



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

W.P.(MD)No.6335 of 2019 and

WMP(MD).Nos.5057 and 5058 of 2019

N. Chidambaranathan

... Petitioner

Vs..

The Assistant Executive Engineer,
Tamil Nadu Generation and Power Distribution Corporation,
Kadayanallur,
Thirunelveli District.

... Respondent

Prayer in WP(MD). 6335 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order issued by the respondent in his letter No. AEE / D/KDNR/ CA/ F.THEFT D.No.023/ 2019 dated 2.2.2019 and quash the same and consequently directing the respondent to restore the Electricity Service Connection in S.C.No.084-012-1072 situated at Door No.2/3.79 South Street, Sivaramanpatti, Tirunelveli Dist.

For Petitioner : Mr.P. Mahendran

For respondent : Mr. G. Kasinathadurai
Standing counsel for TNEB

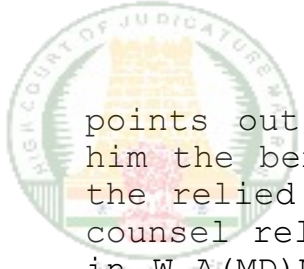
ORDER

Heard the learned counsel on either side.

2. The petitioner is running a Small Industrial Unit. He was granted commercial Electricity connection under low tension category. It appears that some irregularities were noticed by the respondent. The respondent also advised the petitioner to convert his LT connection to LTCT connection. In the meanwhile, the petitioner was levied with compounding charges which was duly paid. He was issued with provisional assessment order, dated 31.12.2018. The petitioner gave his explanation on 01.02.2019. The impugned order, dated 02.02.2019 came to be passed directing the petitioner to pay a sum of Rs.11,84,736/-.

<https://hcservices.ecourts.gov.in/hcservices/>

3. The learned counsel appearing for the writ petitioner



points out that the impugned order has been passed without giving him the benefit of personal hearing. He would also point out that the relied upon documents were not supplied to him. The petitioner counsel reliance on the order of this Court, dated 19.12.2016 passed in W.A(MD)No.1523 of 2010, wherein the Hon'ble Division Bench held as follows:

"8. Clause 23-AA of the Tamil Nadu Electricity Supply Code, 2004, provides for the procedure for assessment of the electricity charges, disconnection of supply of electricity and removing the meter electric line, electric plant and other apparatus, in case of theft of electricity, as detailed in Section 135 of the Act.

9.As per paragraph No.12 of Clause 23-AA, within seven working days from the date of submission of such accused persons reply, if made within the seven working days from the date of receipt of provisional assessment order, the authorized officer shall arrange a personal hearings with such accused person. For this purpose the authorized officer shall serve a three days notice to such accused person to allow him for a personal hearing and shall also allow any additional submission of new facts of documents if any, during the course of hearing by such accused person. If such accused person does not respond to the notice in the matter, the authorized officer shall proceed to issue the final assessment order, as per the procedure specified therein.

10. Thus, as per the Paragraph No.12 of Clause 23-AA of the Tamil Nadu Electricity Supply Code, even in the case of theft, an accused person is provided with an opportunity of personal hearing. As rightly contended by MR.R. Margabandhu, learned counsel for the petitioner, if there is mandate that an opportunity of personal hearing has to be given before an order of final assessment is passed either in the case of unauthorized use of electricity or theft, the same has to be given."

4. Since the aforesaid procedure was not followed in this case, the impugned order will have to be necessarily quashed and is accordingly quashed. The matter is remitted back to the file of the respondent to pass orders afresh in accordance with law and Clause 23(AA) of the Tamil Nadu Electricity Supply Code, 2004.

5. The petitioner counsel states that the connection was disconnected on 29.12.2018. Since the impugned demand against the petitioner has now been quashed, there cannot be any objection for effecting re-connection to the petitioner by paying re-connection charges. The respondent is directed to restore the petitioner's



supply forthwith.

6. With this direction and liberty, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Sd/-

Assistant Registrar (P AND A)

// True Copy //

Sub Assistant Registrar (CS I)

+1 CC to M/s.P.MAHENDRAN, Advocate (SR-54968[F] dated 19/03/2019)

+1 CC to M/s.G.KASINATHA DURAI, Advocate (SR-55413[F] dated 20/03/2019)

trp

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