



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **06.11.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.7239 of 2013

and

M.P. (MD)Nos.1 and 2 of 2013

M/s.Madura Coats Private Limited, HT SC No.2,
Represented by its Manager - Excise & Legal,
Mr. M.Ramasubramanian. ... Petitioner

Vs

- 1.Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO),
Represented by its Chairman and Managing Director,
144, Anna Salai, Chennai - 600 002.
- 2.The Chief Engineer (Distribution),
Office of the Chief Engineer (Distribution),
Tirunelveli,
Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO).
- 3.The Superintending Engineer,
Tirunelveli Electricity Distribution Circle,
Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO),
Tirunelveli. ... 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 3rd respondent culminating in his impugned Lr.No.SE/TEDC/TIN/AEE/GL/JE/F. Dedicated feeder/Ht SC.No:2/D.438/13, dated 10.04.2013, quash the same and direct the respondents to continue the dedicated feeder status accorded to the petitioner for their HT SC No.2.

For Petitioner : Mr.N.L.Rajah, Senior Counsel.

For Respondents : Mrs.M.Rajeswari
for Mr.S.M.S.Johnny Basha,



ORDER

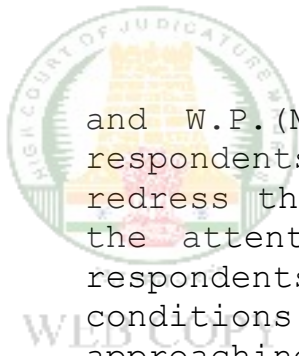
This writ petition has been filed challenging the impugned letter of the third respondent dated 10.04.2013, wherein the third respondent has intimated the petitioner that load shedding exemption granted to the petitioner who is having a dedicated high tension service connection will be revoked without further intimation if they will not withdraw all the Court cases filed against the respondents within a period of 15 days and if they do not pay the pending audit arrears within a period of 15 days.

2.The petitioner has challenged the impugned letter mainly on the ground that there is no provision either in the Tamilnadu Electricity Distribution Code or Tamilnadu Electricity Supply Code empowering the respondents to revoke the dedicated feeder status or any other facility to the petitioner on the ground that the petitioner has filed cases against the respondents. It is also the case of the petitioner that in respect of the alleged audit arrears, court cases are pending challenging the same and therefore they cannot be termed as arrears as alleged by the respondents under the impugned letter.

3.Heard Mr.N.L.Rajah, learned Senior Counsel appearing for the petitioner and Mrs.Rajeswari for Mr.S.M.S.Johnny Basha, learned standing Counsel appearing for the respondents.

4.A counter affidavit has been filed by the third respondent on behalf of all the respondents. The respondents have reiterated all the contentions of the impugned letter. In their counter affidavit, they have not stated under what authority they have issued the impugned letter and they have also not stated as to how they are entitled to revoke the load shedding exemption and dedicated feeder facility granted to the petitioner on the ground that the petitioner filed court cases against the respondents / Electricity Board and for non-payment of alleged audit arrears.

5.The learned Senior Counsel drew the attention of this Court to the impugned letter and submitted that without authority either under the Tamilnadu Electricity Distribution Code or Tamilnadu Electricity Supply Code, the said impugned letter has been issued. He also drew the attention of this Court to paragraph 11 of the affidavit filed in support of the writ petition, wherein the details of the pending cases filed by the petitioner against the respondents / Electricity Board have been disclosed. He would also submit that out of the six cases filed against the respondents / Electricity Board, four of them have already been disposed of and had attained finality and two cases are pending namely, W.P.(MD)No.7538 of 2009



and W.P.(MD)No.10972 of 2011. He would also submit that the respondents cannot prevent the petitioner to approach the Court to redress their genuine grievances. The learned Senior Counsel drew the attention of this Court to the sanction proceedings of the respondents dated 15.05.2012 and would submit that none of the conditions mentioned therein would prevent the petitioner from approaching the Court to redress their grievances. Therefore, the learned senior counsel would submit that the impugned letter is arbitrary and illegal and has been issued without authority under law.

6.Mrs.M.Rajeswari, learned standing counsel appearing for the respondents would submit that the petitioner has failed to pay the pending audit arrears and has also instituted cases against the respondents. Therefore, according to them only on that ground, the impugned letter has been issued. She reiterated the contents of the counter affidavit filed by the third respondent before this Court.

7.Admittedly, the Tamilnadu Electricity Distribution Code or Tamilnadu Electricity Supply Code does not empower the respondents / Electricity Board to cancel the load shedding exemption granted to the petitioner or withdraw the dedicated feeder supply on the ground that the petitioner has instituted Court cases against the respondents / Electricity Board. Further insofar as the second ground mentioned in the impugned letter, namely, the petitioner should pay the audit arrears within 15 days is concerned, they have been challenged by the petitioner before this Court and in some cases, they have also sent replies, which have been accepted by the respondents / Electricity Board. Further under the impugned letter, the details of audit arrears that is payable by the petitioner has also not been mentioned. This being the case, the impugned letter is arbitrary and has been issued without any authority under law as the Tamilnadu Electricity Distribution Code as well as Tamilnadu Electricity Supply Code does not entitle the respondents/ Electricity Board to issue such a letter. It is also not in dispute that the petitioner has been regularly paying the charges without committing default to the respondents / Electricity Board for the dedicated feeder supply granted by the Electricity Board.

8.For the foregoing reasons, this Court is of the considered view that the impugned letter of the third respondent is perverse, illegal and without jurisdiction and authority under law and therefore, the same will have to be quashed.



9. In the result, the impugned letter dated 10.04.2013 is hereby quashed and the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar(CS-II)

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Sub Assistant Registrar(CS)

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W.P. (MD)No.7239 of 2013

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