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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.5857 OF 2015

AND

M.P.NO.1 OF 2015

K.R.Unnithan,
Director,
M/s.Sankar Sealing Systems Pvt.Ltd.
No.6, Vanagram Road, Ayyanambakkam,
Chennai - 600 095.

...Petitioner

Vs

- 1.The Superintending Engineer,
Tamil Nadu Electricity Board,
Thirumangalam, Chennai - 40.
- 2.The Assistant Executive Engineer, (O&M)
Tamil Nadu Electricity Board,
CEDC West, Ambattur,
Chennai - 600 053.

...Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the second respondent culminating in the impugned order No.AEE/O&M/Ambattur Ko.A.Pa./Lr.No.54A/2015 dated 20.02.2015 and quash the same.

For Petitioner : Mr.N.Karthikeyan

For Respondents : Mr.L.Jai Venkatesh
Standing Counsel for TANGEDCO
[For R1 and R2]

ORDER

The writ petition is filed challenging the demand of electricity charges.

2.The petitioner states that the demand is made based on incorrect factual details and even in the counter affidavit, the respondents have admitted that the electricity meter was not functioning properly.



3.The learned counsel for the petitioner reiterated that, exorbitant consumption charges are levied without any basis and therefore, the impugned order is liable to be set aside.

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4.The learned Standing Counsel appearing on behalf of the respondent Board disputed the contentions by stating that the demand is made by following the procedures and based on the consumption of electricity by the petitioner, which was assessed by the competent authorities.

5.The issues involved between the parties require an elaborate adjudication. Such an elaborate adjudication should be undertaken based on the documents, evidences and records. Such an adjudication cannot be undertaken in a writ proceedings under Article 226 of the Constitution of India.

6.The power of Judicial review under Article 226 of the Constitution of India is to scrutinize the process through which the decision is taken by the competent authorities in consonance with the provisions of the law and not the decision itself. Thus, an elaborate adjudication is required with reference to the original records, which is to be done before the competent forum.

7.The petitioner is having sufficient avenues to redress his grievance under the Tamil Nadu Electricity Supply Code and before the Electricity Ombudsman. Rule 18 of the Tamil Nadu Electricity Supply Code provides redressal mechanism through Consumer Grievance Redressal Forum. The said forum is competent to adjudicate the issues on merits with reference to the documents. Thus the petitioner is at liberty to approach the said forum by filing an appropriate application for effective adjudication of the issues and to redress his grievances. Even beyond that, Electricity Ombudsman is also functioning. When there are avenues to redress the grievances under the Statute, filing a writ petition is not preferable, as the High Court cannot adjudicate such original issues with reference to the documents and evidences. Thus, the petitioner is granted liberty to approach the competent forum and in the event of filing any application, the period of pendency of this writ petition is to be taken into consideration for the purpose of entertaining the application, if any delay arises.

8.It is made clear that the authority, who passed the order which is under challenge, shall not be permitted to sit as a Member in the Grievance Redressal Forum, as it will cause prejudice to the interest of the party, who is approaching the forum.



9.It is needless to state, that the authority who decided the issue cannot sit as an Appellate Authority for the purpose of adjudicating the issues. This aspect also should be followed by the Electricity Board in all cases, where the aggrieved person is filing an application for redressal of his grievance before the forum.

10.With these observations, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

// True Copy //

Sub Assistant Registrar

nti/mkn

To

- 1.The Superintending Engineer,
Tamil Nadu Electricity Board,
Thirumangalam, Chennai - 40.
- 2.The Assistant Executive Engineer, (O&M)
Tamil Nadu Electricity Board,
CEDC West, Ambattur,
Chennai - 600 053.

+1cc to M/s.L.Jaivenkatesh, Advocate SR.No.58833

+1cc to M/s.N.Karthikeyan, Advocate SR.No.59235

W.P.No.5857 of 2015

RR(CO)
RVM(02/12/2021)