on to add that in the event of acquittal from the criminal case, it will not preclude the Electricity Board from invoking [Section 126](#) of the Act, 2003. "

4. In view of the above decision held by the Division Bench of this Court in batch cases, this Court is inclined to direct the petitioner to pay the provisional assessment worked out at Rs.36,229/- to the respondents without BPSC and penalty within a period of four weeks from the date of receipt of a copy of this order.

5. With the above direction, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

24.07.2019

Index:Yes/No
Internet : Yes/No
Speaking Order/Non Speaking Order
rpp

To

1. The Assistant Executive Engineer,
(Operation and Maintenance),
Chennai Electricity Distribution Circle,
(North), Tamil Nadu Electricity Board,
Sembiam, Chennai-600 011.
2. The Chairman,
Tamil Nadu Electricity Board,
Anna Salai,
Chennai-600 002.

WEB COPY

M.DHANDAPANI,J.

rpp



**W.P. 20424 of 2010
and
M.P. 1 of 2010**

WEB COPY

24.07.2019