

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 16.03.2020
CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.6653 of 2020
and
W.M.P.Nos.7880 to 7882 of 2020

S. Velmurugan

... Petitioner

Vs.

1.The Chairman,
800, Anna Salai,
Chennai - 600 002.

2.The Assistant Engineer/O&M/Town
Tamilnadu Electricity Board (TNEB)/TANGEDCO,
Thyagadurugam - 606 206.

3.The Executive Engineer/O&M
Tamilnadu Electricity Board (TNEB)/TANGEDCO,
Thyagadurugam - 606 206.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of writ of certiorari, calling for the entire records connected with the impugned bill passed by 2nd respondent in S/C.No.0252300342 dated 29.02.2020 insofar as levy of Excess Demand Penalty of Rs.840702.44 (Eight Lakh Forty Thousand Seven Hundred and Two and Forty Four Paisa) alone is concerned and quash the same.

For Petitioner : Mr. L. Chandrakumar
for Ms. R. Prethikaa

For Respondents : Mr. Varunkumar,
Standing Counsel

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O R D E R

This writ petition has been filed challenging the impugned bill that has been raised by the second respondent directing the petitioner to pay excess demand penalty for a sum of Rs.8,40,702.44/-.

2. The case of the petitioner is that he is a proprietor of rice mill and he has been paying the electricity charges regularly without any default till date. During November 2019, the petitioner was imposed with a penalty of nearly RS.6 lakhs for excess demand utilized. The case of the

petitioner is that this amount was paid by the petitioner. The further case of the petitioner is that he had installed power navigator AKA demand control meter in his rice mill. According to the petitioner, by installing such a meter, the petitioner cannot exceed the sanctioned demand. This was done by the petitioner to ensure that he does not pay any huge penalty towards excess demand utilized by the petitioner.

3. The petitioner received the impugned bill dated 29.02.2020 from the second respondent and the petitioner found that the second respondent has once again levied the penalty of a sum of Rs.8,40,702.44/- on the ground that the petitioner has exceeded the maximum demand. According to the petitioner, there was no chance for the petitioner to exceed the maximum demand in view of the installation of the control meter. The further case of the petitioner is that before issuing such a bill, the petitioner was not given an opportunity and the petitioner was also not given the particulars as to how the petitioner exceeded the maximum demand. Aggrieved by the same, the present writ petition has been filed before this Court challenging the impugned bill issued by the second respondent.

4. Mr. L. Chandrakumar, learned counsel appearing for the petitioner submitted that the petitioner has paid all the electricity charges without any dues. The learned counsel further submitted that the moment the petitioner was charged with penalty for exceeding the maximum demand, the petitioner had taken sufficient steps to install a control meter. Therefore, the learned counsel submitted that the petitioner could not have exceeded the maximum demand and the very levy itself is illegal. The learned counsel submitted that since the penalty is in the nature of a punishment, the second respondent ought to have given a minimum opportunity before issuing the bill demanding for such a huge penalty. The learned counsel submitted that the impugned bill issued by the second respondent requires interference of this Court.

5. Per contra, the learned counsel appearing on behalf of the TANGEDCO submitted that the excess demand penalty was imposed only based on the meter reading that was recorded from the electronic meter that has been installed in the premises of the petitioner. The learned counsel submitted that there was no arbitrariness in imposing the excess demand penalty based on the meter reading and the petitioner is bound to pay the penalty as and when he exceeds the maximum demand fixed by the electricity board. The learned counsel submitted that there is no question of giving an opportunity to the petitioner since the electricity consumed by the petitioner is borne out by the readings found in the electronic meter.

6. This Court has carefully considered the submissions made on either side and perused the materials available on record.

7. The specific case of the petitioner is that the petitioner has installed a power navigator demand control meter in his rice mill and according to the petitioner, this control meter will not permit the petitioner to exceed the maximum demand. The petitioner has also made a representation to that effect to the second respondent on 07.03.2020. In the said representation, the petitioner has specifically questioned the excess demand penalty imposed by the second respondent. This issue raised by the petitioner requires to be considered by the third respondent by properly inspecting the meter installed by the petitioner.

8. This Court is therefore of the considered view that an opportunity must be given to the petitioner to put forth his case before the second respondent and the second respondent must also give an opportunity to the petitioner apart from conducting an inspection in the premises/rice mill of the petitioner.

9. In view of the above, the petitioner is directed to deposit a sum of Rs.3 lakhs before the second respondent within a period of one week from the date of receipt of copy of this order. On such deposit being made, the second respondent is directed to consider the representation made by the petitioner on 07.03.2020 after offering an opportunity to the petitioner and after conducting inspection in the rice mill of the petitioner and appropriate orders shall be passed within a period of six weeks from the date of receipt of copy of this order.

10. This writ petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

सत्यमेव जयते Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

AT

To

1.The Chairman,
800, Anna Salai,
Chennai - 600 002.

2.The Assistant Engineer/O&M/Town
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Thyagadurugam - 606 206.

3.The Executive Engineer/O&M
Tamilnadu Electricity Borar (TNEB)/TANGEDCO,
Thyagadurugam - 606 206.

+1cc to M/s.R. Prethikaa , Advocate SR.No. 23307

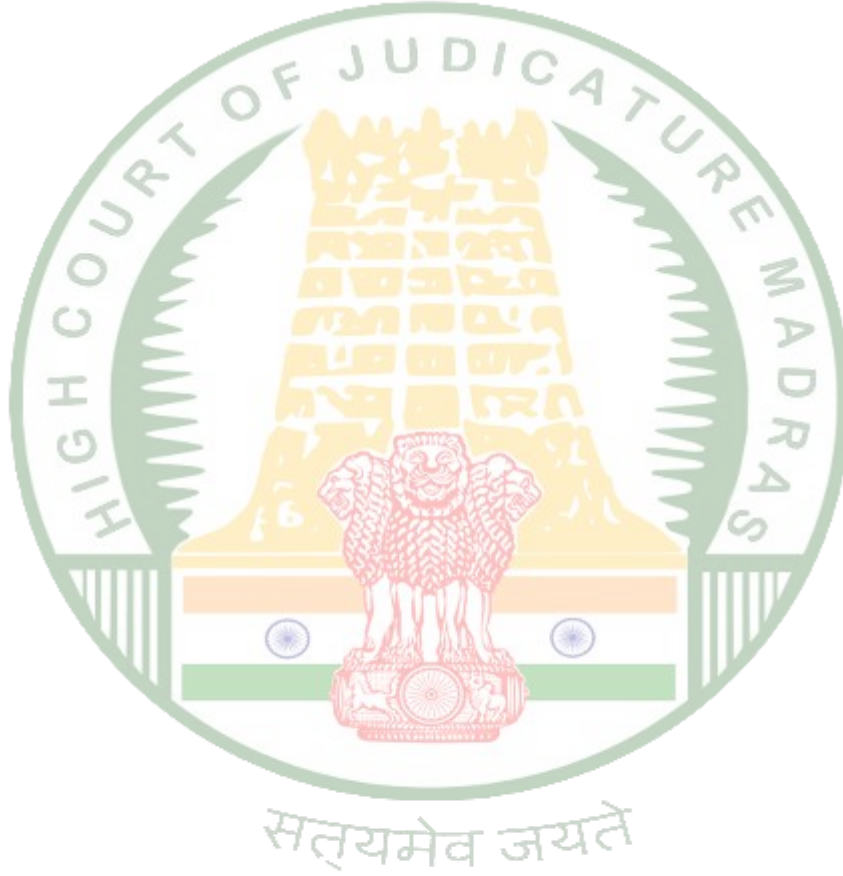
+1cc to Mr.Varun kumar , Advocate SR.No. 23564

W.P.No.6653 of 2020

and

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A.SK(19/03/2020)



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