



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.06.2020

CORAM

THE HON'BLE MR. JUSTICE T.S.SIVAGNANAM

Writ Petition Nos.25498 and 25499 of 2012 and
M.P.Nos.1 of 2012 in
W.P.Nos.25498 and 25499 of 2012
(Heard through Video Conferencing)

Budraj Bhandari	...	Petitioner in W.P.No.25498 of 2012
Sangeetha Jain	...	Petitioner in W.P.No.25499 of 2012

Vs.

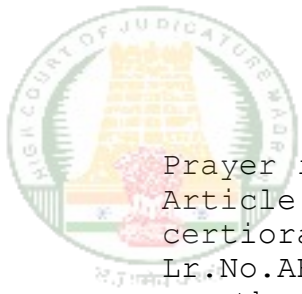
1.The Assistant Engineer,
Office of the TANGEDCO,
Sowcarpet/Central
TNEB/CEDC/CENTRAL
TANGEDCO,
38, Basin Water Works Street,
Chennai - 600 079.

2.The Assistant Accounts Officer/Egm
Office of the TANGEDCO,
Audit Branch,
TANGEDCO,
Chennai - 600 002.

3.The Chairman cum Managing Director,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
TANGEDCO, No.144, Anna Salai,
Chennai - 600 002.

... Respondents in both W.Ps

Prayer in W.P.No.25498 of 2012:- Writ Petition filed under Article 226 of Constitution of India, for issuance of writ of certiorarified mandamus, calling for the records in Lr.No.AE/O&M/SUPT/ CENTRAL/FBOAB/D.no.214/12 dated 28.08.2012 on the file of the first respondent and quash the same as illegal, arbitrary and against the law and thereby direct the respondents to proceed afresh based on the average calculation of consumption of forthcoming month and pass such further or other orders as this Court may deem fit.



Prayer in W.P.No.25499 of 2012:- Writ Petition filed under Article 226 of Constitution of India, for issuance of writ of certiorarified mandamus, calling for the records in Lr.No.AE/O&M/SUPT/ CENTRAL/FBOAB/D.no.206/2012 dated 27.08.2012 on the file of the first respondent and quash the same as illegal, arbitrary and against the law and thereby direct the respondents to proceed afresh based on the average calculation of consumption of forthcoming month and pass such further or other orders as this Court may deem fit.

For Petitioner : Mr.M.Sunilkumar
in both W.Ps
For Respondents : Mr.P.R.Dhilipkumar,
in both W.Ps Standing Counsel

COMMON ORDER

Since the issues involved in both these writ petitions are identical, they are taken up together for consideration and disposal.

2.Heard Mr.M.Sunilkumar, learned counsel for the petitioner and Mr.P.R.Dhilipkumar, learned Standing Counsel appearing for the respondents in both the writ petitions.

3.In both the writ petitions, the petitioners have challenged the audit slips respectively based on which, the petitioners have been directed to pay the current consumption charges alleged to be on the basis of the average consumption.

4.On the perusal of the impugned proceedings, it is evidently clear that the petitioners did not have adequate opportunity to put forth their contentions more particularly, the contention that the average consumption charges has not been properly computed and the petitioners were not informed as to the basis on which the average consumption has been arrived at and being demanded.

5.In fact, the impugned demand made in W.P.No.25499 of 2012 filed by the petitioner / Sangeetha Jain, is a printed format and it refers to an audit slip bearing No.Lr.No.AE/O&M/SUPT/CENTRAL/FBOAB/ D.no.206/2012 dated 27.08.2012 and straight away the petitioner in W.P.No.25499 of 2012 /Sangeetha Jain has been directed to pay a sum of Rs.69,169/-.

6.In the other writ petition in W.P.No.25498 of 2012, filed by Mr.Budraj Bhandari, the impugned proceeding refers to a representation given by the petitioner dated 10.07.2012 and it states that the request made in the representation cannot be considered and the petitioner should pay the audit shortfall of Rs.63,733/-. Here also, no details have been furnished as to on



what basis such amount was demanded and how the monthly minimum consumption charges was computed, etc. The petitioners have also raised a ground relating to the jurisdiction of the first respondent to make a demand for audit shortfall.

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7. After considering the submissions made on either side and after perusing the materials on record, this Court fully convinced to hold that the impugned demands have been made without affording reasonable opportunity to the petitioners herein and without furnishing adequate details. This is sufficient to set aside the impugned proceedings however, with liberty to the respondents to issue fresh proceedings in a proper manner and after issuing show cause notice to the petitioners, furnishing the full details and a calculation memos, the petitioners should be given adequate opportunity to file their objections and after considering the objections, a fresh decision can be taken in these matters. The petitioners shall also be entitled to raise the question of jurisdiction of the first respondent to initiate such proceedings which shall also be decided among other issues.

8. In the result, the writ petitions are allowed and the impugned orders are set aside and the matters are remanded back to the respondents with a direction to them to issue show cause notice to the petitioners along with all the requisite particulars, calculation memos etc., and give the petitioners adequate time to submit their replies and after considering the replies, pass fresh orders on merits and in accordance with law. It is seen from the records that when the writ petitions were admitted, an interim order was granted on 18.09.2012 subject to the condition that each of the petitioners shall pay 50% of the impugned demand within a period of two weeks failing which, the interim order would stand automatically vacated. It is not clear as to 'whether the petitioners have complied with the interim order dated 18.09.2012'. Nevertheless, by this time, if the petitioners have not complied with the earlier interim order dated 18.09.2012, the service connections would be disconnected however, if the petitioners have complied with the earlier interim directions, till fresh orders are passed in terms of the above directions, no coercive action shall be initiated by the respondents against the petitioners. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar



To

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