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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12-11-2021

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP NOS.32563 AND 32801 OF 2016

AND

WMP NOS.28218 AND 28360 OF 2016

CSI Multi Speciality Hospital,
Represented by its Medical Director,
Dr.A.Nirmal Nesakumar,
21-H, Hospital Road,
Kancheepuram.

...Petitioner in both WPs

vs.

1.The Chairman,
Tamil Nadu Generation and Distribution
Corporation Limited, TANGEDCO,
Anna Salai,
Chennai - 600 002.

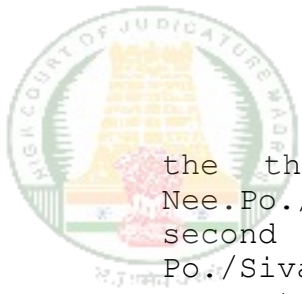
2.The Assistant Executive Engineer,
Operation and Maintenance,
Sivakanchi Division,
Kancheepuram.

3.The Junior Electrical Engineer,
Operation and Maintenance,
Sivakanchi Division,
Kancheepuram.

...Respondents in both WPs

WP 32563 of 2016 is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records on the file of the third respondent in his proceedings in Ka.Enn.E.Mee.Nee.Po./Ko.Va.Pi./Va.Me./Ko.Enn.13 dated nil.10.2014 and by the second respondent in his proceedings in Ka.Enn.E.Nee.Mee.Po./Sivakanchi/Tha.Enn.213/Ko.Thani/16 dated 22.08.2016 in connection No.301-033-100 and quash the same and direct the respondent to accept the explanation given by the petitioner and drop the proceedings completely.

WP 32801 of 2016 is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records on the file of



the third respondent in his proceedings in Ka.Enn.E.Mee. Nee.Po./Ko.Va.Pi./Va.Me./Ko.Enn.12 dated nil.10.2014 and by the second respondent in his proceedings in Ka.Enn.E.Nee.Mee. Po./Sivakanchi/Tha.Enn.213/Ko.Thani/16 dated nil.08.2016 in connection No.601-033-73 and quash the same and direct the respondent to accept the explanation given by the petitioner and drop the proceedings completely.

For Petitioner in both WPs. : Mr.R.Singaravelan,
Senior Counsel
for Ms.M.Srividhya.

For Respondents in both Wps : Mr.L.Jai Venkatesh,
Standing Counsel for TANGEDCO.

C O M M O N O R D E R

The writ petitions are filed to quash the demand of electricity charges to be paid by the petitioner.

2. The petitioner is the CSI Multi Speciality Hospital managed by Diocese of Madras.

3. The learned Senior Counsel, appearing on behalf of the petitioner-Hospital, mainly contended that the manner in which reading taken, calculation of electricity charges, communication of differential amounts are non-transparent. Thus, the petitioner is not in a position to understand the correctness or otherwise of the electricity charges demanded. It is further contended that the differential amounts, as stated in the impugned order, were for the period long back and on what basis after a lapse of many years, such differential amounts are calculated, is not also stated in the impugned order.

4. At the outset, it is contended that in view of the vagueness found in the order impugned, the petitioner is constrained to move these writ petitions. The petitioner submitted several representations to clarify these aspects and to redress the grievances. However, none of the representations were looked into by the respondents nor any reply has been given in respect of the representations submitted by the petitioner.

5. Curiously, the respondents have not filed any counter-affidavit for the past about five years. This Court is of the considered opinion that calculation, determination of electricity charges or differential electricity charges are to be ascertained with reference to the documents and evidences made available.

6. However, at this length of time, this Court cannot adjudicate such disputed issues in the writ proceedings under



Article 226 of the Constitution of India, as scrutinisation of documents and evidences are imminent for the purpose of forming an opinion. However, the petitioner raises serious allegations against the Electricity Board regarding the manner in which the calculations are made and the demand notices are communicated.

7. One of the contentions raised is that the petitioner is running a Hospital as a Charitable Institution and therefore, they are entitled for exemption from payment of electricity charges. However, all these factors are to be adjudicated in the manner known to law.

8. The order impugned was passed by the Junior Electrical Engineer and therefore, the petitioner has to approach the Appellate Authority or the Consumer Grievance Redressal Forum constituted under the Electricity Regulations. But even against the order of Redressal Forum, further appeal is provided under the Electricity Ombudsman. There is a Regulation for Electricity Ombudsman is also provided.

9. Rule 18 of the Tamil Nadu Electricity Supply Code contemplates 'Consumer Grievance Redressal'. Accordingly, all grievances of the consumers, relating to the provisions under Regulations 3 to 17 shall be referred by the consumer to the respective Consumer Grievance Redressal Forum constituted under the Act.

10. Even in case, the consumer is not satisfied with the order passed by the Grievance Redressal Forum, they have an opportunity to approach the Electricity Ombudsman constituted under the Regulations for Consumer Grievance Redressal Forum and Electricity Ombudsman. Therefore, adjudications before such Forums are imminent and only in the event of factual findings by such Original and Appellate Authorities, the power of judicial review under Article 226 of the Constitution of India may be exercised effectively and efficiently.

11. The power of judicial review under Article 226 of the Constitution of India has to ensure the processes through which it is conducted by the Competent Authority under the provisions of the Statutes and Rules and not the decision by itself. Thus, the petitioner is at liberty to approach and exhaust the remedies available under the provisions of the Act and Regulations as stated above and in the event of filing any such applications/objections before such Authorities/Forums, such Authorities/ Forums shall consider the same on merits and in accordance with law and dispose of the same as expeditiously as possible and by providing an opportunity to all the parties in the manner known to law.



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12. With the abovesaid liberty, the writ petitions stand disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Svn

To

1.The Chairman,
Tamil Nadu Generation and Distribution
Corporation Limited, TANGEDCO,
Anna Salai,
Chennai - 600 002.

2.The Assistant Executive Engineer,
Operation and Maintenance,
Sivakanchi Division,
Kancheepuram.

3.The Junior Electrical Engineer,
Operation and Maintenance,
Sivakanchi Division,
Kancheepuram.

+1cc to Mr.Jai Venkatesh, Advocate, S.R.No.58369

+1cc to M/s.Srividya, Advocate, S.R.No.58359

W.P.Nos.32563 and 32801 of 2016

MG(CO)
RVM(25/11/2021)