



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:31.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.A(MD)No.537 of 2020

and

C.M.P. (MD)No.3738 of 2020

WEB COPY

M/s.V.M.R.Textiles Private Limited,
rep. By its Manager,
P.V.Mariappan.

... Appellant/Petitioner

Vs.

1.The Government of Tamil Nadu,
rep. By its Principal Secretary to Government
Energy Department
Fort St. George,
Chennai-09.

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/Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent Act against the order passed by this Court dated 13.07.2020, passed in W.P. (MD)No.6815 of 2020.

Prayer in WP(MD) . 6815/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the respondents to provide installment facilities to the petitioners 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 Appellant
For Respondents

: Mr.P.Balamurugan
: Mr.M.Aravaind Pandian
Additional Advocate General
assisted by Mr.K.P.Krishnadoss
Special Government Pleader for R-1

WEB COPY

Mr.S.M.S.Johny Basha
Standing Counsel for TNEB for RR-2 &3

JUDGMENT

(Judgment of the Court was made by **M.SATHYANARAYANAN, J.**)

The appellant / writ petitioner filed W.P.(MD).No.6815 of 2020 against the respondents herein praying for issuance of writ of mandamus directing them to provide installment facilities to their company for the payment of Electricity consumption charges arrears for the Service Connection bearing No.059094600074, by taking into consideration the unfortunate Corona Lockdown situation prevailing in the entire State. The said writ petition was entertained and vide impugned order dated 13.07.2020, the learned Judge has taken note of the factual aspects and legal position and passed the following order.

" 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."

2. The writ petition came to be dismissed, subject to the above observations. The writ petitioner, aggrieved by the dismissal of the said writ petition, has filed this appeal.

3. During the course of arguments, it was pointed out that since the terms and conditions of electricity supply was contractual in nature, this Court, in exercise of powers under Article 226 of the Constitution of India, may not rewrite the same, in the light of the various pronouncements of the Hon'ble Supreme Court of India.

4. At this juncture, the learned counsel appearing for the appellant / writ petitioner, on instructions, prays for liberty to withdraw this writ appeal and also prays for leave to challenge the levy of demand charges of Rs.1,98,450/- for the reason that the said demand had fallen, during the period of moratorium and averred that the said fact has been disputed by Mr.M.Aravaind Pandian, the learned Additional Advocate General, assisted by Mr.K.P.Krishnadoss, the learned Special Government Pleader, appearing for the first respondent.

5. The learned counsel appearing for the appellant also undertakes to forward the endorsement through e-mail of the Registry.

6. In the light of the same, the writ appeal is dismissed as withdrawn. No costs. If the appellant/writ petitioner was advised, he is at liberty to submit a representation to the concerned official respondents, as to the waiver of demand charges and upon receipt of the same, the concerned respondents are directed to consider the same on merits and in accordance with law and pass orders as expeditiously as possible, not later than, four weeks from the date of receipt of a copy of this order and communicate the decision taken to the appellant/writ petitioner. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (crl.side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



vs

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

- 1.The Principal Secretary to Government
Government of Tamil Nadu,
Energy Department
Fort St. George,
Chennai-09.
- 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.

+1 CC to M/s.SPL GP (SR-15565[F] dated 01/09/2020)

W.A(MD) No.537 of 2020
and
C.M.P. (MD) No.3738 of 2020
31.08.2020

AL(CO)
KB(23.09.2020) 4P 5C