



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

W.P. (MD)No.6815 of 2020

and

W.M.P. (MD)No.6215 of 2020

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M/s.V.M.R.Textiles Pvt. Ltd.,
Rep. by its Manager,
S.Mariappan

... Petitioner

Vs

1.The Government of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Energy Department,
Fort St.George,
Chennai - 600 009.

2.The Superintending Engineer,
Tamil Nadu Electricity Generation
and Distribution Corporation,
Sivaganga Electricity Distribution Circle,
Sivagangai.

3.The Assistant Engineer,
Tamil Nadu Electricity Generation
and Distribution Corporation,
Thiruppathur,
Sivaganga Electricity Distribution Circle,
Sivagangai District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to provide installment facilities to the petitioner's company for the payment of Electricity consumption charges arrears for the Service Connection No.059094600074, considering the unfortunate Corona Lockdown situation prevailing in the entire state.

For Petitioner : Mr.P.Thiyagarajan

For Respondents : Mr.Aravindapandian,
Additional Advocate General,
Assisted by Mr.M.Rajarajan
Government Advocate for R1
Mr.S.M.S.Johnny Basha for R2 & R3



O R D E R

Heard the learned counsel on either side.

2.The petitioner is a company engaged in the business of manufacture of yarn. The petitioner is the consumer of electricity. The petitioner is having the petition mentioned service connection. It is presently a running concern. The petitioner is obliged to pay the current consumption charges. The petitioner's counsel states that in view of the prevailing pandemic situation, the petitioner is not in a position to clear the liabilities. Therefore, he wants this Court to direct the respondents to provide the petitioner with installment facility. The petitioner's counsel places reliance on Rule 22 of Tamil Nadu Electricity Supply Code. The said rule reads as under:-

22. Restoration of supply of electricity

(1) The Licensee shall restore the supply to the service immediately and in any case not exceeding twelve hours 1[in the case of urban areas and twenty four hours in the case of rural areas] on recovery of electricity charges or such other sums together with any expenses incurred by the Licensees in cutting off and re-connecting the supply.

(2) In the case of a service connection remaining disconnected for six months or more the consumer's installation will be tested, revised test report obtained and the testing charges collected from the consumer before the same is restored. 2[Such revised test report shall be signed by the consumer or legal owner or legal occupant of the premises].

(3) To restore supply to a High Tension service connection which remains disconnected for one year or more, approval of the competent authority with regard to safety and security of the installation shall be obtained.

(4) In the case of service connections, which have been disconnected, the Licensee shall have the power to allow installment payments of all arrears in deserving cases.

(5) The Licensee shall restore the disconnected service before issue of termination of Agreement Notice and also during the notice period for termination of agreement on recovery of total arrears due till the date of restoration.

(6) (i) When a service connection remains disconnected for non payment of electricity charges beyond the notice period of three months, if the consumer comes forward within the period mentioned below to pay the actual dues and agrees to remit the charges in clause

(ii) below, the official authorized by the Licensee may grant extension of time beyond the notice period and revoke the termination of agreement provided that the lines



as to facilitate reconnection of the disconnected service.

Category Period for reconnection of disconnected
service

WEB COPY

HT consumers Within five years from the date of
Disconnection

LT Agricultural consumers -do-

Other LT consumers Within two years from the date of
Disconnection

(ii) In accordance with sub-regulation (4), the authorized Officer of the Licensee may permit such consumer to pay the outstanding in instalments and to avail reconnection on receipt of 40% of the total arrears outstanding after closing of account due to the licensee, which include -

(a) Arrears on the date of disconnection

(b) Tariff minimum and meter rent for the period of six months from the date of disconnection (including the notice period)

(c) The applicable BPSC / interest upto the date of payment.

(d) The balance 60% of the amount shall be collected in ten monthly instalments.

(e) In addition to the above, the full amount of Security Deposit adjusted while closing of account shall be collected in one lumpsum before effecting new service connection.

(7) If the consumers of the disconnected service come forward for reconnection after the period mentioned in sub-regulation (6) (i), the licensee shall treat them as new applicants and supply effected after recovering all charges applicable to a new service connection and all other arrears with BPSC.]

(5) The facility of payment in installments will be made available to the consumer on request. To avail of this facility, the consumer shall execute an undertaking in Form (5) in the Appendix to this Code.

(6)

The petitioner's counsel wants this Court to draw inspiration from the said rule and extend the same to the present case also.

3.I am not in a position to agree with the submission of the petitioner's counsel. As rightly pointed out by the learned Additional Advocate General appearing for the first respondent, the said rule will apply only in the case of restoration of supply of



electricity after it has been disconnected. A consumer who is presently enjoying electricity connection cannot invoke the said provision.

4.The learned Additional Advocate General also submits that it would not be open to the Writ Court to give a positive direction, directing the authority to give installments. In this regard, he would draw my attention to the decision of the Hon'ble First Bench reported in **(2005) 4 L.W. 585 (The Superintending Engineer, Tamil Nadu Electricity Board and Ors. V. Krishna Alloys)**. The said decision though rendered in a different context would squarely apply to the case on hand also. Therefore, I am of the view that the Writ Court will not have the jurisdiction to grant the relief sought for.

5.However, I must categorically observe that the dismissal of this writ petition will not preclude the respondents to take a decision in favour of the petitioner also. This is a matter that lies entirely in the province of the respondents. It is for them to take a call in the matter after taking into account the local situation.

6.With these observations, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Crl Side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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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 Principal Secretary,
Energy Department,
Fort St.George,
Chennai - 600 009.

W.P. (MD)No.6815 of 2020

13.07.2020

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