

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.07.2022

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.17281 of 2022
and
W.M.P.No.16618 of 2022

1.Anthony
2.Selvi
3.Sala

.. Petitioners

Vs.

1. The Chairman,
TANGEDCO,
Anna Salai,
Chennai - 600 002.

2. The Superintending Engineer,
TANGEDCO,
Dharmapuri District.

3. The Assistant Engineer,
(Operation and Maintenance-Rural/South),
TANGEDCO,
Pullikarai - 636 802,
Dharmapuri District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, calling for the file under 3rd respondent in Ka.Na:U.Po.E&Pa / Pulikarai / Tharu /Ko/ Sarasari / Thogai / Ka.No....2019, dated 22.03.2022, quash the same as illegal and consequently direct the respondents to maintain separate service connections bearing Nos.006007857, 006007858 and 006007859 under service connection III-A2 without any further interruption or interfering with the petitioner's usage of existing electricity connections in the petitioner's premises.

For Petitioners : Mr.Sivanandam

For Respondents : Mr.L. Jai Venkatesh,
Standing Counsel for TNEB

ORDER

This Writ Petition has been filed challenging the impugned demand made against the petitioners for a sum of Rs.5,51,017/- by the third respondent. The impugned demand has been made based on the tariff IIIB.

2. Mr.L. Jai Venkatesh, learned Standing Counsel for TNEB, accepts notice on behalf of the respondents. By consent of both the parties, this Writ Petition is taken up for final disposal at the admission stage itself.

3. According to the third respondent, 3 individual connections standing in the name of the respective petitioners are one and the same and they have to be merged and in those circumstances, the impugned demand has been made.

4. However, according to the respective petitioners, they have been holding separate electricity connections though in the very same building and that they are manufacturing different products. According to the petitioners, the first petitioner is mainly engaged in the business of yarn double twisting at Sub Door No.1/241A. The second petitioner is engaged in the business of yarn cone at Sub Door No.1/241B and the third petitioner is engaged in the business of manufacturing yarn high twisting at Sub Door No.1/241C. Property Tax for the respective petitioners are also separately assessed and the property tax receipts have also been filed along with this Writ Petition.

5. The contention of the petitioners is that under Rule 27 (14) of the Tamil Nadu Electricity Distribution Code, 2004, if there is a permanent physical/electrical segregation of areas, the question of merger and conversion of tariff from LA IIIA-2 to LA IIIB, will not arise.

6. Rule 27(13) and Rule 27(14) of the Tamil Nadu Electricity Distribution Code, 2004, reads as follows:

"Rule 27(13) - Within a door number or sub-door number, an establishment or person will not be given more than one service connection.

27(14) - Where more than one person or more than one establishment is or intended to be in occupation of a door number or sub door number, more than one service connection will be given only if there is a permanent physical/electrical segregation of arrears for which different service connections are applied for."

7. Further, it is contended by the petitioners that principles of natural justice has been violated, as no opportunity of hearing was granted to the petitioners by the third respondent before passing of the impugned order.

8. The learned counsel for the petitioners drew the attention of this Court to the various documents filed along with this Writ Petition including the following:

(a) Property Tax receipts standing separately in the name of the respective petitioners.

(b) The reply sent by the petitioners to the respondents submitting their explanation that the tariff cannot be converted from LA IIIA-2 to LA IIIB on the ground that each and every unit is separate and property tax has been paid separately and that only after inspection, the respective petitioners were given separate electricity service connections.

9. The learned counsel for the petitioners would also submit that despite the explanation submitted by the petitioners, the impugned order was passed without considering the same and by violating the principles of natural justice.

10. This Court has perused and examined the documents filed along with this Writ Petition as well as the impugned demand, calling upon the petitioners to pay a sum of Rs.5,51,017/- to the third respondent, who has levied the said amount based on conversion of tariff from LA IIIA-2 to LA IIIB, as according to the third respondent all the three units are one and the same and therefore, the electricity charges paid will have to be calculated based on tariff IIIB, as it is a case of merger.

11. Admittedly, the impugned demand does not disclose as to whether the explanation submitted by the petitioners denying their liability to pay as per tariff IIIB was considered or not. No opportunity of hearing has been granted to the petitioners before issuing the impugned demand.

12. It is also the contention of the respective petitioners that only after inspection by the officials of the respondents, they were earlier granted separate electricity connections and were levied charges as per tariff LA IIIA-2. Therefore, it is clear that the third respondent has not adhered to the principles of natural justice, as the explanation submitted by the petitioners has not been considered and further, no opportunity of hearing was also granted to the respective petitioners with regard to their respective contentions.

13. Being a non-speaking demand and a demand made in violation of principles of natural justice and by not considering the contentions of the petitioners, who claims that

as per Rule 27(14) of the Electricity Distribution Code, the third respondent ought not to have raised the impugned demand, the impugned demand has to be necessarily quashed and the matter will have to be remanded back to the third respondent for fresh consideration on merits and in accordance with law, after affording a fair hearing to the petitioners including, granting them the right of personal hearing.

14. For the foregoing reasons, the impugned demand dated 22.03.2022 is hereby quashed and the matter is remanded back to the third respondent for fresh consideration on merits and in accordance with law, after affording a fair hearing to the petitioner including, granting them the right of personal hearing. The third respondent shall pass final orders within a period of twelve (12) weeks from the date of receipt of a copy of this order.

15. With the aforesaid directions, this Writ Petition is disposed of. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Chairman,
TANGEDCO, Anna Salai,
Chennai - 600 002.
2. The Superintending Engineer,
TANGEDCO, Dharmapuri District.
3. The Assistant Engineer,
(Operation and Maintenance-Rural/South),
TANGEDCO, Pullikarai - 636 802,
Dharmapuri District.

+1cc to Mr.Sivanandam, Advocate, S.R.No.44517
+1cc to Mr.L. Jai Venkatesh,, Advocate, S.R.No.45690

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NSK/27/07/2022