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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2021

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

Contempt Petition No.1048 of 2017

M/s.ATC Telecom Tower Corporation Private Limited,
Represented by its Authorised Signatory,
Head Operations – Tamil Nadu Circle,
Celestial Point No.45, 3rd Floor,
Damodaran Street, T.Nagar, Chennai – 600 017.

...Petitioner

Vs.

1.Mr.M.Sai Kumar, I.A.S.,
The Chairman,
Tamilnadu Generation & Distribution
Corporation (TANGEDCO)
Anna Salai, Chennai.

2.Smt.C.Aarthi,
The Assistant Accounts Officer,
Revenue Branch,
Tamilnadu Generation & Distribution
Corporation (TANGEDCO)
Myladuthurai – 609 001.

3.Mr.Karthikeyan
The Assistant Electrical Engineer,
Operation and Maintenance (O&M)
West Town Division,
Tamilnadu Generation & Distribution
Corporation (TANGEDCO)
Myladuthurai – 609 001.

...Respondents



Prayer: Contempt Petition filed under Section 11 of the Contempt of Courts Act 1971, to punish the respondents for committing contempt of court for their wilful disobedience of the order dated 26.10.2016 passed in W.P.No.37572 of 2016.

For Petitioner : Mr.J.Ravikumar

For Respondents : Mr.M.Abdul kalam
Standing counsel
[For TANGEDCO]

ORDER

The Contempt Petition is filed to punish the respondents for committing the Contempt of Court of the order dated 26.10.2016 passed in W.P.No.37572 of 2016.

This Court passed an order as follows:

“4. It is seen that the earlier demand notice was already dealt with by this Court by order dated 22.03.2016 and the respondent was directed to give an opportunity to hear the petitioner and decide the same. A perusal of the impugned order would also reveal that there is no whisper with regard to affording of an opportunity to the petitioner and without complying the order passed by this Court mechanically the third respondent passed the present impugned order. Therefore, the impugned order is set aside and the matter is remitted back to the respondents, with a direction to them to pass order, after affording an opportunity to the petitioner and also after considering the petitioner's objections already filed on 13.02.2016, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.”



5. With the above directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.”

2. Pursuant to the order, the respondents have not initiated any action is the complaint set out in the contempt petition.

3. The learned counsel for the petitioner reiterated that no opportunity was provided to the petitioner to defend their case and therefore, the order has been violated. This Court directed the authorities to give a personal hearing and the said direction was also not complied with.

4. Though the Contempt Petition was admitted in the year 2017, the respondents have not filed any counter. However, perusal of the Docket orders passed by this Court reveals that an order was passed on 30.06.2017 that on payment of Rs.1,09,029/-, the respondent is directed to restore the electricity connection to the petitioner immediately. The petitioner was directed to pay the current consumption charges to the respondent regularly. Thereafter, on 12.03.2021, this Court recorded that no opportunity was given to the petitioner by the third respondent. Thus, the third respondent was given one more opportunity to comply with the orders and pass orders. Again, it was posted on 26.11.2021 and this Court passed an order to explain why the counter affidavit has not been filed in the contempt petition for such a long period. On 30.11.2021 also, this Court given time to file further counter affidavit. However, after a long delay, the



respondents filed counter affidavit on 3rd December 2021.

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5. Mr.R.Karthikeyan, AEE/Rural, Mayiladuthurai and Mr.T.Kaliyaperumal, Assistant Executive Engineer, Town, Mayiladuthurai are present before this Court today.

6. Filing a counter affidavit after three years by the officials itself is to be deprecated. Even the contempt proceedings are not taken seriously and it has been dealt as if the writ proceedings in a routine manner. If the implementation of the orders of this Court is delayed in this manner, certainly, the Courts are bound to take serious note of the affairs and all appropriate actions are to be initiated against the respondents. In this regard, the first respondent is directed to look into the files, find out the reason for not filing counter in the contempt petition for the past about 3 years and initiate all appropriate disciplinary action against the officials, who all are responsible and accountable for not filing counter in the contempt petition.

7. With reference to the counter affidavits filed on 03.12.2021 and 30.11.2021, the learned counsel appearing on behalf of the respondent Board made a submission that the opportunity was given to the writ petitioner by issuing a show cause notice even on 23.03.2017. The petitioner also responded to the show cause notice by submitting a explanation on 03.04.2017. Thereafter, on 06.06.2017, disconnection notice was issued by the third respondent. On



16.06.2017, the petitioner has given a letter of undertaking and on 31.10.2019, demand notice was issued by the Board to pay the arrears. On 14.10.2020, revised demand notice was issued. Again a show cause notice was issued on 24.03.2021 and a final order was issued on 12.04.2021.

8. This being the developments occurred, this Court is of the considered opinion that the very contention raised by the petitioner that no opportunity was given to them to defend their case is incorrect and such a mere statement made is not based on any relevant records. Now the respondent Board is able to furnish the copy of the show cause notices as well as opportunities provided to the petitioner. Therefore, the petitioner also is responsible for not bringing the entire facts before this Court during the earlier hearing of the contempt petition by this Court.

9. This Court is of the considered opinion that every consumer provided with electricity connection is bound to pay the current consumption charges regularly. If at all an action is taken, then no doubt they are entitled for an opportunity. However, they cannot prolong or protract the issues by making such an allegation without any basis. In the present case, after an order is passed by this Court, show cause notice was issued and an opportunity was provided. If at all, the petitioner is aggrieved from and out of the final order passed by the Board authorities, they have to exhaust the remedy provided under Regulation 18 of the



Tamil Nadu Electricity Supply Code by preferring an application before the Consumer Grievances Redressal Forum.

10. This being the opportunity available to the writ petitioner in respect of such demand notices or against an order passed, directing the Consumer to settle the consumption charges, the statutory remedy provided under the Tamil Nadu Electricity Supply Code must be exhausted. This being the remedy available to the petitioner, the present contempt petition deserves no further consideration as the respondents have not committed any contempt of Court and an opportunity as contemplated by this Court has been granted to the petitioner.

11. With these observations, the contempt petition stands closed. No costs.

SD/-

ASSISTANT REGISTRAR (COMM.CASES)

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//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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GS/14.03.2022