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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. No.29423 of 2014 & W.P. No.31571 of 2015

& M.P. No.1 of 2014 and M.P. Nos.1 & 2 of 2015

S.Sudhesh

...Petitioner in both W.Ps

Vs.

1.The Superintendant Engineer,
Tamilnadu Electricity Generation and Distribution
Corporation,
Krishnagiri, Krishnagiri District.

2.The Assistant Engineer (O & M),
Tamilnadu Electricity Generation and Distribution Corporation,
Hosur - 635 109,
Krishnagiri District.

...Respondents
in W.P.No.29423 of 2014

1.The Director General,
Bureau of Energy Efficiency,
Ministry of Power, 4th Floor, SEWA Bhawan,
R.K.Puram,
New Delhi - 110 066.

2.The Chief Engineer,
Central Electricity Authority,
(Installation and Operation of Meters)
Room No.628 N, SEWA Bhawan,
R.K.Puram,
New Delhi - 110 066.

3.The Chairman/Managing Director,
Tamilnadu Electricity Generation and Distribution Corporation,
Anna Salai, Chennai - 2.

4.Thiru.P.Chinnathambi,
Superintendant Engineer,
Tamilnadu Electricity Generation and Distribution Corporation,
Krishnagiri, Krishnagiri District.

5.Thiru.Ramachandran,
Executive Engineer,
Tamilnadu Electricity Generation and Distribution Corporation,
Hosur - 635 109, Krishnagiri District.



6.Thiru.K.Sethuraj
Assistant Executive Engineer,
Tamilnadu Electricity Generation and Distribution Corporation,
Hosur - 635 109, Krishnagiri District.

7.The Assistant Engineer (O & M),
Tamilnadu Electricity Generation and Distribution Corporation,
Hosur - 635 109, Krishnagiri District.

8.The Chief Electrical Inspector to Government,
Government Electrical Standards Laboratory,
Thiru.Vi.Ka. Industrial Estate,
Guindy, Chennai - 600 032.

9.The Chairman,
T.N.E.B.,
Anna Salai, Chennai - 2.

...Respondents
in W.P.No.31571 of 2015

PRAYER in W.P.No.29423 of 2014: Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in Ka.No.UPO/EPA/Gramam/Hosur/Ko.Kattu/Aa.No.114/2014 dated 16.10.2014 and quash the same and consequently direct the 1st respondent to conduct the enquiry as per law.

PRAYER in W.P.No.31571 of 2015: Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of 7th respondent in Ka.No.UPO/EPA/Gramam/Hosur/Ko.SC.1849/Aa.No.48/2015 dated 10.06.2015 and Ka.No.UPO/EPA/Gramam/Hosur/Ko.Kattu/Aa.No.060/2015 dated 26.06.2015 and quash the same and consequently direct the respondents Nos.3 & 4 to conduct the enquiry for levying exorbitant consumption charges to petitioner by the respondents Nos.5 to 7.

For Petitioner : Mr.T.Sundaravadam
in both W.Ps

For Respondents : Mr.L.Jai Venkatesh
in W.P.No.29423 of 2014 Standing Counsel

For Respondents : Mr.B.Sudhir Kumar
in W.P.No.31571 of 2015 Senior Panel Counsel for R1

Mr.L.Jai Venkatesh
Standing Counsel
for R3 to R7 & R9

Mr.A.Selvendiran
Government Advocate for R8



O R D E R

The issue involved in both these writ petitions are common and hence they are taken up together, heard and disposed of through this common order.

2.The subject matter of challenge in W.P.No.29423 of 2014 pertains to the impugned communication of the 2nd respondent dated 16.10.2014 wherein the petitioner was informed that only if he pays the amount that was demanded, the representation made by him will be considered.

3.The subject matter of challenge in W.P.No.31571 of 2015 pertains to the demand raised by the 7th respondent directing the petitioner to pay a sum of Rs.73,797/-

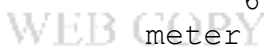
4.The case of the petitioner is that there is a defect in the electricity reading meter for the service connection that was given to the petitioner and hence exorbitant amounts are being claimed by the respondents based on the wrong meter reading. Therefore, the petitioner had made a representation before the respondents and also filed earlier writ petitions wherein a direction was given to the respondents to consider the claim made by the petitioner and in spite of the same, the impugned proceedings came to be issued by the respondents.

5.During the pendency of these writ petitions, this Court passed an order on 16.06.2017 and the same is extracted hereunder:

There appears to be some point of difference with reference to the existing meter. While it is the case of the petitioner that the meter is faulty, the fourth respondent, on enquiry, states that it is not so. Insofar as the fourth respondent is concerned, it is the mistake committed by the assessor.

2.Learned counsel appearing for the petitioner would submit that even now the meter is not running properly, which factum is denied by the fourth respondent.

3.This Court does not want to go into the controversy. However, considering the submissions made, it will be appropriate to direct respondents 3 and 4 to fix a new meter without prejudice to the contentions of the respective parties subject to the condition that the petitioner complies with all the statutory requirements. Needful will have to be done within a period of six weeks from the date of receipt of a copy of this order.



6. It is stated that pursuant to the above order, a new meter was fixed and the petitioner is satisfied with the readings that are recorded in the new meter. However, the petitioner by virtue of the interim order passed by this Court is paying only a sum of Rs.20,000/- bi-monthly.

4. I state that the above writ petition is not maintainable since the petitioner has an alternative remedy of appeal before the Consumer Grievance redressal Forum as per Regulation 18 of the Tamil Nadu Electricity Supply Code 2004. Hence on this short ground the above writ petition is liable to be dismissed in limine.

5. Further there is no bonafides on the part of the petitioner in straight away filing the writ petition. In fact the petitioner should have paid the challenge fees so that meter could be sent for laboratory for the test, so as to find out that the meter is defective or not.

6. I submit that the allegations contained in Para No. 3 and 4 of the Affidavit are all false and incorrect and the Petitioner is put to the strict proof over the same. The Respondents submit that based on the representations made by the Petitioner the Respondents have checked out the electricity meter of the Petitioner and the Respondents have found no defect with the same and the said meter is functioning promptly and correctly. Till date the meter has not changed since it is functioning in good condition without any defect.

7. I submit that the allegation in Para No. 5 of the Affidavit that the 2nd Respondent did not rectify the defects in the said meter is not true and correct. The 2nd Respondent herein inspected the said meter and duly checked out the same and found that the meter is promptly functioning without any defect. It is false to allege that till date the Respondents herein have not taken any action in this regard. It is false to allege that these Respondents are wrongly imposing electricity consumption charges on the consumers.



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8. I submit that the allegations contained in Para No. 6 of the Affidavit are all false and it is blatant lie to allege that these Respondents in order to compensate the energy theft are charging on the Petitioner like consumers. I further submit that we have restored the electricity connection of the Petitioner by obeying the orders of this Honourable Court after collecting Rs.50,000/- based on the Hon'ble High Court.

9. I submit that it is false to allege that the orders passed by me in Aa. No. 114/ 2014 dated 16.10.2014 is illegal and against to the principles of natural justice. The Respondents submit that they have ensured the prompt functioning of the electricity meter of the Petitioner and as the current electricity consumption of the Petitioner is more than the earlier periods and in order to evade the same the Petitioner has moved before this Honourable Court by making all false and baseless allegations. The Petitioner is bound to pay the electricity bill for the extent of the electricity consumed by him.

8.The main ground that was raised by the learned counsel for the petitioner is that the electricity reading meter is defective and hence the respondents ought to have raised the demand only in accordance with the relevant Regulations and in the present case, the respondents have unilaterally come to a conclusion that there is no defect in the meter and consequently an exorbitant amount has been demanded to be paid by the petitioner. The learned counsel further submitted that pursuant to the orders passed by this Court, a new meter was fixed and the meter reading is properly recorded and the petitioner has no grievance over the same. Therefore, the learned counsel submitted that the very fact that the reading from the new meter is much less than what was shown in the earlier meter, proves that there was defect in the meter. Therefore, the learned counsel submitted that for the period from 2014 to 2017, the respondents must be directed to calculate the demand as per the formula that is given under the Regulations and insofar as the balance amount that is due and payable by the petitioner for the meter reading from 2017 to 2021, after the new meter was installed, the petitioner will make the payments if some time is granted by this Court.

9.Per contra, the learned Standing Counsel appearing on behalf of the respondents submitted that the very basis of the case of the petitioner that the meter was defective, is unsustainable since the meter was sent for testing and it was found to be properly functioning without any defect. The learned counsel therefore submitted that whatever meter reading was shown in the meter, has to be necessarily paid by the petitioner and the petitioner cannot insist for making the



payment in accordance with the formula provided under the Regulations. The learned counsel further submitted that the petitioner was approaching this Court every time when a demand was made and by virtue of the orders passed by this Court, the petitioner is managing to pay a meager amount and is enjoying the service connection. The learned counsel submitted that the Assistant Engineer, Operations and Maintenance has already sent a communication to the Superintending Engineer by calculating the entire amount that is due and payable to the petitioner. The learned counsel submitted that the petitioner cannot seek for any indulgence since whatever has been consumed by the petitioner has to be necessarily paid and if there is a delay, the respondents are also be entitled to collect the surcharge for such delayed payment. The learned Standing Counsel therefore submitted that there are absolutely no merits in these writ petitions and the same is liable to be dismissed.

10.The petitioner is basing his case on the ground that the meter is defective and the reading is not correct and therefore, the respondents cannot make any exorbitant demand from the petitioner. The petitioner therefore is seeking for a direction to the respondents to calculate the amount payable as per the formula that is provided under the Regulations. For the petitioner to make such a claim, it has to be first established that the meter is defective. In the present case, the respondents have checked the meter and they have found that there was no defect in the meter and that the meter is functioning properly and the readings that were shown was only based on the current that was consumed by the petitioner. In the light of such a stand taken by the respondents, this Court exercising its jurisdiction under Article 226 of the Constitution of India cannot assume that there was a defect in the meter. Such assumption cannot be made just because the new meter that was fixed after 2017 is showing lesser units consumed by the petitioner. The findings cannot be rendered by this Court merely based on assumptions and therefore, this Court is not convinced with the premise on which the petitioner has approached this Court by complaining that the meter is defective. In view of this finding, the petitioner has to necessarily pay the amount based on the demand made by the respondents based on the meter reading. This Court does not find any illegality in the impugned notices that were issued in both the writ petitions.

11.Insofar as the new meter that was installed after 2017, the petitioner is paying only a sum of Rs.20,000/- bi-monthly. Therefore, the respondents will have to calculate the total amount that is actually payable by the petitioner for the consumption of the electricity and this amount must also be paid by the petitioner.

12.In view of the above discussion, there shall be a direction to the Assistant Engineer, Operations and



Maintenance, TANGEDCO, Krishnagiri District to raise the demand on the petitioner by providing all the details. The respondents shall also give some time to the petitioner to make the payment. In any case, the petitioner has to make the entire payment, within a period of eight weeks from the date of receipt of the demand from the respondents. Except giving this leverage, no further orders can be passed in these writ petitions. While raising the demand, the respondents shall take into consideration the payments that have already been made by the petitioner and give due credit for the same.

13. Both the writ petitions are disposed of accordingly. No Costs. Consequently, connected miscellaneous petitions are closed.

ssr

-Sd/-
Assistant Registrar

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Sub-Assistant Registrar

To

1. The Superintendant Engineer,
Tamilnadu Electricity Generation and Distribution
Corporation,
Krishnagiri, Krishnagiri District.

2. The Assistant Engineer (O & M),
Tamilnadu Electricity Generation and Distribution Corporation,
Hosur - 635 109,
Krishnagiri District.

3. The Director General,
Bureau of Energy Efficiency,
Ministry of Power, 4th Floor, SEWA Bhawan,
R.K.Puram,
New Delhi - 110 066.

4. The Chief Engineer,
Central Electricity Authority,
(Installation and Operation of Meters)
Room No. 628 N, SEWA Bhawan,
R.K.Puram,
New Delhi - 110 066.

5. The Chairman/Managing Director,
Tamilnadu Electricity Generation and Distribution Corporation,
Anna Salai, Chennai - 2.



6.The Chief Electrical Inspector to Government,
Government Electrical Standards Laboratory,
Thiru.Vi.Ka. Industrial Estate,
Guindy, Chennai - 600 032.

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+1 CC to MR.L.Jaivenkatesh, Advocate SR.No.50962/2021

+1 CC to MR.B.Sudhir kumar, Advocate SR.No.51226/2021

+1 CC to M/S.T.Sundaravadanam, Advocate SR.No.50710/2021

+1 CC to Government Pleader, SR.No.50899

W.P. No.29423 of 2014 & W.P. No.31571 of 2015
& M.P. No.1 of 2014 and M.P. Nos.1 & 2 of 2015

GP(CO)
GS(21/10/2021)