

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 22.07.2019

Coram::

The Honourable Dr.Justice G.Jayachandran

W.P.No.7618 of 2019
& W.M.P.Nos.8258, 8261, 8262 of 2019

M/s.G.K.Veg.Restaurant,
Rep by its Partner,
V.Karunakaran,
No.100, Thiruneermalai Road,
Nagalkeni, Chromepet,
Chennai - 600 044.

... Petitioner

/verus/

1. The Assistant Engineer,
TANGEDCO,
Chromepet Section, Thiruneermalai Road,
Chennai - 44.
2. The Assistant Audit Officer,
TANGEDCO/AUDIT Branch,
Chennai Region South,
Chennai - 2.
3. R.Gomathi,
No.1, Ambedkar Street,
Dharga Road, Malangandapuram,
Zamin Pallavaram,
Chennai - 600 043.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Certiorari, to call for the entire records relating to impugned order of the 2nd respondent, dated 30.10.2017 in Audit Slip No.39 and quash the same.

For Petitioner : No appearance

For R1 & R2 : Mr.S.K.Rameshwar, Standing Counsel

O R D E R

Heard the Learned Counsel for the respondent and there was no representation for the petitioner.

2. The petitioner herein is a Consumer under the respondents. The Audit branch of the respondents has sent a report regarding shortfall of consumer charge collected in respect of the petitioner herein, between the month of August 2012 to April 2013. Based on the Audit Slip No.39, dated 30.10.2017, impugned notice has been issued to the petitioner herein along with the calculation memo, to pay a sum of Rs.1,36,953/-, against which the present Writ Petition is filed.

3. In the Counter, it is stated that as per Clause 11 (7) of the Tamil Nadu Electricity Supply Code, 2004:-

"If the consumer does not agree with the assessment made by the Engineer or the higher-level Officer as the case may be, the matter may be referred to the next higher-level officer of the Licensee. In case the consumer is still not satisfied, the consumer is at liberty to approach the respective Consumer Grievance Redressal Forum of the Licensee."

4. In this case, the petitioner herein has directly approached this Court by way of Writ Petition, challenging the assessment made by the 1st respondent/the Assistant Engineer, TANGEDCO, Chennai. In the affidavit of the petitioner herein, it indicates that the payment of consumption charge was made by him through On-line and he was regularly paying the consumption charge without any default, as per the meter reading. Whereas, in the counter, it is stated that there was defect in the meter and therefore, the bill raised was erroneous, which was found later during the Audit report.

5. In the said circumstances, the disputed fact has to be decided as per the Distribution Code and the petitioner ought to have approached the Higher Level Officer and if not satisfied, should have knock the doors of Consumer Grievance Redressal Forum of the concerned Department. Therefore, this Court is of the opinion that the Writ Petition is not maintainable. However, at the time of admission, interim order of stay is granted by this Court. Hence, the petitioner hereby directed to approach the Higher Official and challenge the assessment order. Till disposal of the appeal to the Higher Official, no coercive action shall be taken, provided the

petitioner herein pays 50% of the demand made under the impugned notice.

4. Accordingly, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To,

1. The Assistant Executive Engineer/O&M,
Sholinganallur,
CEDC/South II,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Chennai.
2. The Assistant Engineer/O&M,
Perungudi/South,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Chennai.

+1cc to Mr.S.K.Rameshwar, Advocate sr.62637

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ssd(co)
nr 17/09/2019