



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.15193 of 2018
and
W.M.P.No.18037 of 2018

Mrs.M.Chinnammal

...Petitioner

Vs.

1. The Chairman (TANGEDCO),
Tamil Nadu Generation and Distribution Corporation Ltd.,
No.800, Anna Salai, Mount Road,
Chennai - 600 002.
2. The Superintending Engineer (TANGEDCO),
Perambalur Electricity Supply Circle,
Perambalur Town, Perambalur District - 621 212.
3. The Assistant Engineer (TANGEDCO),
(Operation and Maintenance) Perambalur Town,
Perambalur District - 621 212. ... Respondents

PRAYER: This Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorari, calling for the records of the 2nd respondent bearing Ka.No.Mae.Mi.Po/Pe.Mi.Pa.Va/ Thu.Ni.KaA/ Ko.Mi.Ka/ A.No.41/2018 dated 17.04.2018 (signed on 18.06.2018) and of the impugned order passed by the 3rd respondent bearing Ka.No.Vu.Mi.Po/ O & M/ Nagar/Pera/Ko.Mi.Ka/A.No.68-1/118 dated 02.06.2018 and to quash the same.

For Petitioner : Mr.G.Ilamurugu

For Respondents : Mr.Abdul Kalam
Standing Counsel

ORDER

This Writ Petition has been filed to issue a Writ of Certiorari, to call for the records of the 2nd respondent dated 17.04.2018 and to quash the impugned order passed by the 3rd respondent dated 02.06.2018.



2. The Petitioner is the owner of 14 number of house properties to an extent of 0.10 cents, bearing Door Nos.68A to 68 A-15 situated at Perambalur Town & District. She leased out the said flats for the purpose of residential use. All of a sudden, the 3rd respondent in person insisted the petitioner for change of tariff from residential into commercial. On such circumstances, the petitioner issued a legal notice to the 2nd and 3rd respondents stating that her premises was leased out only for the purpose of residential usage and the same is using for only residential purpose and none of the resident is engaged any business activities or commercial activities in the premises. On receipt of the legal notice, the 3rd respondent issued impugned order directing the petitioner to make an application to transfer and effect the service connections from tariff IA into tariff V on the ground that the residents of the petitioner's premises are using it for employment purposes and thereby, the same shall be treated as commercial. The 2nd respondent also confirmed the order passed by the 3rd respondent without holding a proper enquiry and without affording a opportunity of being heard. Aggrieved over the same, the petitioner is before this Court.

3. Mr.Abdul Kalam, learned Standing Counsel appearing for the respondents would submit that initially the Electricity Service Connection was issued for the residential purposes. Since the petitioner has started using the premises for the commercial activities, the charges have been revised. Due to the same, the impugned order has been passed by the 3rd respondent and the same has been confirmed by the 2nd respondent. Therefore, this Writ Petition is liable to be dismissed.

4. Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents and perused the materials available on record.

5. Upon perusal, it appears that various properties of the petitioner have been leased out to various persons from time to time for residential purposes and all these aspects were not considered, in the impugned order passed by the 2nd and 3rd respondents. There are 14 flats owned by the petitioner and for all these 14 flats, initially the respondents have provided the Electricity Service connections for residential purposes. Therefore, the intention of the petitioner was to use the flats only for the residential purposes and if at all the petitioner is using the flats subsequently for the commercial purposes, it is for the respondents to produce all the relevant documents and evidences to show that the petitioner has started using the premises for commercial purposes. But, however, in the present case, no such proof has been produced before this Court and passed the impugned orders. The petitioner has fairly accepted the fact that she had no opportunity to provide lease deeds and therefore, he has not produced the lease deeds.



6. Considering the facts and circumstances of the case, the impugned order passed by 2nd respondent in Ka.No.Mae.Mi.Po/ Pe.Mi.Pa.Va/ Thu.Ni.KaA/ Ko.Mi.Ka/ A.No.41/2018 dated 17.04.2018 (signed on 18.06.2018) and the impugned order passed by the 3rd respondent bearing Ka.No.Vu.Mi.Po/ O & M/ Nagar/Pera/Ko.Mi.Ka/A.No.68-1/118 dated 02.06.2018, are quashed and the matter is remanded back to the second respondent for fresh consideration, in which case the petitioner is directed to produce all the lease deeds and thereafter, the second respondent is directed to give opportunity of personal hearing to the petitioner, if the petitioner wanted so, either through herself or through her authorized representative and thereafter, take a decision on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

7. With the above direction, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

Pns

To

1. The Chairman (TANGEDCO),
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Chennai - 600 002.
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(Operation and Maintenance) Perambalur Town,
Perambalur District - 621 212.

+1cc to Mr.G.Ilamurugu, Advocate SR. No.878

W.P.No.15193 of 2018

and

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NMI (CO)

PR (31/01/2022)