



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.20021 of 2016
and

W.M.P.Nos.17255 to 17257 of 2016

Bhuvaneshwari

Vs

...Petitioner

1. The Chairman,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
NPKRR Malaigai, 144, Anna Salai,
Chennai - 600 002.
2. The Executive Engineer, (O&M),
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Cuddalore.
3. The Assistant Executive Engineer (O&M),
Cuddalore Town-North-
Tamil Nadu Generation and Distribution
Corporation Ltd.,
No.3, Seetharam Nagar, Audupalayam,
Cuddalore - 607 001.
4. The Assistant Executive Engineer,
(Enforcement),
Tamil Nadu Generation and Distribution
Corporation Ltd., Villupuram.
5. The Assistant Engineer,
(O&M) Rural,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Manjakuppam, Cuddalore District.

...Respondents

PRAYER :

Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for records of impugned order in Lr.No.AEE/O&M/T/N/Cud/CI/F Theft of



Energy/D.No.005/2016 dated 24.05.2016 passed by the 3rd respondent and quash the same and consequently direct the 5th respondent to restore the electricity in the petitioner's service connection in SC.No.001-011-447.

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For Petitioner : Mr.Johnjosh

For Respondents : Mr.L.Jaivenkatesh
For TANGEDCO [For R1 to R5]

O R D E R

The provisional assessment order for theft of energy under Section 135/138 of the Electricity Act 2003 is under challenge in the present writ petition.

2. Regarding the theft of energy, the petitioner has already paid the compounding charges. Thereafter, the authorities competent of the Electricity Board made a provisional assessment and issued an order in Form 9 . The said order is under challenge in the present writ petition.

3. This Court is of the considered opinion that the provisional assessment order for theft of energy requires an adjudication before the competent authorities. In the present case, the provisional assessment order impugned has been passed by the Assistant Executive Engineer and an appeal lies before the Superintending Engineer under Section 127 of the Indian Electricity Act. Exhausting the Appellate remedy is an important one, in view of the fact that the provisional assessment order passed is to be scrutinized with reference to the documents and evidences made available. Such an adjudication cannot be done by the High Court in a writ proceedings under Article 226 of the Constitution of India. The petitioner has to establish his case and therefore, his innocence with reference to the allegations of theft of energy.

4. In the present case, the compounding charges under Section 152 of the Act had already been paid the petitioner and therefore, the authorities had proceeded and issued the provisional assessment order. In view of the facts and circumstances, the petitioner is at liberty to approach the competent Appellate authority under Section 127 of the Electricity Act for the purpose of redressal of his grievances, if any exists. In the event of filing any such appeal, the authorities competent shall condone the delay by taking into consideration the period during which the writ petition was pending and decide the issues on merits and in accordance with law.



5. With this liberty, the writ petition stands disposed of.
No costs. Consequently connected writ miscellaneous petitions
are closed.

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Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Chairman,
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Tamil Nadu Generation and Distribution Corporation Ltd.,
Manjakuppam, Cuddalore District.

+1cc to Mr.S.Sathish kumar, Advocate, S.R.No.207

+1cc to Mr.L.Jaivenkatesh, Advocate, S.R.No.1164

W.P.No. 20021 of 2016

AK-II(CO)
CT 24/01/2022