



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.10.2020

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**THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE**

W.P(MD).No.14258 of 2020  
and W.M.P. (MD).Nos.11914 & 11915 of 2020

N.Ravichandran

.. Petitioner

Vs.

1.The Superintending of Engineer,  
Tamilnadu Electricity Board,  
Thanjavur.

2.The Assistant Electrical Engineer,  
(Operation & Maintenance) TANGEDCO,  
Nagar - II / Pattukottai,  
Thanjavur District.

.. Respondents

**PRAYER:** Writ Petition is filed under Article 226 of Constitution of India for issuance of Writ of Certiorari, calling for the records pertaining to the impugned notice passed by the impugned order of the 2<sup>nd</sup> respondent issued in க.எண்.உமிபொ/இப/நகர்-2/பட்.டு/கோ.தணிக் கை/அ.எண்.54/20 dated 15.06.2020 and quash the same.

|                 |   |                                                               |
|-----------------|---|---------------------------------------------------------------|
| For Petitioner  | : | Mr.T.Lenin Kumar                                              |
| For Respondents | : | Mrs.M.Rajeswari for<br>Mr.SMS.Johny Basha<br>Standing Counsel |

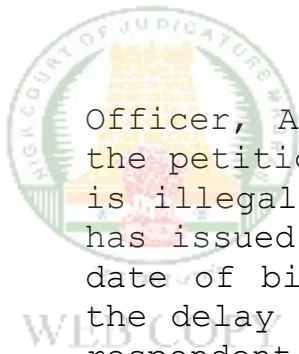
**ORDER**

This writ petition has been filed challenging the impugned notice of demand dated 15.06.2020 issued by the second respondent.

2.Heard Mr.T.Lenin Kumar, learned counsel for the petitioner. Mrs.M.Rajeswari, for Mr.S.M.S.Johny Basha, learned Standing counsel accepts notice on behalf of the respondents.

3.By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

4.The impugned demand notice was issued based on the assessment order dated 27.02.2019 passed by the Assistant Audit



Officer, AP.4/Audit Branch/Trichy Region. It is the contention of the petitioner in this writ petition that the impugned demand notice is illegal and arbitrary. According to him, the second respondent has issued the impugned notice after a lapse of four years from the date of billing period and absolutely, there is no explanation for the delay in the notice. It is also his contention that the second respondent ought to have given an opportunity of being heard before issuing the demand notice to the petitioner and therefore, they have violated the principles of natural justice.

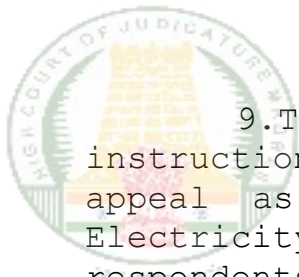
5.The impugned demand notice arises out of the defective meter installed in the petitioner's Rice Mill at Pannavayal Road, Pattukkottai, Thanjavur District. The respondents in their working sheet for arriving at the figure of Rs.85,906/- has taken the average of meter reading for four months i.e., from September 2015 to November 2015. In the impugned demand notice, there is no reference to any notice having been issued to the petitioner prior to fixing the demand of Rs.85,906/-.

6.The learned Standing counsel, who has accepted notice on behalf of the respondents would submit that there is a statutory Appellate remedy available to the petitioner aggrieved by the impugned demand notice. She also pointed out that the petitioner in his own affidavit in para 7 has extracted Regulation 11(7) of the Tamilnadu Electricity Supply Code 2004, which reads as follows:

*"(7) In case the consumer does not agree with the assessment made by the Engineer or the higher level officer, as the case may be, the matter may be referred to the next higher level officer of the licensee. In case the consumer is still not satisfied, the consumer is at liberty to approach the respective Consumer Grievance Redressal Forum of the licensee."*

7.Hence, according to her, the only remedy available to the petitioner is to approach the Assistant Executive Engineer, if aggrieved by the impugned demand notice. According to her, without approaching the said authority, the petitioner has wrongly approached this Court under Article 226 of the Constitution of India.

8.This Court is of the considered view that the interest of the petitioner will have to be protected. Admittedly, as seen from the working sheet as well as from the impugned demand notice, there is no reference to any prior notice having been given to the petitioner before quantifying the amount towards arrears of electricity consumption charges.



9.The learned counsel for the petitioner would also submit on instructions that the petitioner is willing to prefer a statutory appeal as prescribed under Regulation 11(7) of the Tamilnadu Electricity Supply Code, 2004, if no coercive steps are taken by the respondents for recovery of the amount mentioned in the impugned demand notice dated 15.06.2020. This Court after considering the rival submissions, is of the considered view that the petitioner will have to necessarily preferred an appeal as prescribed under Regulation 11(7) of the Tamilnadu Electricity Supply Code, 2004, if aggrieved by the impugned demand notice. However, since no prior notice was given by the respondents as seen from the impugned demand notice as well as from the working sheet dated 27.02.2019, the impugned demand notice will have to be stayed till the disposal of the appeal to be filed by the petitioner before the Assistant Executive Engineer, as per Regulation 11(7) of the Tamilnadu Electricity Supply Code, 2004.

10.For the foregoing reasons, the petitioner is directed to prefer an appeal as against the impugned demand notice before the Assistant Executive Engineer as per the Regulation 11(7) of the Tamilnadu Electricity Supply Code, 2004, within a period of one week from the date of receipt of a copy of this order. On receipt of the same, the Assistant Executive Engineer, shall dispose of the appeal within a period of four weeks, thereafter. There shall be an order of stay of the impugned demand notice till the disposal of the appeal by the Assistant Executive Engineer.

11.With the aforesaid directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(Writs)

// 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

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**W.P (MD) .No.14258 of 2020**  
**13.10.2020**

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