



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 01.02.2021**

**CORAM**

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

**WP(MD)No.3896 of 2015**

**and**

**MP(MD)No.1 of 2015**

WEB COPY

K.A.Shahul Hameed

... Petitioner

Vs.

1.The Superintending Engineer,  
Pudukkottai Electricity Distribution Circle,  
TANGEDCO, Pudukkottai.

2.The Executive Engineer,  
Operation and Maintenance,  
Rural, TANGEDCO, Aranthangi.

3.The Assistant Executive Engineer,  
Operation and Maintenance,  
Rural, TANGEDCO, Aranthangi.

4.The Assistant Engineer,  
Operation and Maintenance,  
TANGEDCO, Kodikulam,  
Pudukkottai District.

... Respondents

**Prayer:** Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents from enforcing the demand of Rs.1,50,212/- as short levy for the months of March, 2009 and May, 2009 and consequently directing the respondents to restore the electricity service connection to the petitioner in SC No.138-002-817-TF IIIB.

For Petitioner : Ms.J.Maria Roseline

For Respondents : Ms.M.Parameshwari  
for SMS.Johnny Basha

**ORDER**

Heard the learned counsel for the petitioner and the learned standing counsel appearing for the respondents.

2.The petitioner was engaged in Prawn Cultivation. He had requested the respondents to grant him electricity service connection for carrying on with the said activity. The prawn



cultivation is not carried on throughout the year. This is a seasonal activity. The petitioner would inform the respondents as and when he commences the harvest cycle. During the period when the unit is not operational, obviously the consumption will be very low. This appears to have been misconstrued by the respondents as if the meter is not correct. The petitioner originally felt that the meter installed in his business premise was defective. Therefore, it was taken away and sent for analysis. But the MRT (Meter Relay Testing) gave a report stating that the meter is very much in order and it is not defective and it came to be reinstalled. Notwithstanding the same, the respondents continued to entertain the belief that there was shortfall in the matter of calculation.

3. According to the learned standing counsel while the regular meter did not show appropriate calculation, the check meter indicated that there was continual consumption of electricity.

4. I carefully considered the rival contentions. The impugned demand is liable to be set aside on two grounds. There was exchange of correspondence between the parties since 2012. But the impugned communication was issued in August 2014 calling upon the petitioner to pay a sum of Rs.1,50,212/- as arrears. The period of short levy according to the respondents pertains to the months of March 2009 and May 2009. Even the first communication issued in this regard was in January 2012. This was clearly beyond the period of two years of limitation prescribed in Regulation 21 of the Tamil Electricity Code. Regulation 21 reads as follows :

**"21.Disconnection of supply.-**Section 56 of the Act with regard to disconnection of supply in default of payment reads as follows:

"(1) Where any person neglects to pay any charge for electricity or any sum other than a charge for electricity due from him to a licensee or the generating company in respect of supply, transmission or distribution or wheeling of electricity to him, the licensee or the generating company may, after giving not less than fifteen clear days notice in writing, to such person and without prejudice to his rights to recover such charge or other sum by suit, cut off the supply of electricity and for that purpose cut or disconnect any electric supply line or other works being the property of such licensee or the generating company through which electricity may have been supplied, transmitted, distributed or wheeled and may discontinue the



supply until such charge or other sum, together with any expenses incurred by him in cutting off and re-connecting the supply, are paid, but no longer:

Provided that the supply of electricity shall not be cut off if such person deposits, under protest, -

- (a) an amount equal to the sum claimed from him, or
- (b) the electricity charges due from him for each calculated on the basis of average charge for electricity paid during the preceding six months, whichever is less, pending disposal of any dispute between him licensee.

(2)Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date such sum became first due unless such sum has been shown continuous as recoverable as arrears of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.

The provision of the Act as in sub-section (1) above are in addition to and not in derogation of any other law for the time being in force Accordingly, the licensee shall be entitled to disconnect the supply of electricity subject to the provisions of Water (Prevention and Control of Pollution) Act, 1974, Air (Prevention and Control of Pollution) Act 1981 and Environment (Protection) Act, 1986, etc."

5.The demand in the instant case was made after the expiry of period of two years. There is nothing on record to show that this was shown as recoverable arrears for continual usage of the electricity service connection, on the file of the respondents. That apart, the report given by the third respondent appears to be slightly favor the petitioner herein. The respondents do not seem to have taken note of the seasonal activity of the operational of the petitioner 's business. Since the impugned demand was raised without taking into account the relevant materials, the same is vitiated by sheer non application of mind.

6.Thus, looked at from any angle both on facts as well as on the point of limitation, the impugned demand is liable to be set aside. I noted that the writ petition has been filed in the nature of writ of mandamus. However, the material enclosed in the typed of papers indicate that there was demand raised on the petitioner demanding the impugned payment. The impugned demand is



set aside. The petitioner appears to have made payment in terms of interim order passed by this Court. The same will be adjusted towards the current or future liability of the petitioner.

7. The writ petition is allowed on these terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CRL.SIDE)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

skm

**Note :** In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

**To:**

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Rural, TANGEDCO, Aranthangi.
4. The Assistant Engineer,  
Operation and Maintenance,  
TANGEDCO, Kodikulam,  
Pudukkottai District.

**WP (MD) No. 3896 of 2015**

**and**

**MP (MD) No. 1 of 2015**

**01.02.2021**

KM (17.02.2021) 4P 5C