

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.6180 of 2011 and
M.P.Nos.1 and 2 of 2011

V.Prabu Doss

... Petitioner

Vs.

1. The Union Territory of Puducherry
rep. by its Chief Secretary to Government,
Pondicherry.
2. The Secretary to Government (Electricity),
Government of Union Territory of Pondicherry,
Pondicherry.
3. The Superintending Engineer-I,
Department of Electricity,
Pondicherry.
4. The Executive Engineer-I,
Department of Electricity,
Pondicherry.
5. The Assistant Engineer,
Department of Electricity,
Pondicherry.
6. The Junior Engineer,
Department of Electricity,
Pondicherry.
7. Junior Accounts Officer (Revenue I),
Electricity Department,
Pondicherry.

...Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned bills passed by the 7th respondent herein for the electric connection in 08-45-03-0280 & 08-45-03-0280A both dated 07.02.2011 and quash the same and consequently, direct the respondents herein to revise

the impugned bills and present the proper bills based on the current consumption charges after restoring the electricity connection provided in the premises at No.160, Maraimalai Adigal Salai, Puducherry.

For Petitioner : Mr.R.Karthikeyan

For Respondents: Mr.A.V.Ramalingam,
A.G.P. (Puducherry)

O R D E R

Challenging the impugned bills claimed by the 7th respondent herein in respect of the petitioner's Electricity Service Connection Nos. in 08-45-03-0280 & 08-45-03-0280A both dated 07.02.2011 and quash the same and for consequential direction, directing the respondents herein to revise the impugned bills and present the proper bills based on the current consumption charges after restoring the electricity connection provided in the premises at No.160, Maraimalai Adigal Salai, Puducherry.

2. Learned Counsel appearing for the petitioner would submit that the petitioner is carrying on business in the name and style of M/s.Dhandapani Wines in the premises bearing Door No.160, Maraimalai Adigal Salai, Pondicherry in Indian Made Foreign Liqueur in accordance with the FL-2 Licence granted by the Department of Excise, Government of Union Territory of Pondicherry. At the time of purchase of the said property in the year 2000, it consisted of two parts, one in front facing Maraimalai Adigal Salai and the other facing adjoining Subbiah Nagar on the North of this premises. In the first part facing Maraimalai Adigal Salai, there was a three phase electricity service connection and in the rear part, a domestic single phase service connection. When the petitioner started his business in the year 2003, he applied for conversion of the domestic service in the rear part into commercial one as providing three phase service connection. Accordingly, the respondent Department provided three phase service connection. Consequently, the petitioner is having two three phase service connection in the said premises under Service Connection Nos. 08-45-03-0280 & 08-45-03-0280A.

3. The learned Counsel for the petitioner would further submit that when the petitioner has been paying the current consumption charges regularly from the time of purchase and installation of the 2nd three phase service connection, during the year 2006, the 7th respondent herein served bills for both service connections claiming that the meters in both the service

connections were found struck and not working. Accordingly, they charged average amount. The petitioner raised objections to the respondents 3 to 7 and requested the 7th respondent to give proper bill based upon the current consumption charges. But the respondents 3 to 7 ignoring the said objection, continued to make the same kind of demand bills claiming meter struck. After some time, the respondents herein suddenly stopped even serving such bills during the period February, 2009 to May, 2010. While so, in the month of January, 2011, the petitioner was served with two bills each claiming a sum of Rs.9,45,893/- and Rs.9,66,724/- totalling about Rs.19,12,617/- alleging that those amount remained due and unpaid towards the current consumption charges. The petitioner was shocked and gave written objections stating that such bills were totally not acceptable as they were not based upon any current consumption. In the meanwhile, the 3rd respondent disconnected the electricity supply on 28.02.2011 in the petitioner's premises. Immediately, the petitioner rushed to the respondents to know the reason for the disconnection and also to restore the service connection. Finding no response, the petitioner has come to this Court challenging the impugned bill.

4. Assailing the impugned order, the learned Counsel for the petitioner would also submit that the disconnection of electric service of the petitioner's premises without issuance of prior notice for 15 clear days is in clear violation of law. It is also submitted that the act of the respondents in disconnecting the electric connection to the petitioner's premises is in clear violation of the petitioner's right guaranteed under Article 14, 19(1)(g) and Article 21 of the Constitution of India. Therefore, according to the learned Counsel for the petitioner, the impugned order is liable to be set aside.

5. A detailed counter affidavit has been filed by the 4th respondent.

6. Learned Additional Government Pleader (Pondicherry) appearing for the respondents would submit that the petitioner has been utilizing two numbers of three phase commercial service connection to his premises at M/s.Dhandapani Wines at No.160, Maraimalai Adigal Salai, Orleanpet, Pudcherry vide Policy Nos. 08-45-03-0280 & 08-45-03-0280A. The sanctioned load for the aforesaid two policies are 1800 Watts and 6575 Watts respectively whereas the petitioner on his own increased the connected load to 18400 and 10830 Watts without even obtaining necessary sanction from the respondent Department. Therefore, due to the unauthorized increase of load in the aforesaid

policies, the electric meters fixed in the aforesaid premises were often burnt out. Subsequently, on inspection by the Junior Engineer of the Department on 19.4.2010, the load that was used by the petitioner was found to be 18400 Watts and 10830 Watts respectively. Hence, a Notice dated 28.5.2010 was sent by the Assistant Engineer, Marapalam, the 5th respondent herein to the petitioner requesting him to stop the violation of excess load and also to remove the equipments within 7 days. The said notice was acknowledged by the petitioner and thereafter, he has sent a letter dated 15.06.2010 stating that he has removed the excess load and has been using the electricity power consumption within the sanctioned load.

7. The learned Additional Government Pleader (Pondicherry) would further submit that later on, when the officials of the Electricity Department went to inspect the premises for verification, it was noticed that the consumer has not removed the excess load equipments in his premises. Subsequently, when the officials were attempted to go inside the petitioner's premises, they were all stopped by the petitioner and his employees from entering into the premises. Therefore, a Police Complaint dated 20.04.2011 was lodged by the Assistant Engineer, the 5th respondent herein, to give necessary police protection for installing new meters to replace the burnt out meters and struck up meters. Suppressing the above facts, the petitioner has filed this Writ Petition without seeking proper recourse for obtaining permission from the department for the increase of sanctioned load and for fixing up the new meters. Therefore, the petitioner is not entitled for any equitable relief before this Court.

8. The learned Additional Government Pleader (Pondicherry) would also submit that the Bills claimed by the Electricity Department are quite in order and for the reasons best known to the petitioner, he cannot deny to pay the same. Therefore, the Respondent Department has no other option than to disconnect the electricity supply of the three phase 2 service connections of the petitioner on 28.02.2011. Even till date, since the petitioner has not co-operated with the Electricity Department, the demand could be raised only based on average consumption pattern. Even as per the records, the petitioner has cleared the Consumption Charges only up to January, 2007 and the arrear claim in respect of Policy Code 08-45-03-0280/A1 to an amount of Rs.9,55,136/- and in respect of Policy Code 08-45-03-280A/A1 up to 11/2010 spot bill claim to an amount of Rs.9,33,486/- were served on 06.01.2012. Due to the non-payment of the said amount, service connections were disconnected as per Clause 9 of Supply Code of Joint Electricity

Regulatory Commission (JERC) 2010. In the meanwhile, the petitioner has approached this Court and obtained an interim order of stay dated 10.03.2011 in M.P.Nos.1 and 2 of 2011 in W.P.No.6180/2011 that the two policies of 3 phase service connections of the petitioner viz. No.08-45-03-0280 and 08-45-03-0280A should be restored on condition that the petitioner deposits a sum of Rs.10,00,000/- and on receipt of the said amount, the service connections of the petitioner's premises were restored on 11.3.2011. Even after the restoration of the Electricity Service Connections, the petitioner has not permitted to install the new meters. Therefore, the respondent department is helpless only in view of non-co-operation of the petitioner.

9. This Court finds some force on the submission made by the learned Additional Government Pleader (Pondicherry) appearing for the respondents. The reason being that when the respondent department undertook an inspection of the petitioner's premises, they were stopped by the petitioner and his employees by entering into the premises. In this regard, it appears that a Police Complaint dated 20.04.2011 was lodged by the Assistant Engineer, the 5th respondent herein, to give necessary police protection for installing new meters to replace the burnt out meters and struck up meters. Subsequently, when this Court passed an interim order of stay dated 10.03.2011 in M.P.Nos.1 and 2 of 2011 in the present Writ Petition directing the petitioner to deposit a sum of Rs.10,00,000/- as a precondition to restore the service connections of the petitioner viz. No.08-45-03-0280 and 08-45-03-0280A, the petitioner has also complied with the same by paying the sum of Rs.10,00,000/- and only thereafter, the petitioner's connections were restored. Even thereafter, when the officials of the respondent department made an attempt for replacing the old meter, it is not known why the petitioner has not come forward to accept the respondent's gesture in replacing the old meters. Secondly, when the respondent Department on inspection found that the petitioner, on his own increased their load to 18400 Watts and 10830 Watts without obtaining necessary sanction from the respondent department and till date, the petitioner has not filed any rejoinder denying the said statement. It is also pertinent to mention that in paragraph 4 of the counter affidavit filed by the 4th respondent, it has been stated that as many as 7 times, the meters of the petitioner has been changed by the Department due to burn out on account of excessive load that shows that the petitioner has been rightly issued with the bills which do not call for any interference at the hands of this Court.

10. In view of all the above, the Writ Petition fails and the same is accordingly dismissed. However, it is needless to mention that since the petitioner has deposited only a sum of Rs.10,00,000/- after adjusting the said amount in respect of the disputed period claim, the balance shall be paid by the petitioner within a period of two weeks from the date of receipt of a copy of this Order, failing which, it is open to the respondent Department to disconnect the petitioner's Service Connections. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Chief Secretary to Government,
Union Territory of Puducherry,
Pondicherry.
2. The Secretary to Government (Electricity),
Government of Union Territory of Pondicherry,
Pondicherry.
3. The Superintending Engineer-I,
Department of Electricity,
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Department of Electricity,
Pondicherry.

7. Junior Accounts Officer (Revenue I),
Electricity Department,
Pondicherry.

+lcc to the Government Pleader(Puducherry), SR.82451

W.P.No.6180 of 2011

BR(CO)
CB(22/11/2019)



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