IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. No.23432 of 2013

L.Rajkumar ... Petitioner

Vs

1.The Executive Engineer/O&M,
TANGEDCO,
Tondiarpet/CEDC/North,
Chennai-21.

2.The Assistant Engineer,
TANGEDCO,
33/11 K.V. Sub-station,
Tondiarpet, Chennai-81.

3.The Assistant Audit Officer,
Audit Branch,
TANGEDCO,
Chennai-600 002.

4.The Assistant Accounts Officer,
TANGEDCO,
Tondiarpet/CEDC/North,
Tondiarpet,
Chennai-600 021. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the entire records of the impugned order passed by the first respondent in Lr.No.EE/O&M/AAO/RB/TPT/AS4/F.BOARD/D.No.17/2013 dated 07.01.2013 and quash the same thereby direct the respondents to adjust the amount already paid by the petitioner in pursuance of the impugned order towards the future electricity consumption charges in service connection No.012-001-1292 of the petitioner.

For Petitioner : Mr.V.Jeevagiridharan

For Respondents : Mr.P.R.Dhilip Kumar,
Standing Counsel

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ORDER

The petitioner has come to this Court challenging the impugned order Lr.No.EE/O&M/AAO/RB/TPT/AS4/F.BOARD/D.No.17/2013 dated 07.01.2013 passed by the Executive Engineer/O&M, TANGEDCO, Tondiarpet/CEDC/ North, Chennai-21, the first respondent herein and seeking a direction to the respondents to adjust the amount already paid by him in pursuance of the impugned order towards the future electricity consumption charges in his service connection No.012-001-1292.

2.Learned counsel appearing for the petitioner would submit that the petitioner got a three phase electricity connection to his Industrial Building measuring to an extent of 7,500 sq.ft. at Tondiarpet, Chennai in connection No.012-001-1292 Tariff III B. In the year 2008, the petitioner let the premises for rent to a paper roll cutting unit and the last calculation of electricity consumption charges was made by the respondents on 27.07.2010 with KWHR reading as 7560 and the consumption units as 2355 units and the charges as Rs.10527/-. Since the tenant vacated the premises, the same was lying vacant till January 2011 and thereafter, it was under lock and key and no electricity was consumed. Learned counsel appearing for the petitioner would further submit that the petitioner informed the second respondent that the premises is vacant and the electricity is not being consumed to the sanctioned limit and also requested to levy the minimum charges till the factory starts running again with a new tenant. The second respondent also inspected the premises and ensured that it is vacant, but did not levy the minimum charges. On 27.09.2010, when the department officials came to calculate the electricity consumption charges, they found that the door was locked, hence levied the last consumption charges at Rs.10,527/- to the said period. In the meanwhile, in the year 2011, when one Plastic Paper Plates Manufacturing Unit approached the petitioner seeking to let the premises for rent, the petitioner found that the electricity meter was not properly working.

3.In this regard, the petitioner approached the second respondent and gave him a letter dated 20.01.2011 stating that the premises was continuously closed and requested him to replace it with a new meter. As the new tenant was using more machineries, they consumed more electricity than the previous tenant. Between July 2010 and February 2011 the premises was closed and therefore no electricity was consumed. While so, the petitioner received a communication dated 09.06.2011 from the fourth respondent directing him to pay a sum of Rs.1,50,237/- towards non adoption of average consumption of CC charges as detected by the Audit. As per the audit report, only due to the faulty meter, the consumption charges for the period from

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07/2010 to 01/2011 was very much lower than the present consumption charges. Without knowing the fact that the premises was closed in the said period and there was absolutely no consumption of electricity, the third respondent raised such an audit objection. Due to the same, the fourth respondent mechanically sent a communication directing the petitioner to pay the said amount. In this regard, the petitioner sent a letter to the first respondent explaining the factual position that the premises was closed for the period from July 2010 to January 2011.

4.While so, after two long years, the officials from the respondent Corporation came to the premises of the petitioner on 29.06.2013 and informed that they are going to disconnect the service connection since the petitioner failed to pay the amount of Rs.1,50,237/-. When the first respondent, has only after two years, mechanically rejected the request of the petitioner to drop the audit proposals, without application of mind that in the disputed period the premises was locked and the electricity was not consumed at all and when the petitioner was not even put on notice and no explanation was called for from him, the said impugned order passed by the first respondent is liable to be set aside, it is pleaded.

5.Learned Standing Counsel appearing for the respondents fairly submitted that the petitioner was not afforded with any opportunity to explain his case and therefore, the matter may be remanded back to the second respondent for fresh consideration on merits.

6.This Court, agreeing with the request made by the learned Standing Counsel appearing for the respondents, is inclined to set aside the impugned order on the ground that no notice or no opportunity was given to the petitioner. Accordingly, the impugned order is set aside and the writ petition stands allowed. The matter is remanded back to the second respondent for fresh consideration and after issuing notice to the petitioner, the second respondent shall pass necessary orders on merits within a period of three months from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(CS-VIII)

// True Copy//

Sub Assistant Registrar

vga

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To

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TANGEDCO,
Tondiarpet/CEDC/North,
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Tondiarpet/CEDC/North,
Tondiarpet,
Chennai-600 021.

+1cc to Mr.V.Jeevagiridharan, Advocate, SR.No.
+1cc to Mr.P.R.Dhilip Kumar, Advocate, SR.No.96279.

W.P. No.23432 of 2013

AK(CO)
CSR: 04/02/2020

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