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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2021

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P.No.40162 of 2016

&

W.M.P.No.15367 of 2017

D.Dinakaran

... Petitioner

Vs.

1. The Chairman,  
Tamil Nadu Electricity Board,  
Tamil Nadu Generation and Electricity  
Distribution Corporation Ltd.,  
Anna Salai, Chennai – 600 002.

2. The Assistant Executive Engineer ( O & M)  
Tamil Nadu Generation and Electricity  
Distribution Corporation Ltd.,  
West Arni, Arni & Taluk,  
Thiruvannamalai District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the 2<sup>nd</sup> respondent in his proceedings letter No.AEE/O&M/West/Arni/F.Theft/D.437/1617 dated 11.11.2016 and quash the same and consequently direct the respondents to return back Rs.1,00,000/- to the petitioner.

For Petitioner : No Appearance

For Respondents : Mr.L.Jai Venkatesh TANGEDCO

O R D E R

The order impugned reveals that the assessment order has been passed on account of theft of energy in respect of electricity service connection provided in the premises of the petitioner. The authorities competent conducted an inspection and identified theft of energy and accordingly initiated action and passed the assessment order in proceedings dated 11.11.2016. The said order is under challenge in the present Writ Petition.



2. The facts relating to the conduct of inspection and the details regarding the theft of energy are enumerated in paragraph no.5 of the counter, which reads as follows:

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"The allegations as stated in para 4 of the petitioner's affidavit that the persons, who claiming right over my land and always giving troubles to him and frequently sent frivolous complaints to the Revenue Departments and as well as other Department Officials, when the water let out from Tank to the land at the time the said person brought the Anti-Theft Squad, who is Ex-Serviceman and they are not employees of the Electricity Board to my land, when the petitioner was not present in the said land and threatening his father, who was present in the said land and obtained signature from his father, as it he giving consent for compounding offence and received Rs.18000/- from his father for avoiding arrest and more over, no mahazar has been issued to his father, at the time of the said incident. The Anti-Theft Squad instructed his father that the petitioner should hand over the land to the person which is no way connected with the Anti-Theft Squad, then only he came to understand the Anti-Theft Squad for his personal benefits are induced the other officials and collected Rs.18,000/- from his father as it as alleged theft of energy all are false. It is true that after the reliable information received from confidential, this respondent direct the Anti-Theft Squad who is Ex-Serviceman to inspect the petitioner's land, hence the said Ex-Serviceman went and inspect the petitioner's land, when the time of inspection, he was identified that the petitioner illegally consumed consumption from LT Line by using of Hook. Immediately the said Anti-Theft Ex-Serviceman was taking steps for illegal conduct of the petitioner knowing the critical position the father of the petitioner the said Duraisamy volunetarily avowed the illegal act of his son, and also he assured that he was ready to pay the compensation for the loss incurred to the Electricity Board by the act of his son namely the petitioner and further he prayed for avoidance of criminal proceedings. The matter had been went before the respondent for final settlement, as per the TNERC Norms, the compensation for the loss of misusing the consumption had been fixed as for Rs.4,39,015/-. The final settlement had accepted by the petitioner's father the said Duraisamy for the evidence he paid sum of Rs.18,000/- on the same day i.e. on 06.04.2015 and



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get some more time for paying the balance amount and he had signed voluntarily without any coercion or compulsion in the settlement memo. Due to the settlement arrived both the parties this respondent given up all criminal proceedings against the petitioner. After the above settlement neither the petitioner nor his father has come forward to pay the said balance amount. Hence the respondent passed an order on 24.04.2015 as against the petitioner in Letter No.AEE/O&M/NA/Arni/Do/37/2015.

3. In view of the fact that the allegation against the petitioner is theft of energy and assessment order has been passed, adjudication with reference to the disputed facts are necessary and such an elaborate adjudication cannot be conducted in the writ proceedings under Article 226 of the Constitution of India. In the absence of adjudication with reference to the original documents and evidences, this Court may not be in a position to form an opinion whether the assessment made by the authorities is in accordance with principles or not.

4. Thus, the petitioner has to approach the appellate authority under the Electricity Act, for the purpose of redressal of the issues. Accordingly, the petitioner has been granted liberty to approach the appellate authority. In the event of filing any such appeal, the appellate authority shall consider the period during which the Writ Petition was pending before this Court for the purpose of condoning the delay, if any and decide the issue on merits and in accordance with law, as expeditiously as possible.

5. With these observations, the Writ Petition stands disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Chairman,  
Tamil Nadu Electricity Board,  
Tamil Nadu Generation and Electricity  
Distribution Corporation Ltd.,  
Anna Salai, Chennai – 600 002.



2. The Assistant Executive Engineer ( O & M)  
Tamil Nadu Generation and Electricity  
Distribution Corporation Ltd.,  
West Arni, Arni & Taluk,  
Thiruvannamalai District.

+1cc to Mr.L.Jai Venkatesh (TANGEDCO) , Advocate, S.R.No.118

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BP (CO)  
CT 24/03/2022