

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.22858 and 25782 of 2011
and

M.P.No.1 of 2011 in W.P.No.25782 of 2011

W.P.No.22858 of 2011

S.Chandrasekaran

...Petitioner

Vs.

1.The Assistant Executive Engineer
Race Course, Arts College,
Coimbatore.

2.The Superintending Engineer,
TNEB, Coimbatore.

... Respondents

W.P.No.25782 of 2011

R.Venkatesan

... Petitioner

Vs.

1.The Chairman,
Tamil Nadu Electricity Board,
N.P.K.R.Malligai,
144, Anna Salai,
Chennai 600 002.

2.The Superintending Engineer,
Coimbatore Electricity Distribution (Central)
Coimbatore.

3.The Assistant Executive Engineer,
O & M/CEDC/Metro
Central, Coimbatore. 641 001.

... Respondents

PRAYER in W.P.No.22858 of 2011: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records of the first respondent in Letter No. AEE/ O&M/RC/F.DKT/D121/11 dated

07.05.2011 and quash the same as arbitrary and illegal and consequently direct the first respondent to collect domestic tariff for the premises used by the petitioner as his lawyers chamber.

PRAYER in W.P.No.25782 of 2011: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records of the third respondent relating to his letter Lr.No.AEE/O & M/Central/CBE/CI/F Mass Rapid/D 452/2011 dated 28.10.2011 and quash the same and forbear the respondents from treating the petitioner's premises as a commercial establishment and levying tariff applicable for commercial establishment.

For Petitioner in : Mr.A.Thiyagarajan
W.P.No.22858/2011

For Petitioner in : Mr.M.S.Krishnan, Senior
Counsel for
W.P.No.25782/2011 Sarvabhauman Associates

For Respondents : Mr.J.Ramesh for R1
in both W.Ps. Additional Government Pleader
Mr.S.K.Raameshwar for R2 & R3
Additional Government Pleader

C O M M O N O R D E R

W.P.No.22858 of 2011 has been filed seeking issuance of Writ of Certiorarified Mandamus, to call for the records of the first respondent in Letter No. AEE/ O&M/RC/F.DKT/D121/11 dated 07.05.2011 and quash the same as arbitrary and illegal and consequently direct the first respondent to collect domestic tariff for the premises used by the petitioner as his lawyers chamber.

2. W.P.No.25782 of 2011 has been filed seeking issuance of Writ of Certiorarified Mandamus, to call for the records of the third respondent relating to his letter Lr.No.AEE/O & M/Central/CBE/CI/F Mass Rapid/D 452/2011 dated 28.10.2011 and quash the same and forbear the respondents from treating the petitioner's premises as a commercial establishment and levying tariff applicable for commercial establishment.

3. The petitioners are Advocates. They are having the office attached with the residence and they were granted 200 sq.ft., as per Tamil Nadu Electricity Regulatory Commission in Order No.3 of 2010 dated 31.07.2010. The professionals who are the Advocates, like petitioners and the Doctors have consulting room

attached to the residence of the professionals provided no trading is undertaken or no motive power is used for consulting room and the same was continued in Order No.1 of 2012 dated 30.03.2012, wherein, the consulting room size limited to 200 square feet of professionals attached to the residence of such professionals and it is further extended in T.P.No.1 of 2013 dated 20.06.2013 and extending the benefit to the professionals, they have been enjoying the domestic tariff if the office is an extent of 200 square feet attached with residence.

4. In the present case, the petitioners are Advocates. The Electricity Board on the allegations that they were using more the permissible limit for which, one case they registered a criminal case and force the Advocates to pay the compounding fee and collected compounding fee of Rs.2,000/-. In the another case, they charged onerous at a commercial rate. Challenging the said impugned order, the present Writ Petitions are filed.

5. The learned counsel appearing for the petitioners would submit that the petitioners are the Advocates and the Electricity Board himself is extent benefit in favour of the petitioners and they are entitled to have the office attached with the residence. However, in the present case, the Electricity Board Officials without inspecting the property and without obtaining the third party inspection report unilaterally arrived a conclusion that the petitioners utilising the entire residence as office, for which, they imposed the demand onerous amount as commercial rate as against which, their own standing order, accordingly, they prayed for allowing the Writ Petitions.

6. The learned counsel appearing for the Respondents submitted that though the inadvertence the Electricity Officials registered a criminal case against the petitioner in W.P.No.22858 of 2011 and the criminal case was withdrawn and the compounding fee is adjusted in the future bills. Further, in order to comply the third party inspection, this Court may remand the matter back. सत्यमेव जयते

7. Considered the facts and circumstance of the case. The criminal case registered against the petitioner in W.P.No. 22858 of 2011 was subsequently withdrawn and the compounding fee is adjusted with the future bills. In respect of the petitioner office attached with the residence, whether it is 200 square feet or more than that, the third party inspection is necessary, without conducting third party inspection, unilaterally demanding the amount is unsustainable one.

8. Accordingly, I am inclined to set aside the demand notice issued by the respondent board to the extent as indicated above and remand the matter back to the authority for fresh

consideration and pass appropriate orders within a period of eight weeks from the date of receipt of copy of this order. In the presence of petitioners / Advocates, the inspection has to be conducted. If the inspection reveals that the petitioners are utilising the office place more than 200 square feet, it is open to the respondent Board to collect the amount as commercial tariff. If the petitioners are running the office within 200 square feet, the excess amount collected from the petitioners may be adjusted in the future bills.

9. With the above direction, these writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Chairman,
Tamil Nadu Electricity Board,
144, Anna Salai,
Chennai 600 002.
2. The Assistant Executive Engineer,
Race Course, Arts College,
Coimbatore.
3. The Superintending Engineer,
TNEB, Coimbatore.
4. The Chairman,
Tamil Nadu Electricity Board,
N.P.K.R. Malligai,
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Coimbatore Electricity Distribution(Central)
Coimbatore.

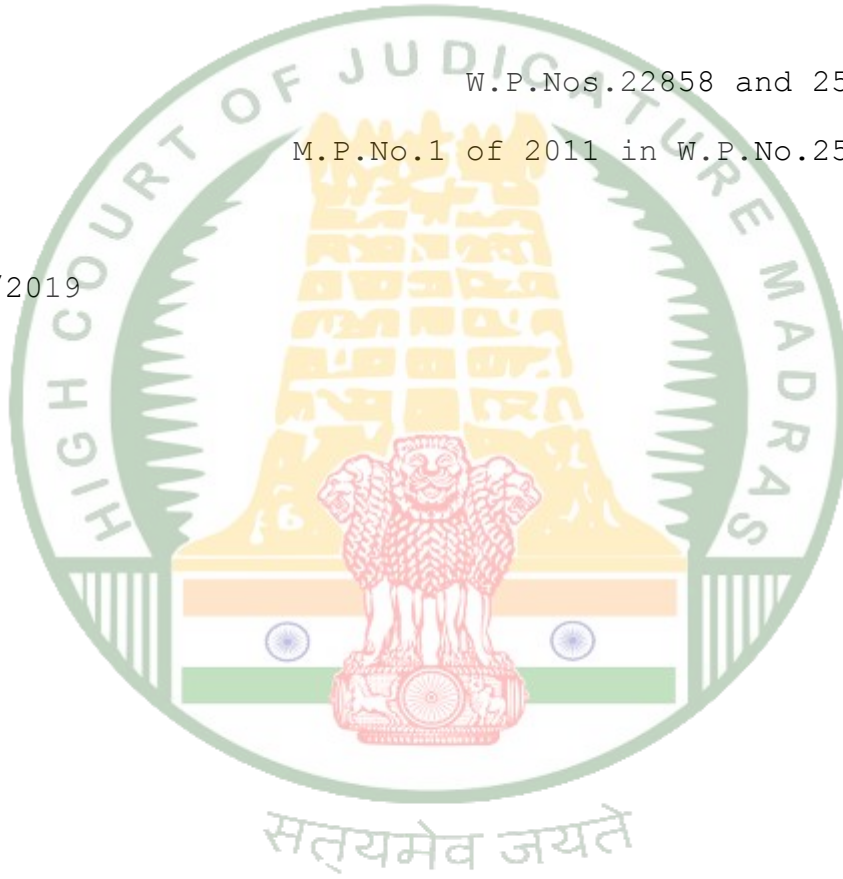
6.The Assistant Executive Engineer,
O & M/CEDC/Metro
Central, Coimbatore. 641 001.

+1cc to Mr.A.Thiyagarajan, Advocate Sr.75194

+2cc to Mr.S.K.Raameshuwar, Advocate Sr.75900 & 75901

W.P.Nos.22858 and 25782 of 2011
and
M.P.No.1 of 2011 in W.P.No.25782 of 2011

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srg 21/10/2019



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