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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09-12-2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP NOS.11671 TO 11673 OF 2014

AND

MP NOS.1, 1 AND 1 OF 2014

M/s.Chennai Krishna Hospital,
Represented by its Proprietor,
Dr.S.Venkatraman,
S/o.V.Subramanian,
No.297, Gst Road,
Chrompet,
Chennai - 600 044.

...Petitioner in all WPs

vs.

1.The Executive Engineer/O&M,
Tambaram/CEDC/South,
Chennai-600 045.

2.The Chairman,
The Tamil Nadu Electricity Board,
144, Anna Salai, Chennai - 600 002.

3.The General Manager,
Tamil Nadu Generation and Distribution
Corporation,
144, Anna Salai,
Chennai - 600 002.

...Respondents in all WPs

Writ Petitions are filed under Article 226 of the Constitution of India, praying for the issuance of Writs of Certiorari, calling for the records relating to the letter Nos.EE/AAO/RB/TBM/AS.XIII/A.C.No.293-007-125/D./14, EE/AAO/RB/TBM/AS.XIII/A.C.No.293-007-160/D./14 and EE/AAO/RB/TBM/AS.XIII/A.C.No.293-007-159/D./14 respectively dated 27.03.2014 on the file of the first respondent and to quash the same as illegal.

For Petitioner in all WPs : Mr.I.Abrar Md. Abdullah

For Respondents in all WPs : Mr.L.Jaivenkatesh,
Standing Counsel for TANGEDCO.



C O M M O N O R D E R

The audit shortfall intimation/demand issued by the first respondent, is under challenge in all these writ petitions.

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2. Due to change of tariff, an audit objection was raised in respect of consumption charges to be paid by the petitioner. Accordingly, audit shortfall intimation was provided to the petitioner along with details of audit shortfall.

3. The learned counsel for the petitioner states that the petitioner has not made any application for change in tariff and the Authorities have effected and thereafter raised an audit objection.

4. This Court is of the considered opinion that it is the order impugned and the audit shortfall intimation is issued to the petitioner along with details of audit shortfall. Such details require an elaborate adjudication with reference to the facts, documents and evidences. However, such an adjudication cannot be undertaken in the writ proceedings under Article 226 of the Constitution of India, as it requires scrutinisation of documents and evidences.

5. The petitioner has raised several grounds on merits and with reference to the usage of electricity. However, such technical grounds and the details of calculation provided are to be adjudicated by the Competent Authorities and in respect of these writ petitions, the Consumer Grievance Redressal Forum constituted under Regulation 18 of the Tamil Nadu Supply Code is functioning and the Forum is competent to call for the records and adjudicate the issues on merits and in accordance with law and by affording an opportunity to the petitioner.

6. Exhausting the statutory remedy is of paramount importance, as the findings of those Appellate Authorities and the Forums would be of greater assistance to the High Courts for the purpose of exercise of power under judicial review under Article 226 of the Constitution of India. In the absence of any such factual findings by the Authorities, there is a possibility of error, commission or omission in the matter of dealing with the facts and circumstances. Thus, it is preferable in all circumstances to exhaust the statutory remedy provided under the Regulations.

7. The learned counsel for the petitioner made a submission that the petitioner is ready to make some payments for the undisputed period and the same has not been received by the respondents. However, the petitioner, in this regard, is at liberty to approach the Competent Authorities for the purpose of redressing its grievances.



8. In view of the facts and circumstances, the petitioner is at liberty to approach the Consumer Grievance Redressal Forum and in the event of filing any such applications by the petitioner, questioning the order impugned the period during which the writ petitions were pending before this Court, are to be taken into consideration for the purpose of condoning the delay, if any condone delay petitions are filed by the petitioner. The Forum shall adjudicate the issues on merits and in accordance with law as expeditiously as possible.

9. 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(CO)

// True Copy //

Sub Assistant Registrar

Svn

To

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WPs 11671 to 11673 of 2014

EV(CO)
RVM(21/12/2021)