



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.6901 of 2019

and

W.M.P. (MD)No.5498 of 2019

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Madurai Government Law College and Men's Hostel,
Rep. by its the Principal / Warden Mr.Dr.S.Manoharan
Dr.Thangaraj Salai,
K.K.Nagar, Madurai-2.

... Petitioner

Vs

1.The Tamil Nadu Electricity Ombudsman,
19-A, Rukmini Lakshmipathy Salai,
Marshal Road, Egmore,
Chennai-600008.

2.The Executive Engineer/North/Metro,
Madurai Electricity Distribution Circle/Metro,
TANGEDCO,
Alagar Kovil Road, Near ITI Bus Stop,
K.Pudur, Madurai-625 007.

... Respondents

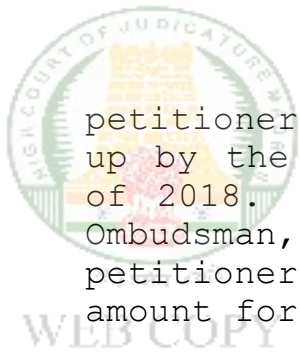
PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent in its order dated 07.02.2019 in Appeal Petition No.36 of 2018 and to quash the same as being illegal and unsustainable in law and for a consequential direction to the second respondent to refund the amount which was deposited under appeal of Rs.15,932/-.

For Petitioner	: Mr.S.Poornachandran
For Respondents	: Mrs.M.Rajeswari
	for Mr.S.M.S.Johny Basha

ORDER

Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents.

2.The petitioner Hostel is enjoying service connection. Even though the billing should have been done under the Tariff IIB, by mistake the computer billing came to be done under the Tariff 1A. The mistake was discovered only in the year 2014 and it appears that on 16/12/2014, the consumer was informed about the same. The



petitioner lodged their objections. The issue was finally taken up by the Tamil Nadu Electricity Ombudsman, Chennai in A.P.No.36 of 2018. By order dated 07.02.2019, the Tamil Nadu Electricity Ombudsman, Chennai, disposed of the appeal and confirmed that the petitioner has to pay a sum of Rs.63,726/- being CC shortfall amount for the period from November 2007 to March 2016.

3.The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition.

4.The core argument of the petitioner's counsel is that the demand raised by the respondent is hit by limitation. He drew my attention to Section 56 of the Electricity Act, 2003. The said provision reads as under:-

Section 56. (Disconnection of supply in default of payment):- (1) Where any person neglects to pay any charge for electricity or any sum other than a charge for electricity due from him to a licensee or the generating company in respect of supply, transmission or distribution or wheeling of electricity to him, the licensee or the generating company may, after giving not less than fifteen clear days' notice in writing, to such person and without prejudice to his rights to recover such charge or other sum by suit, cut off the supply of electricity and for that purpose cut or disconnect any electric supply line or other works being the property of such licensee or the generating company through which electricity may have been supplied, transmitted, distributed or wheeled and may discontinue the supply until such charge or other sum, together with any expenses incurred by him in cutting off and reconnecting the supply, are paid, but no longer.

Provided that the supply of electricity shall not be cut off if such person deposits under protest-

(a) an amount equal to the sum claimed from him or

(b) the electricity charge due from him for each month calculated on the basis of average charge for electricity paid by him during the preceding six months.

Whichever is less, pending disposal of any dispute between him and the licensee.

(2) Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this Section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.



5. Even though the aforesaid contention of the petitioner's counsel appears to be formidable, as rightly pointed out by the learned Standing Counsel for TANGEDCO, the issue on hand is no longer *res integra*. The Hon'ble Supreme Court in Civil Appeal No.1672 of 2020, dated 18.02.2020 (*Assistant Engineer (D1), Ajmer Vidyut, Vitran Nigam Limited Vs. Rahamatullah Khan @ Rahamjulla*) had held that Section 56 (2) did not preclude the licensee Company (TANGEDCO) in this case from raising an additional or supplementary demand after the expiry of the limitation period under Section 56(2) in the case of a mistake or a *bona fide* error. Therefore, the raising of supplementary or additional demand by the second respondent is sustained. But then, the Hon'ble Supreme Court in the very same order had categorically held that that would not however empower the licensee Company to take recourse to the coercive measure of disconnection of electricity supply for recovery of the additional amount. Therefore, this Writ Petition is disposed of by holding that while the second respondent is entitled to recover the amount payable by the petitioner herein, he is not entitled to effect disconnection of electricity supply.

6. With this clarification, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// 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

1. The Tamil Nadu Electricity Ombudsman,
19-A, Rukmini Lakshmipathy Salai,
Marshal Road, Egmore,
Chennai-600008.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Executive Engineer/North/Metro,
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W.P. (MD) No. 6901 of 2019

and

W.M.P. (MD) No. 5498 of 2019

22.07.2020

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