



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30-11-2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.8759 of 2014

And

MP No.1 of 2014

Kennedy Industrial Training Centre,  
Represented by its Correspondent  
N.Krishnamurthy,  
No.79/1, Katpadi Main Road,  
Vellore - 632 006.

...Petitioner

vs.

The Junior Electrical Engineer,  
(O&M) Town/West,  
Tamil Nadu Generation and Distribution  
Corporation (TANGEDCO),  
Gandhi Nagar,  
Vellore - 7,  
Vellore District.

...Respondent

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 first respondent in Ka.No.E.Mi.Po/Ki&Pa/Ka Me/Ko.Thani.No.22 dated 26.12.2013 relating to Service Connection in S.C.No.213-002-81 and quash the same.

For Petitioner: Mr.S.Kamadevan

For Respondent: Mr.L.Jaivenkatesh,

Standing Counsel for TANGEDCO.

O R D E R

The demand notice dated 26.12.2013 issued based on audit objection, is under challenge in the present writ petition.

2. The petitioner is an Industrial Training Centre approved by the Director General of Employment and Training, New Delhi and offering vocational training programmes.



3. The learned counsel for the petitioner states that the petitioner is paying the electricity consumption charges regularly. While-so, the impugned demand notice has been issued on the ground that the meter was defective and an audit objection was raised.

4. The learned counsel for the petitioner reiterated that the manner in which the consumption charges is calculated is improper and not in consonance with the Regulations as they are demanding exorbitant charges over and above the probable consumption even in case of defective meter. However, such disputed facts require an adjudication with reference to the documents and evidences. This Court cannot form an opinion with reference to the actual usage, the difference or the manner in which it is calculated and the amount determined and communicated through impugned demand notice. All such issues require verification of documents and evidences, including oral evidences and affording opportunity to all the parties concerned.

5. The learned counsel for the respondent made a submission that the audit objection raised based on the defective meter under Regulation 11(4) was determined and communicated through impugned demand notice. If at all the petitioner is aggrieved, he has to approach the Consumer Grievance Redressal Forum constituted under Regulation 18 of the Tamil Nadu Electricity Supply Code.

6. The demand notice and show cause notice are similar and in case of show cause notice, the addressee is asked to submit his explanations in respect of the allegations set out in the show cause notice. In the case of demand notice, the Authorities Competent demand certain issues with reference to the provisions of the Act and Rules or Regulations and communicate the determination or decision taken asking the addressee to comply with the decision taken.

7. In such circumstances, the person, who received the demand notice, may accept the demand and comply with the conditions or approach the Appellate Authority or the Forum/Court of Law constituted for the purpose of adjudication of the issues. Thus, mere issuance of demand notice and adjudication of facts and circumstances in the writ proceedings are not desirable, as it requires scrutinisation of original documents and evidences and if necessary oral evidences. Therefore, the demand notice may not provide cause in all circumstances except when such a demand notice is issued by the



incompetent Authorities having no jurisdiction by directly hitting the provisions of the Act or Rules.

8. In all other circumstances, the opportunity provided to the person, who received the demand notice either to comply with the demand or to file an appeal or adjudicate the issues before the Competent Forum. Contrarily, such disputed issues cannot be adjudicated in the writ proceedings under Article 226 of the Constitution of India. In the event of venturing into adjudication of such disputes, merely based on the facts and circumstances filed in the writ proceedings, there is a possibility of omission, commission or error in the matter of considering the facts and circumstances based on the documents in original and evidences.

9. Contrarily, the Appellate Authority and the Forum constituted for redressing the grievances are empowered to examine the original documents and evidences and adjudicate the issues on merits and a finding can be provided. The findings of the Appellate Authority and such Redressal Forums would be of greater assistance to the High Court for the purpose of exercise of the powers of the Judicial Review under Article 226 of the Constitution of India.

10. This being the principles to be followed, the petitioner is bound to approach the Consumer Grievance Redressal Forum constituted under Regulation 18 of the Tamil Nadu Electricity Supply Code, the demand notice was issued by invoking the powers under the Regulation 4 of the Tamil Nadu Electricity Supply Code. Therefore, the petitioner has to approach the Grievance Redressal Forum constituted under Regulation 18 of the Tamil Nadu Electricity Supply Code.

11. It is needless to state that the Authorities who decided the issues shall not be permitted to sit as a Member in the Redressal Forum and the independent Authorities must constitute the Forum for the purpose of adjudication of the issues and resolve the same.

12. In the event of filing an application before the Forum by the petitioner, the period in which the writ petition was pending before the High Court is to be taken into consideration for the purpose of condoning the delay if any application is filed by the petitioner to condone the delay. All the issues raised are to be adjudicated and decided on merits and in accordance with law as expeditiously as possible and by affording an opportunity to the parties concerned.



13. The learned counsel for the petitioner made a submission that pursuant to the interim order granted by this Court in the present writ petition, the petitioner has deposited Rs.10,000/- with the respondent and the said amount is to be adjusted.

14. With the abovesaid observations, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

s/d-  
Assistant Registrar

//True Copy//

Sub-Assistant Registrar

To

The Junior Electrical Engineer,  
(O&M) Town/West,  
Tamil Nadu Generation and Distribution  
Corporation (TANGEDCO),  
Gandhi Nagar,  
Vellore - 7,  
Vellore District.

+1 CC to Mr.L.Jaivenkatesh, Advocate sr 63631.

W.P.8759 of 2014

PL(CO)  
SP(13/12/2021)