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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2020

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

W.P.No.27016 of 2012
&
M.P.Nos.1 & 2 of 2012

P.Nallathambi

..Petitioner

vs.

1.The Superintending Engineer,
TANGEDCO, Villupuram.

2.Assistant Engineer, TANGEDCO,
Kallakurichi, Villupuram.

3.Assistant Executive Engineer (Rural),
TANGEDCO, Kallakurichi, Villupuram District.

4.Executive Engineer (O & M), TANGEDCO,
Kallakurichi Villupuram District.

..Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus calling for the records of the first respondent in A.No.101/2012 dated 28.09.2012 quash the same and consequently forbear the respondents from in any manner disconnecting the service of the petitioner for alleged arrears of short levy in the petitioner's service connection in No.555-006-625 under the first respondent's jurisdiction.

For Petitioner : Mr.P.Srinivas

For Respondents : Mr.Varun Kumar, Standing Counsel



O R D E R

Heard Mr.P.Srinivas, learned counsel for the petitioner and Mr.Varun Kumar, learned standing counsel for the respondents.

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2. The petitioner has filed this writ petition challenging the proceedings of the first respondent dated 28.09.2012 directing the petitioner to pay arrears of short levy in respect of service connection in No.555-006-625.

3. As rightly pointed by the learned counsel for the petitioner that the impugned order has been passed solely based upon the audit objection raised by the audit wing of the respondents without issuing any notice to the petitioner. The petitioner's case is that they were not informed about the change of meter and the respondents have now come forward with a new case as if the meter was damaged or burnt and it was changed on five occasions. This appears to be the basis for the impugned demand for short levy.

4. Two major errors have been committed by the respondents. Firstly, if the audit objection is raised, the authority should be convinced about the validity of the objection and every audit objection cannot be mechanically resulted in demand to the consumers. Secondly if the authority is satisfied that the audit objection is valid, the authority should forward the same by issuing a show cause notice and obtain the consumer's explanation and conduct enquiry and then pass a order. On these two grounds, the impugned orders are held to be not sustainable in law.

5. However, considering the fact that the respondents have narrated in the impugned proceedings about how the demand is being made, the court is not inclined to quash the impugned proceedings, but direct the second respondent to furnish a copy of the audit report to the petitioner within three weeks from the date of receipt of a copy of this order. The audit report should be in full form including calculations if any. On receipt of the audit report, the petitioner is directed to treat the same as show cause notice and submit their objections within thirty days thereafter. On receipt of the objections from the petitioner, the second respondents shall afford personal hearing to the petitioner or his authorised representatives and pass orders on merits and in accordance with law. Till then, no action shall be initiated by the petitioner by demanding the amount contained in the impugned order.



6. With the aforesaid directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO-MDU)

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//True Copy//

Sub Assistant Registrar

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To

- 1.The Superintending Engineer,
TANGEDCO, Villupuram.
- 2.Assistant Engineer, TANGEDCO,
Kallakurichi, Villupuram.
- 3.Assistant Executive Engineer (Rural),
TANGEDCO, Kallakurichi, Villupuram District.
- 4.Executive Engineer (O & M), TANGEDCO,
Kallakurichi Villupuram District.

+1cc to Mr.P.Srinivas, Advocate SR.20789

W.P.No.27016 of 2012

PVS (CO)
CB(09/07/2020)