In the High Court of Judicature at Madras

Dated : 12.12.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.14310 of 2017 & WMP.Nos.15509 & 15510 of 2017

C.Sriram ...Petitioner

Vs

1.The Superintending Engineer (O&M),
TANGEDCO, Chennai Electricity
Distribution Circle, Chennai.

2.The Executive Engineer (O&M),
TANGEDCO, Chennai Electricity
Distribution Circle/South II,
Adyar, Chennai-20.

3.The Assistant Executive Engineer
(O&M), TANGEDCO, Chennai
Electricity Distribution Circle/
South II, Adyar, Chennai-20.

4.The Assistant Engineer (O&M),
TANGEDCO, Chennai Electricity
Distribution Circle, Chennai-20.

5.The Assistant Engineer (Technical
Division), TANGEDCO, Chennai
Electricity Distribution Circle,
Chennai-20.

6.The Assistant Executive Engineer
(O&M), TANGEDCO, Chennai
Electricity Distribution Circle/
South II, Besant Nagar, Chennai-90. ...Respondents

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PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records relating to the assessment order dated 31.5.2017 passed by the fourth respondent and quash the same.

For Petitioner : Mr.M.Ganeshan
For Respondents : Mr.P.Gunaraj

ORDER

I have heard Mr.M.Ganeshan, learned counsel for the petitioner and Mr.P.Gunaraj, learned Standing Counsel appearing for the respondents.

2. This writ petition has been filed challenging the assessment report issued by the third respondent dated 31.5.2017, by which, an amount of Rs.4,79,939/- has been demanded from the petitioner for alleged theft of energy.

3. In order to avoid prosecution, the petitioner remitted a sum of Rs.38,000/- as compounding fee.

4. The case of the petitioner is that there is a defect in the meter, that during the last week of May 2017, a staff attached to the office of the fourth respondent attended to the complaint of the petitioner and informed that the defect has been rectified by making certain alterations in the meter, that at that point of time, the wife of the petitioner alone was available and that she was not aware as to what was the rectification done. The petitioner earnestly believed that the defect has been rectified. However, on 31.5.2017 at about 2 PM, an inspection was conducted and it is alleged that the petitioner committed theft of energy.

5. The learned Standing Counsel appearing for the respondents submits that after the provisional assessment report, final assessment was also made and communicated to the petitioner.

6. It is seen that when the writ petition was entertained, by an interim order dated 08.6.2017, the petitioner was directed to deposit 25% of the amount demanded and if the same is complied with, respondents 3 and 4 were directed to restore the electricity service connection. The petitioner has complied with the same and the electricity connection has been restored. This fact has been admitted by the third respondent in the counter affidavit dated 13.10.2017.

7. The question raised before this Court is as to whether there is theft of energy committed by the petitioner or not, which involves adjudication into the disputed questions of fact and it needs to be agitated before the concerned Appellate Authority. Therefore, this Court is inclined to issue appropriate directions so as to enable the petitioner to file an appeal before the Appellant Authority, as the Appellate Authority will be in a position to adjudicate the matter and examine as to the correctness of the allegations made against

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the petitioner. Since the electricity supply has already been restored upon the petitioner paying 25% of the amount demanded, the same should not be disconnected till the disposal of the appeal by the Appellate Authority.

8. Accordingly, the above writ petition is disposed of by giving liberty to the petitioner to file an appeal before the appropriate Appellate Authority within a period of four weeks from the date of receipt of a copy of this order. If the appeal is filed within the time stipulated, the Appellate Authority shall entertain the appeal without rejecting the same on the ground of limitation, examine the correctness of the stand taken by the petitioner and pass orders on merits and in accordance with law. Till orders are passed in the appeal petition, the electricity connection shall not be disconnected. However, during this period, the current consumption charges shall be paid without default and the ultimate amount to be paid shall abide by the orders to be passed by the Appellate Authority. No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

To

1.The Superintending Engineer (O&M), TANGEDCO, Chennai Electricity Distribution Circle, Chennai.

2.The Executive Engineer (O&M), TANGEDCO, Chennai Electricity Distribution Circle/South II, Adyar, Chennai-20.

3.The Assistant Executive Engineer (O&M), TANGEDCO, Chennai Electricity Distribution Circle/South II, Adyar, Chennai-20.

4.The AE (O&M), TANGEDCO, Chennai Electricity Distribution Circle, Ch-20.

5.The Assistant Engineer (Technical Division), TANGEDCO, Chennai Electricity Distribution Circle, Chennai-20.

6.The Assistant Executive Engineer (O&M), TANGEDCO, Chennai Electricity Distribution Circle/South II, Besant Nagar, Chennai-90.

+1cc to Mr.P.Gunaraj , Advocate SR.No. 103454

WP.No.14310 of 2017 & WMP. Nos.15509 & 15510 of 2017

A.SK(28/01/2020)
A.SK(10/02/2020)

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