



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13-12-2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.40964 of 2015

And

MP Nos.1 and 2 of 2015

Ramprasad Tubes and Bars (P) Ltd.,
HTSC No.255,
818/1, Samanaickenpalayam,
No.4, Veerapandi (P.O.),
Coimbatore - 641 019
Manager R.Sridaran.

..Petitioner

vs.

1. The Tamil Nadu Electricity Regulatory Commission,
Represented by its Secretary,
19-A, Rukmini Lakshmipathy Salai,
(Marshall's Road),
Egmore,
Chennai - 600 008.
2. The Chairman,
Tamil Nadu Generation and Distribution Corporation Ltd.,
144 Anna Salai,
Chennai - 600 002.
3. The Superintending Engineer,
Coimbatore Electricity Distribution Circle/North,
TANGEDCO Coimbatore.

..Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records of the impugned notice bearing Lr.No.SE/CEDC/N/CBE/DFC/AO/Rev/A5/ HTSC No.225/D.665/15 dated 10.12.2015 issued by the third respondent and quash the same as illegal, arbitrary, without jurisdiction, without the authority of law and against the Regulations for Consumer Grievance Redressal Forum and Electricity Ombudsman, 2004 and Electricity Act, 2003.



WEB COPY

For Petitioner : Mr.S.P.Parthasarathy
For Respondents : Mr.L.Jaivenkatesh,
Standing Counsel for TANGEDCO.

O R D E R

The order dated 10.12.2015 issued by the third respondent-Superintending Engineer, is under challenge in the present writ petition.

2. The petitioner-Company is involved in the manufacture of cast iron and SG iron castings having High Tension Electricity Supply.

3. The issue involved in the present writ petition is the alleged non-levy of penalty.

4. Aggrieved by the demand, the petitioner preferred an appeal before the Consumer Grievance Redressal Forum constituted under Regulations Consumer Grievance Redressal Forum and Electricity Ombudsman, 2004 and Electricity Act, 2003. However, no proper Forum was constituted in accordance with the provisions of Regulations and the third respondent-Superintending Engineer unilaterally had taken a decision and passed the impugned order.

5. The learned counsel for the petitioner reiterated that the procedure adopted by the third respondent-Superintending Engineer is in violation of the Regulations and further the power conferred on the Competent Forum has been usurped by the third respondent-Superintending Engineer without any authority of law. Thus the order impugned is untenable.

6. The Consumer Grievance Redressal Forum and its constitution for redressal of consumer grievances are enumerated under Regulations for Consumer Grievance Redressal Forum and Electricity Ombudsman, 2004 and Electricity Act, 2003

7. Regulation 3 sub-clause (4) contemplates 'Constitution of Forums for redressal of consumer grievances', which reads as under:-

"The Forum shall consist of three members to be appointed by the Distribution Licensee with the following composition:-

(a) Chairperson of the Forum shall be a full time Officer of the Licensee not lower



WEB COPY

in rank than the rank of Superintending Engineer;

(b) One member shall be a person with 15 to 20 years experience in financial / legal profession and shall be nominated by the District Collector of the District where the Forum is head quartered;

(c) Another member shall be from a Registered Society of NGO or a consumer organisation or a consumer activist and shall be nominated by the District Collector of the District where the Forum is head quartered."

8. Regulation 7 sub clause (8) denotes 'grievance handling procedure for the Forum' which reads as under:-

"All decisions shall be taken by a majority of votes by the members present and in the event of the equality of the votes, the facts may be recorded and referred to the Electricity Ombudsman for final orders. All the members present shall sign every order passed by the Forum."

9. The above provisions of the Regulations are unambiguous that Consumer Grievance Redressal Forum must be constituted in accordance with the procedures contemplated and the adjudication must be done by following the due processes as prescribed.

10. Perusal of the order impugned reveals that the third respondent-Superintending Engineer has usurped the powers of the Forum and passed the impugned order. Further there is no reference with regard to adjudication if any conducted by the Competent Forum. Thus, the order impugned is in violation of the Regulations for constitution of Consumer Grievance Redressal Forum.

11. As far as the case of the petitioner is concerned, an appeal was filed before the Forum and even without constituting the Competent Forum, the third respondent-Superintending Engineer has unilaterally passed an order.

12. This Court is of the opinion that there are frequent complaints that the third respondent-Superintending Engineer, who has dealt with the issue, is permitted to sit as a Chairman of the Forum. Such a procedure cannot be followed at all. Once the Authority determines the issue, then if any appeal is filed by the aggrieved persons before the Consumer Grievance Redressal Forum, then the Chairman must be of the person outside



the Office, which decided the issue at the first instance. In other words, the same Authority, who issued the impugned order, cannot sit as the Chairman, if any appeal is filed by an aggrieved person before the Consumer Grievance Redressal Forum.

WEB COPY

13. The Electricity Board, in this regard, must ensure that the Chairman appointed is an independent Authority, not decided the issues and passed the impugned order.

14. This being the basic principles to be followed, the Electricity Board is bound to issue necessary circulars to all subordinate Authorities to ensure that no Authority is permitted to sit as a Deciding Authority in his own case, in the event of filing an appeal before the Consumer Grievance Redressal Forum and any violation in this regard, actions are to be initiated against the Authorities, who have not followed such basic principles.

15. In the present case, the order impugned has been passed by the third respondent-Superintending Engineer without constituting the Competent Forum in accordance with the Regulations for Consumer Grievance Redressal Forum and Electricity Ombudsman, 2004 and Electricity Act, 2003 and thus the present writ petition deserves to be considered.

16. Accordingly, this Court is inclined to pass the following orders:-

(1) The order impugned passed by the third respondent-Superintending Engineer bearing Lr.No.SE/CEDC/N/CBE/DFC/AO/ Rev/A5/ HTSC No.225/D.665/15 dated 10.12.2015 is quashed.

(2) The respondents are directed to constitute the Competent Consumer Grievance Redressal Forum for the purpose of adjudication of the issues raised by the petitioner in its appeal and decide the same on merits and in accordance with law by affording an opportunity to all the parties concerned as expeditiously as possible and preferably within a period of six months from the date of receipt of a copy of this order.

(3) The respondents are directed to issue necessary circular to all the Subordinate Authorities across the State of Tamil Nadu to ensure that the Authorities, who issued the impugned order, are not allowed to sit as the Chairman of the Consumer Grievance Redressal Forum. In the event of filing any appeal by the aggrieved person, such circulars issued should be scrupulously followed and in the event of any violations, all necessary actions are to be initiated against the officials, who all are committing such basic lapses. The said circular is directed to be issued within four weeks from the date of receipt of a copy of this order.



WEB COPY

17. Accordingly, the writ petition stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

Svn

To

1. The Secretary,
Tamil Nadu Electricity Regulatory Commission,
19-A, Rukmini Lakshmipathy Salai,
(Marshall's Road),
Egmore,
Chennai - 600 008.
2. The Chairman,
Tamil Nadu Generation and Distribution Corporation Ltd.,
144 Anna Salai,
Chennai - 600 002.
3. The Superintending Engineer,
Coimbatore Electricity Distribution Circle/North,
TANGEDCO Coimbatore.

+1cc to Mr.R.S.Pandiyaraj, Advocate SR. No.66409

WP No. 40964 of 2015

BP (CO)

PR (29/12/2021)