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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04-02-2022

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP NO.1389 OF 2015

AND

MP NO.1 OF 2015

M/s.Deepika Enterprises,
Represented by its Proprietor Mr.V.Dhananjayan,
Plot No.5, Mageshwari Nagar,
Gounder Palayam,
Chennai - 120.

.. Petitioner

vs.

1. Tamil Nadu Electricity Board,
Represented by its Chairman,
Anna Salai,
Chennai - 2.
2. The Assistant Executive Engineer,
Operation and Maintenance, CEDC/North,
Tamil Nadu Electricity Board,
Minjur - 601 203.
3. Mr.K.Karunamurthy

.. Respondents

Prayer:

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the second respondent in his impugned order dated 06.06.2014 in Ref. No.AEE/O&M/MJR/F Court case/D.No.10/14 dated 06.06.2014, in respect of TNEB service connection No.025-017-322 III B, at premises bearing Plot No.5, Mageshwari Nagar, Gounder Palayam, Chennai-120 and quash the same and direct the second respondent to restore the electricity supply to the premises bearing Plot No.5, Mageshwari Nagar, Counder Palayam, Chennai-120, in respect of TNEB service connection No.025-017-322 III B.



For Petitioner : Mr.N.Nagu Sah

For Respondents-1&2 : Mr.L.Jai Venkatesh,
Standing Counsel for TANGEDCO.

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O R D E R

The final order passed by the Competent Authority/Assistant Executive Engineer in proceedings dated 06.06.2014, is under challenge in the present writ petition.

2. The petitioner was carrying on business in Plastic Recycling Industry under the name and style of M/s.Deepika Enterprises. The petitioner was provided with electricity service connection. During the inspection, theft of energy was identified by the Competent Authorities, which was objected by the petitioner. A provisional assessment order was passed and the petitioner raised an objection. A writ petition was filed and this Court passed an order to conduct an enquiry and decide the issues. Consequently, an enquiry was conducted and final assessment order was passed in proceedings dated 06.06.2014, which is under challenge in the present writ petition.

3. In respect of the original adjudications made by the Original Authority, an appeal is contemplated under Section 127 of the Electricity Act. The opportunity for adjudicating the issues with reference to the original documents and evidences before the Appellate Authority need not be taken away by the High Court in a routine manner. An appellate remedy is a valuable opportunity, wherein the petitioner will get an opportunity to verify the records once again and establish their case.

4. Contrarily, the High Court cannot conduct such an elaborate adjudication in the writ proceedings with reference to the documents and evidences. Therefore, in all circumstances, the parties are expected to exhaust the statutory remedies, which all are provided and legislatively intended to conduct an effective adjudication to resolve the issues.

5. The power of judicial review of the High Court under Article 226 of the Constitution of India is to ensure the processes through which a decision is taken by the Competent Authority in consonance with the provisions of the Statute and Rules, but not the decision itself. Therefore, dispensing with the appellate remedy is to be considered only in exceptional circumstances where a gross injustice which is not rectifiable, is established.



6. In all other cases, the aggrieved persons are bound to exhaust the appellate remedy, which is of paramount importance. The factual findings of the appellate remedy are of greater assistance for the High Court for the purpose of exercise of the power of judicial review under Article 226 of the Constitution of India in an effective manner.

7. This being the principles to be followed, the petitioner is at liberty to approach the Appellate Authority under Section 127 of the Electricity Act. In the event of filing any such application, the Appellate Authority shall consider the period during which the writ petition was pending before this Court for the purpose of condoning the delay, if any and adjudicate the issues on merits and in accordance with law and as expeditiously as possible.

8. With the abovesaid liberty, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Svn

To

1. The Chairman,
Tamil Nadu Electricity Board,
Anna Salai,
Chennai - 2.
2. The Assistant Executive Engineer,
Operation and Maintenance, CEDC/North,
Tamil Nadu Electricity Board,
Minjur - 601 203.

+1cc to Mr.L.Jai Venkatesh, Advocate, S.R.No.7538
+1cc to Mr.N.Nagu Sah, Advocate, S.R.No.7582

WP 1389 of 2015

GMR(CO)
PM/16/02/2022