



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2022

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.NO.12065 OF 2022

AND

W.M.P.NO.11499 OF 2022

P.Muthukumarasamy

... Petitioner

Vs.

1. The Superintending Engineer,
Coimbatore Electricity Distribution Circle/South,
Tamil Nadu Electricity Generation
and Distribution Corporation,
Dr.Subbarayan Road, Tatabad,
Coimbatore - 641012.
2. The Executive Engineer/O & M/Somanur,
Coimbatore Electricity Distribution Circle/South,
Tamil Nadu Electricity Generation
and Distribution Corporation,
Somanur - 641668.
Coimbatore District.
3. The Assistant Accounts Officer, Revenue Branch,
Office of the Executive Engineer/O&M/Somanur,
Tamil Nadu Generation Distribution Corporation Ltd.,
Somanur - 641668.
Coimbatore District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records relating to notice LR.No.AAO/RB/SOMANUR/F.RR.RD Act SC No.489/D No.659 dated 07.05.2019 issued by the third respondent and the consequential order Ka.No.Se.Po./E.Pe/So/u ka A/Va.Pi/ka.RDRR Act 489/No. Dated 29.03.2022 passed by the second respondent, quash the same.

For Petitioner : Mr.K.Elango

For Respondents : Mr.Abul Kalam
for TNEB



ORDER

This Writ Petition has been filed challenging the order dated 07.05.2019 and the consequential order dated 29.03.2022 by which, the petitioner has been called upon to pay a sum of Rs.8,14,173/- towards the alleged theft of electricity committed by the petitioner on 16.07.2002. The petitioner has challenged the impugned order on the following grounds:-

(a) The impugned notice dated 07.05.2019 issued by the third respondent and the consequential order dated 29.03.2022 passed by the second respondent are in gross violation of the provisions of the Indian Electricity Act, 1910 and the Electricity Act, 2003.

(b) The impugned notice dated 07.05.2019 issued by the third respondent and the consequential order dated 29.03.2022 passed by the second respondent have not taken into account that the final order of assessment has not been passed.

(c) No opportunity of hearing was granted to the petitioner before the impugned orders came to be passed. The provisional order of assessment was not served on the petitioner immediately on passing of the same but was served on him only in the criminal proceedings along with the charge sheet.

(d) The impugned notice dated 07.05.2019 issued by the third respondent and the consequential order dated 29.03.2022 passed by the second respondent have not taken into account that the criminal case alleged against the petitioner has ended in acquittal.

2. The petitioner opposes the impugned demand and he has stated that he is not liable to pay the said sum. He would also state that for the alleged theft of electricity during the year 2002, a demand has been made in the year 2019 after a lapse of almost 17 years.

3. The contentions of the petitioner has not been considered in the impugned order. No opportunity of hearing has also been granted to the petitioner. Being a non-speaking order and an order passed in violation of principles of natural justice, the impugned orders have to be necessarily quashed and the matter will have to be remanded back to the respondents for fresh consideration on merits and in accordance with law, after affording a fair hearing to the petitioner including, granting him the right of personal hearing and also by providing him with all the documents/orders, based on which the respondents proposes to levy charges for the alleged theft of electricity.



4. For the foregoing reasons, the impugned notice dated 07.05.2019 issued by the third respondent and the consequential order dated 29.03.2022 passed by the second respondent are 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 him the right of personal hearing and also by providing him with all the copies of documents/reports/orders which is the basis for the assessment. The third respondent shall pass the provisional assessment order and thereafter, the second respondent shall pass final orders. This exercise will have to be done, within a period of three (3) months from the date of receipt of a copy of this order.

5. With the above directions, this Writ Petition stands disposed of. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Superintending Engineer,
Coimbatore Electricity Distribution Circle/South,
Tamil Nadu Electricity Generation
and Distribution Corporation,
Dr.Subbarayan Road, Tatabad,
Coimbatore - 641012.
2. The Executive Engineer/O & M/Somanur,
Coimbatore Electricity Distribution Circle/South,
Tamil Nadu Electricity Generation
and Distribution Corporation,
Somanur - 641668. Coimbatore District.
3. The Assistant Accounts Officer, Revenue Branch,
Office of the Executive Engineer/O&M/Somanur,
Tamil Nadu Generation Distribution Corporation Ltd.,
Somanur - 641668. Coimbatore District.

+1cc to M/s.K.Elango, Advocate, S.R.No.32889

W.P.No.12065 of 2022

MT (CO)

RLP (30/06/2022)