



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 09.12.2020
CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

WEB COPY

W.P. (MD)No.6146 of 2011
and
M.P. (MD) .No.2 of 2011
(Through the Video Conferencing)

M/s.R.V. Ice Plant,
Represented by its Proprietor,
G.Arulraj,
C77/B2, Sipcot Industrial Complex,
Madathur, Tuticorin

... Petitioner

Vs

The Assistant Electrical Engineer,
Distribution-Rural West,
TANGEDCO,
Caldwell Colony, Tuticorin.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records relating to the proceedings of the respondent made in க.எண்.உ.மி.பொ/வி/ஊ/மே/தூடி/கோ.ம/அ.எண்.003/11 dated 14.03.2011 and quash the same.

For Petitioner	: Mr.R.Murali for M/s.V.Karthikeyan
For Respondent	: Mrs.M.Rajeswari for S.M.S.Johny Basha Standing Counsel

ORDER

(This Petition was heard through the Video Conferencing)

This Writ Petition has been filed challenging the impugned proceedings of the respondent, dated 14.03.2011 wherein, the respondent has called upon the petitioner to pay a sum of Rs.17,49,884/- towards penalty for excess demand charges for utilisation of energy by the petitioner more than the sanctioned demand during the period between February 2009 and December 2009 and between March 2010 and December 2010, within a week from the date of receipt of the said order.

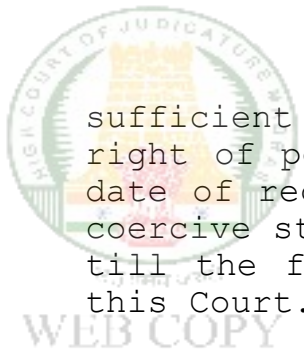


2. Heard Mr.R.Murali, learned counsel representing Mr.V.Karthikeyan, learned counsel for the petitioner and Mrs.M.Rajeswari, learned counsel representing Mr.S.M.S.Johny Basha, learned Standing counsel for the respondent.

3. The petitioner has challenged the impugned demand primarily on the ground that the impugned demand notice has been issued by violating the principles of natural justice. According to the petitioner, the respondent did not provide any opportunity to substantiate his stand. According to the petitioner, the respondent cannot unilaterally come to the conclusion that the earlier meter in the petitioner's property was defective. It is also his case that the respondent has failed to consider even the CMRI download data made during the last inspection does not show any difference in maximum demand recording in the past period. According to the petitioner, without following the records available with the respondent, the impugned demand has been made against the petitioner. In such circumstances, this Writ Petition has been filed.

4. A counter affidavit has been filed by the respondent, wherein, it has been stated that the impugned demand of Rs.17,49,884/- is only based on the low recording recorded in LTCT Register (maintained by the then Assistant Engineer). According to the respondent, the readings of the LTCT service are entered into in two Registers. One Register is kept in the custody of the Assistant Engineer and the other is kept with the consumer. According to them, if the petitioner produces the consumer register, it will show low recordings in the Register and it will tally with the working sheet maintained by the Assistant Engineer. According to the respondent, the impugned demand has been issued only in accordance with law. At the outset, the learned Standing counsel for the respondent would submit that the impugned demand is only a notice and no final orders has been passed for disconnection of the petitioner's electricity service connection.

5. After giving due consideration to submissions of the learned Standing counsel for the respondent, this Court is of the considered view that the Writ Petition filed by the petitioner is premature. He ought to have submitted a reply denying the demand made by the respondent. Therefore, this Court directs the petitioner to send a reply to the impugned demand notice dated 14.03.2011 raising all contentions available to him under law, within a period of one week from the date of receipt of a copy of this order. On receipt of the same, the respondent shall pass final orders on the impugned notice dated 14.03.2011 on merits and in accordance with law, after providing the documents / records to the petitioner based on which, they have made demand on the petitioner and also after considering the reply submitted by the petitioner pursuant to the directions of this Court and after affording



sufficient opportunity to the petitioner including granting him the right of personal hearing within a period of twelve weeks from the date of receipt of a copy of this order. It is made clear that no coercive steps can be taken by the respondent against the petitioner till the final orders are passed by the respondent as directed by this Court.

6. With the aforesaid direction, the Writ Petition stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

tsg

Note:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

The Assistant Electrical Engineer,
Distribution-Rural West,
TANGEDCO,
Caldwell Colony, Tuticorin.

+1 CC to Mr.V.KARTHIKEYAN, Advocate SR-24781.

W.P. (MD)No.6146 of 2011
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