



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **11.03.2021**

CORAM

THE HONOURABLE MR.JUSTICE **V.PARTHIBAN**

W.P.(MD) No.5281 of 2021

and

W.M.P.(MD) No.4208 of 2021

WEB COPY

N.Palaniyappan

.. Petitioner

Vs

The Assistant Executive Engineer,
Operation and Maintenance,
Tamilnadu Electricity Board,
South Thuriayur,
Tirchy District.

.. Respondent

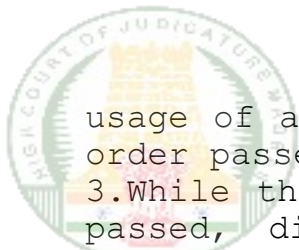
PRAYER:Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records pertaining to the impugned suspension proceedings issued by the respondent in his proceedings Ka.No. Vu.SaePo/EKaa/Thea/Thu/Ko.Vazhaku/A.No.037/21 dated 17.02.2021 and quash the same.

For Petitioner : Mr.N.Sankar Ganesh

ORDER

The case of the petitioner is that he is having a poultry farm in his agricultural land and was given electricity connection for the farm and consumed electricity under the agricultural tariff to supply water to the poultry farm. According to him, the supply of water to the poultry farm would not attract the commercial tariff. However, when he was directed to pay a sum of Rs.95,881/- as consumption charges, the petitioner approached this Court in W.P. (MD) No.12435 of 2010 challenging the tariff charged. In the meanwhile, the electricity connection was disconnected. This Court is in consideration of the pleadings therein passed an interim order to restore the power connection and directed the petitioner to pay 50% of the demanded amount within 4 weeks. The petitioner appears to have complied with the directions and the interim stay was also granted in the writ petition.

2.According to the petitioner, the case came up for hearing subsequently on 13.03.2012 and the interim order was made absolute. According to the petitioner, though he was ready to argue the case, finally the case was adjourned at the instance of the respondent. In the meanwhile, it appears that the respondent has issued a specific notification by classifying supply of water to the poultry farm and



usage of agricultural tariff is permissible, clarifying the earlier order passed in that regard on 02.05.1995.

3.While the matter stood thus, the present impugned order has been passed, directing the petitioner to pay the balance amount of Rs.47,940/- in terms of the original claim as the writ petition filed by him in 2010 had been dismissed for non-prosecution on 22.12.2020. Challenging the same, the petitioner is before this Court.

4.The learned counsel appearing for the petitioner would submit that the petitioner has initiated steps to restore the writ petition in W.P.(MD) No.12435 of 2010, which was dismissed for non-prosecution on 22.12.2020 and the department has now issued the demand vide impugned communication dated 17.02.2021, which according to the petitioner is unsustainable in law.

5.This Court is not inclined to entertain the writ petition for the simple reason that once the original challenge in the earlier writ petition has not been taken to its logical end by the petitioner as admittedly, the petition stood dismissed on 22.12.2020 for non-prosecution, this Court is of the view that there is nothing wrong on the part of the respondent seeking the demand of balance payment, which was due under the original notice issued to the petitioner. In any case, this Court in another proceeding cannot stay or quash this demand in the face of dismissal of the earlier writ petition.

6.When this Court had dismissed the earlier writ petition for non-prosecution, it was the fault of the petitioner for his non appearance and whatever be the reason for his non appearance, as far as the respondent is concerned, the writ petition was not on the file of this Court and hence, rightly the respondent has initiated action by issuing the present impugned order. In any event, it is up to the petitioner to workout his remedy in a manner known to law, but he cannot file another writ petition for the same cause of action and seek indulgence of this Court for setting aside the present impugned order.

7.For the above said reasons, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

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/ /2021

Sub Assistant Registrar(CS)

+1 CC to M/s.N.SHANKAR GANESH, Advocate (SR-10952[F] dated 15/03/2021)

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