



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.11.2019

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

Writ Petition No.32538 of 2019

and W.M.P.Nos.32897 & 32900 of 2019

N.Sampath Raj

.. Petitioner

/versus/

1.The Assistant Executive Engineer/Town TNEB
Tamil Nadu Electricity Board,
Tiruvannamalai-606 601.

2.The Assistant Executive Engineer,
Tamil Nadu Electricity Board,
Operations & Maintenance,
Tiruvannamalai.

3.The Assistant Executive Engineer,
Enforcement & Emergency Squad,
Tamil Nadu Electricity Board,
Villupuram.

4.The Assistant Executive Engineer,
Operations & Maintenance/TANGEDCO/TEDC/Town,
Tiruvannamalai.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the 4th respondent's letter No.AEE/O & M/T/TL/F-Theft of Energy Court Case/D.No.260/2019 dated 22.10.2019 demanding a sum of Rs.34,94,969/- from the petitioner with reference to the service connection of the petitioner in S.C.No.201-011-146 provided at Door No.21, Anna Salai, Thiruvannamalai and to quash the same.

For petitioner : Mr.S.Govindraman

For Respondents : Mr.M.Varun Kumar, St.c

O R D E R

The petitioner herein is running a hotel at No.21, Anna Salai, Thiruvannamalai District. On 17.11.2008, the Assistant Executive Engineer, Enforcement & Squad of Tamilnadu Electricity Board, has inspected the petitioner building and found theft of



electricity by tampering certain connections and bypassing the meter box. Therefore, the case for electricity theft was registered and the petitioner has paid the compounding fee of Rs.2,24,000/-. Final assessment order of consumption along with penalty was issued to him demanding Rs.15,70,586/-. Aggrieved by the said order, the petitioner herein has earlier filed W.P.No.27876 of 2008. This Court after hearing the parties, on 19.06.2019 disposed the said writ petition recording the admission of the respondent that the assessment order was inadvertently issued on 17.11.2008 without giving opportunity to the petitioner. Therefore, the final assessment order dated 17.11.2008 was set aside and the matter was remanded back to the 3rd respondent to pass appropriate orders within a period of six weeks.

2. Then again the Assistant Executive Engineer, TANGEDCO, Thiruvannamalai has passed final assessment order under Section 135 of Electricity Act, 2003 vide letter dated 22.10.2019 demanding a sum of Rs.34,94,969/- within 15 working days.

3. The said final assessment order passed by the Assistant Executive Engineer on 22.10.2019 is presently challenged by the petitioner on the ground that though the supply Code mandates personal hearings before passing final assessment order, the 4th respondent has passed the impugned order without offering personal hearing and the explanation given by the petitioner on 05.09.2019 not at all considered by the respondent while passing the impugned order.

4. The order of the Assistant Executive Engineer dated 22.10.2019 reads as below:-

"After careful consideration and detailed examination of the above and also your explanation offered, facts said in your letter dated 05.09.2019 vide reference (v) it is found that the theft of electricity has already been committed by you as described below, The loss caused by you due to dishonest abstraction/illegal restoration of Supply was assessed and total Due pending is Rs.3494969/- (Thirty Four Lakhs Ninety Four Thousands Nine Hundred Sixty Nine only) in accordance with the regulation of the Tamil Nadu Electricity Supply Code, and a working sheet is enclosed herewith."



5. This order does not reflect any application of mind on the part of the Assistant Executive Engineer regarding the explanation given by the petitioner nor opportunity of personal hearing is affording to the petitioner. Hence for violation of clause 23(aa)(12) of the Tamil Nadu Electricity Supply Code, 2004. So, the order impugned in this writ petition is set aside.

6. The 1st respondent is directed to cause fresh notice to the petitioner to appear in person to show cause why the consumption charge and penalty for theft of energy as mentioned in the working sheet shall not be levied upon him. The petitioner shall appear before the 1st respondent within 15 days from the date of notice and offer his explanation. After hearing the petitioner, the 1st respondent shall pass appropriate orders in accordance with law.

7. With the above observation, this Writ Petition stands disposed of. Consequently, the connected miscellaneous petitions are closed. No costs.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

rpl

To

- 1.The Assistant Executive Engineer/Town TNEB
Tamil Nadu Electricity Board,
Tiruvannamalai-606 601.
- 2.The Assistant Executive Engineer,
Tamil Nadu Electricity Board,
Operations & Maintenance,
Tiruvannamalai.
- 3.The Assistant Executive Engineer,
Enforcement & Emergency Squad,
Tamil Nadu Electricity Board,
Villupuram.



4.The Assistant Executive Engineer,
Operations & Maintenance/TANGEDCO/TEDC/Town,
Tiruvannamalai.

+1 cc to Mr.S.Govindaraman Advocate sr98146

+1 cc to Mr.M.Varunkumar Advocate sr98249

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aa07/01/2020