



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 30-11-2021
CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.7906 of 2014
And
MP No.1 of 2014

D.Naveen

.. Petitioner

vs.

The Assistant Engineer,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Whites Road,
CEDC/CENTRAL/TNEB,
26, West Cott Road,
Chennai - 600 014.

.. 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 respondent in Tha.Ka.No.Asst.Eng/EMaPa/Whites Road/Ko/A.No./ 12 dated nil (received by the petitioner on 06.02.2014) and quash the proceedings Tha.Ka.No.Asst.Eng/EMaPa/Whites Road/Ko/A.No./ 12 dated nil (received by the petitioner on 06.02.2014).

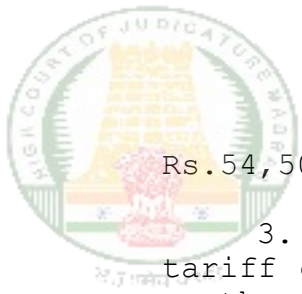
For Petitioner : Mr.T.Senthilkumar for
Mr.M.Sivavarthan.

For Respondent : Mr.L.Jaivenkatesh,
Standing Counsel for TANGEDCO.

O R D E R

The demand notice issued based on the tariff change by invoking Regulation 4 of the Tamil Nadu Electricity Supply Code, is under challenge in the present writ petition.

2. The petitioner states that the flat at First Floor, Door No.283/4, Lloyds Road, Chennai-600 014 belonged to the Hindu Undivided Family (HUF) of the petitioner and as the Kartha of the HUF, the petitioner is maintaining the aforesaid flat. The Electricity Service Connection was provided in the name of the petitioner. The petitioner further states that he was paying the consumption charges regularly. While-so, the impugned demand notice has been issued asking the petitioner to pay a sum of



Rs.54,509/-.

3. The learned counsel for the petitioner states that the tariff change details provided by the respondent is unacceptable as the petitioner was paying the consumption charges regularly.

4. Per contra, the learned counsel, appearing on behalf of the respondent-TANGEDCO, disputed the contentions of the petitioner by stating that the demand notice was issued based on the tariff change and by invoking Regulation 4 of the Tamil Nadu Electricity Supply Code. If at all the petitioner is aggrieved from and out of the demand, he has to approach the Consumer Grievance Redressal Forum constituted under Regulation 18 of the Tamil Nadu Electricity Supply Code.

5. 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.

6. 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.

7. 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.



8. 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.

9. 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.

10. 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.

11. 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.

12. 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.27,255/- with the respondent and the said amount is to be adjusted by the respondent.

13. 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.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

Svn



To

The Assistant Engineer,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Whites Road,
CEDC/CENTRAL/TNEB,
26, West Cott Road,
Chennai - 600 014.

+1 cc to Mr.M.Sivavarthanan, Advocate Sr.NO.62482

+1 cc to Mr.L.Jaivenkatesh, Advocate Sr.NO. 62753

WP 7906 of 2014

pl(CO)

A.SK(10.12.2021)