

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.25988 of 2013

V.Sundaram

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Petitioner

-vs-

1. Tamil Nadu Generation Distribution Corporation (TANGEDCO)
rep.by its Chairman
No.802, Anna Salai
Chennai 600 002

2. The Superintending Engineer
CEDC/West, Anna Nagar
TANGEDCO
Chennai

3. The Assistant Executive Engineer
(Operation & Maintenance)
Puzhal, CEDC/West
TANGEDCO
Chennai 600 066

4. The Assistant Engineer
(Operation & Maintenance)
Redhills-2, CEDC/West
TANGEDCO
Chennai 600 052

सत्यमेव जयते...

Respondents

Petition under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records from the fourth respondent and quash the demand letter in L.No.A.E/O & M/Redhills II/Ko/No.208/13-14 dated 08.08.2013 making alleged claim as against the petitioner's electric service connections in the petitioner's property at No.1, Nehru Street, Kamarajar Nagar, Redhills, Chennai 600 052 as the said letter is arbitrary, unconstitutional and ultra vires and further direct the respondents 3 & 4 to immediately restore service connection to petitioner's electric service

connection No.053-004-314 in the aforesaid property since the disconnection of the said service connection was against principles of law and natural justice.

For Petitioner :: Mr.N.R.Anantha Ramakrishnan

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

ORDER

This writ petition has been filed challenging the correctness of the impugned order calling upon the petitioner to pay a sum of Rs.71,990/- and Rs.25,714/- in respect of the Service Connection No.053-004-314 and Rs.52,630/- in respect of the Service Connection No.053-004-301, however, in respect of the Service Connection No.053-004-340, no amount has been demanded from the petitioner.

2. Learned counsel for the petitioner stated that when the petitioner has been enjoying the aforementioned three domestic service connections, the fourth respondent has alleged that the meters were not functioning properly and finally, he claimed that 4652 units were not registered in respect of Service Connection No.053-004-314, ignoring the fact that the same stood disconnected on 22.6.2013 without a proper notice or intimation to the petitioner. When there is no assessment order passed by the fourth respondent prior to the disconnection and no subordinates of the fourth respondent had visited the petitioner's property and noted the meter reading in the white card and when there was no demand to settle the charges issued by the fourth respondent with regard to any of these three service connections, the sudden and abrupt disconnection of the Service Connection No.53-004-314 on 22.6.2013 carried out by the respondents is per se illegal, arbitrary and is in clear violation of Section 56 of the Electricity Act, 2003. When the law demands that the respondents are expected to raise provisional assessment and in default of payment by the consumer, to issue notice under Section 56 granting 15 days time and only in the event of non-compliance, the disconnection can be effected. However, the petitioner immediately rushed to the office of the fourth respondent and brought to their notice the flagrant violation of the principles of natural justice in effecting disconnection of the Service Connection No.53-004-314. After realising the mistake, the fourth respondent hurriedly made the entries dated 20.4.2013 and 20.6.2013 in the petitioner's white card pertaining to the said service connection and these entries were admittedly made only on 26.6.2013 by the fourth respondent. When the due date for payment was also on 9.7.2013, the disconnection has been made

even prior to the said date. Therefore, the impugned order is liable to be set aside for violation of the principles of natural justice.

3. A detailed counter affidavit has been filed by the respondents. The learned standing counsel for the respondents, meeting the above contentions, has stated that the Service Connection No.053-004-314 was assessed by one Mr.Sudhakar, Assessor, who did not duly follow the electricity rules and wrongly assessed less units than the actual consumption, as a result, he has brought heavy loss to the Board and the said assessor also has marked 1000 units, 7000 units and 5880 units for the months 2/13, 4/13 and 6/13. Therefore, the respondents also initiated departmental proceedings against the said assessor and an explanation has been called for from him. It was found subsequently that the meter was not defective and the consumer is liable to pay the loss accrued to the Board.

4. I also find some merit on the submissions made by both the parties. When paragraph-4 of the counter affidavit also admits that there is no mistake on the part of the petitioner and that the mistake was only on the part of Mr.Sudhakar, Assessor who did not follow the electricity rules and wrongly assessed less units than the actual consumption, in any event, the respondents ought to have followed the principles of natural justice by issuing proper notice to the petitioner for payment of the necessary charges. That has not been done. On the other hand, the fourth respondent, even without holding enquiry and without giving any opportunity whatsoever to the petitioner, wrongly disconnected the electricity service connection. This Court, by order dated 18.9.2013, while granting stay, directed the petitioner to deposit 50% of Rs.25,714/- insofar as Service Connection No.53-004-314 and on such deposit, the Assistant Engineer (Operation & Maintenance), Redhills-2, CEDC/West, TANGEDCO was directed to restore the power supply.

5. In view of the above, the impugned order is set aside and the respondents are directed to issue fresh notice of demand and after giving an opportunity of personal hearing to the petitioner, the respondents shall pass appropriate orders in the matter. With this direction, the writ petition stands allowed. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Chairman
Tamil Nadu Generation Distribution
Corporation (TANGEDCO)
No.802, Anna Salai
Chennai 600 002.
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Redhills-2, CEDC/West
TANGEDCO
Chennai 600 052.

+1cc to Mr.H.R.Anantha Ramakrishnan, Advocate Sr.92728
+1cc to Mr.P.R.Dhilipkumar, Advocate Sr.92691

W.P.No.25988 of 2013

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