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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.11.2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.13353 of 2014 and
M.P.No.2 of 2014

K.Nalliappan,
Proprietor
M/s.VijayaShree Mahal
Plot No.5164 to 5167,
III Avenue,
Anna Nagar, Chennai 600 040.

.. Petitioner

..Vs..

1. The Tamil Nadu Electricity Board,
Rep. By its Chairman,
NPKRR Maaligai,
800, Anna Salai,
Chennai - 600 002.

2. Executive Engineer / O & M,
Tamil Nadu Electricity Board,
Anna Nagar,
Plot No.1100-A, H Block,
5th Street, 11th Main Road,
Anna Nagar, Chennai-600 040.

3. The Assistant Executive Engineer (O & M),
Tamil Nadu Electricity Board,
Anna Nagar, CEDC/West,
Anna Nagar, Plot No.1100-A, H Block,
5th Street, 11th Main Road,
Anna Nagar, Chennai-600 040.

4. The Assistant Engineer,
Tamil Nadu Electricity Board,
O Block, Anna Nagar,
Chennai - 102.

.. Respondents

PRAYER:

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the



records of the Respondents dated 04.04.2014 in respect of Slip / Cheque No.1632014231 representing the extra levy to the tune of Rs.35,07,476/- with regard to the Service connection bearing Consumer No.09163016580 Vijay Shreemahal, belonging to the Petitioner Opposite to Royal Enclave / 100 Bed Hospital, III Avenue, Anna Nagar, Chennai 600 040, quash the same.

For Petitioner : Mr.A.Jenasenan

For Respondents : Mr.L.Jai Venkatesh
Standing Counsel for TANGEDCO

O R D E R

The writ petition is filed to call for the records of the respondents dated 04.04.2014 in respect of Slip / Cheque No.1632014231 representing the extra levy to the tune of Rs.35,07,476/- with regard to the Service connection bearing Consumer No.09163016580 Vijay Shreemahal, belonging to the Petitioner Opposite to Royal Enclave / 100 Bed Hospital, III Avenue, Anna Nagar, Chennai 600 040.

2.The petitioner is the owner of the building situated in Plot Nos.5164 to 5167, 3rd Avenue, Anna Nagar, Chennai, in which he had constructed four marriage halls. The respondents/Electricity Board extended nine different service connections to the building belonging to the petitioner. All the service connections have been provided by separate meters. The petitioner states that he is paying the consumption charges without any default.

3.On 28.10.1998, Anti-Theft Power Squad visited and inspected all the service connections. The officials of the Board left the premises without making any complaint against the petitioner. However, the authorities removed CT meter in respect of the service connections. Thereafter, a show cause notice was issued on 04.11.1998 and it was alleged that the seal on the CT meter were found as bogus.

4.The petitioner raises several lapses in respect of the processes followed by the authorities. The petitioner requested to furnish certain vital documents and those documents were also not furnished to the writ petitioner. Thus, the petitioner filed W.P.No.237 of 1999 and this Court passed an order on 11.10.2000, quashing the Board proceedings dated 31.12.1998. The Board authorities were directed to furnish the required materials to the petitioner. The Writ Appeal filed by the Board in W.A.No.369 of 2001 was also dismissed by the Hon'ble Division Bench.

5.The grievances of the writ petitioner is that the required



documents are not provided even now. The petitioner appeared for enquiry on various dates in respect of the show cause notice dated 14.11.1998 and once again requested to furnish the documents as directed by the High Court. However, without furnishing those documents, the respondents proceeded to pass an order on 04.09.2002, confirming the earlier order passed by the Board and directing the petitioner to pay the compensation charges in 15 equal installments.

6.Once again the writ petitioner filed W.P.No.36710 of 2002, questioning the order passed by the Board in proceedings dated 04.09.2002. While disposing of the writ petition, this Court observed that expert committee report has not been furnished to the petitioner and the learned Additional Advocate General undertook to furnish the same to the petitioner. In spite of the said undertaking, the documents are yet to be furnished, thus, the writ petition is filed by the petitioner to quash the slip.

7.However, in between, enquiry was conducted and the petitioner in clear terms said that unless the documents sought for is furnished, he would not be in a position to participate in the enquiry proceedings. Thus, the enquiry was closed by the authorities. Under those circumstances, once again the present writ petition is filed.

8.The learned counsel for the petitioner made a submission that though this Court directed the respondents Board to furnish the documents, till today the said documents are not furnished enabling the petitioner to defend his case. The enquiry proceedings initiated was also closed. The criminal case registered is pending and the present status of the case is not made clear before this Court.

9.This Court is of the considered opinion that pursuant to the inspection conducted by the Anti-Theft Power Squad, actions were initiated against the petitioner. The authorities found that the seal in the meter was bogus. Thus, a criminal case was registered and actions were initiated to recover the consumption charges based on the assessment. The petitioner requested to furnish certain documents enabling him to defend the case. Those documents are not filed, thus the petitioner was constrained to file writ petition after writ petition seeking documents from the Electricity Board authorities.

10.This Court is of the considered opinion that the issues are prolonged and protracted on one point that the Board authorities have failed to furnish certain documents to the writ petitioner. Two writ petitions were already filed and one writ appeal was also filed. No doubt, the Board authorities undertook that the documents will be furnished, but they could not furnish



the same for the reasons best known to them. It is not made clear by the Board authorities, why the documents are not furnished to the petitioner. However, the enquiry initiated was closed.

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11. This Court is of the considered opinion that the issue regarding theft of energy cannot be closed in this manner. All appropriate actions must be initiated and issue must reach its finality. By filing writ petition after writ petition seeking one document or the other, a tie cannot be created, which will not solve the problem nor the petitioner will get the relief. Therefore, multiplicity of proceedings in such circumstances are to be avoided. Thus, the aggrieved persons always at the first instance must exhaust the remedies available before the competent authorities, wherein there is a possibility of adjudication of entire issues with reference to the original documents and evidences including oral evidences. When there are forums statutorily created for such effective adjudication, entertaining a writ petition in between, undoubtedly would not solve the issues. The case on hand is a classic case, where the petitioner had filed writ petition after writ petition only for the purpose of getting two documents and the matter is being delayed for the past 23 years.

12. The learned counsel for the petitioner made a submission that the delay is due to the non-furnishing of documents at the instance of the Board. The parties may blame each other. However, the Courts are bound to ensure that such proceedings and allegations relating to theft of energy is adjudicated in a proper manner and the issues are resolved by following the procedures as contemplated.

13. Contrarily, directing the authorities in between to furnish one document and thereafter, filing a writ petition and a contempt application and further proceedings, all these intermittent proceedings on creating delay which provides scope for the litigants to prolong and protract the issues one or the other way for unjust gains, which can never be encouraged by the Courts. This exactly is the reason why the Hon'ble Apex Court as well as this Court repeatedly held that the statutory remedies are to be exhausted by the parties at the first instance. If the statutory remedies are exhausted, then the findings can be examined by the High Court. Once the statutory forums or appellate bodies are allowed to adjudicate the issues on merits with reference to documents and evidences, then it would be convenient for the High Court to exercise the power of judicial review under Article 226 of the Constitution of India in an efficient manner. Those findings would be of greater assistance for the purpose of taking a decision.



14. Contrarily, the litigants are approaching the High Court for furnishing a copy of documents and directions are issued and the respondents are not furnishing the copies and keeping the writ petitions pending, all these causes greater prejudice to the interest of the parties, and more prejudice to the public institutions in the matter of recovery of public revenue. Thus, all these aspects plays pivotal role and under these circumstances, the parties must adjudicate the issues before the statutory forum constituted in order to get a clear finding in respect of the inspections conducted and regarding the determination of electricity consumption charges imposed on the petitioner.

15. Contrarily, the parties cannot stick on to the documents and in the event of non-availability of document or otherwise, the said complaints also can be made before the statutory forum and issues can be decided even in the absence of those documents and based on the available documents.

16. This being the principles to be adopted, this Court is of an opinion that the issues in the present case is prolonged for about 23 years and even now with reference to the present prayer in the writ petition, this Court cannot conduct an elaborate adjudication as it requires examination of original documents and evidences including oral evidences. This being the factum, the petitioner is at liberty to approach the Consumer Grievances Redressal Forum constituted under Regulation 18 of the Tamilnadu Electricity Supply Code. Exhausting the remedies before these forums are of paramount importance as the petitioner also get an opportunity to adjudicate all the issues with reference to the available documents and evidences and the forums are bound to provide opportunity to all the parties to adjudicate the issues.

17. Accordingly, the petitioner is at liberty to approach the Consumer Grievances Redressal Forum within a period of four weeks from the date of receipt of a copy of this order and in the event of receiving any such application from the petitioner, the forum shall adjudicate the issues on merits and in accordance with law by affording opportunity to all the parties and take a decision and pass orders as expeditiously as possible and preferably within a period of four months from the date of receipt of a copy of this order.

18. The forum while entertaining the application, if any filed by the petitioner within a period of four weeks shall consider the period during which the writ petition was pending before this Court for the purpose of condoning the delay, if any application is filed to condone the delay.



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19. With these directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS VII)

//True Copy//

Sub Assistant Registrar

vs

To

1. The Chairman,
The Tamil Nadu Electricity Board,
NPKRR Maaligai,
800, Anna Salai, Chennai - 600 002.
2. Executive Engineer / O & M,
Tamil Nadu Electricity Board,
Anna Nagar, Plot No.1100-A, H Block,
5th Street, 11th Main Road,
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5th Street, 11th Main Road,
Anna Nagar, Chennai-600 040.
4. The Assistant Engineer,
Tamil Nadu Electricity Board,
O Block, Anna Nagar,
Chennai - 102.

+1cc to Mr.L.Jai Venkatesh, Advocate, S.R.No.62100

+2cc to Mr.A.Jenasenan, Advocate, S.R.No.62058

W.P.No.13353 of 2014 and
M.P.No.2 of 2014

NK(CO)
CT 10/12/2021