



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2022

CORAM

THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN

W.P.No.11121 of 2017
and
WMP No.12052 of 2017

A.M. Zakir Hussain

... Petitioner

Vs.

1. The Assistant Engineer (O & M),
Electricity Department,
Tamil Naldu Electricity Board (TANGEDCO),
Pernambut Urban,
Gudiyatham Taluk,
Vellore District 635 810.
2. The Junior Engineer (O & M),
Tamil Nadu Electricity Board, (TANGEDCO),
Pernambut Urban,
Pernambut,
Gudiyatham Taluk,
Vellore District 635 810
3. The Assistant Accounts Officer,
Gudiyattam Revenue Division,
Tamil Nadu Electricity Board (TANGEDCO),
Gudiyattam 632 602
Vellore District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the 3rd respondent in letter NO.U.Ka.A/V.B./Gudi/Mi.E.No.472-0132195 dated 13.06.2012 and quash the same and consequently, direct the respondents to restore the Electricity Connection in Mi.E.No.472-013-2195.

For Petitioner : Mr. A. Ilaya Perumal

For Respondents : Mr. Jaivenkatesh,
Standing Counsel



O R D E R

This writ petition has been filed challenging the notice issued by the 3rd respondent / Assistant Accounts Officer, TANGEDCO, directing the petitioner to pay a sum of Rs.1,00,473/- towards shortfall.

2. According to the petitioner, the petitioner is running an industry in Peranampet and obtained a service connection. Due to some dispute between the partners, he was not able to run the factory and closed the same for some time. Earlier, the 2nd respondent herein directed the petitioner to pay a sum of Rs.97,981/- based on audit objection. Thereafter, the petitioner approached the 2nd respondent and gave objection for the same. Subsequently, the petitioner was directed to produce the Annual Production Chat and the same was also produced by the petitioner. Now, the enquiry is pending with the 2nd respondent. While being so, the 3rd respondent issued the impugned demand notice, thereby, directing the petitioner to pay a sum of Rs.1,00,473/- as shortfall. Until the 2nd respondent passed order, the 3rd respondent cannot issue such a demand notice. Hence, challenging the same, the present writ petition has been filed.

3. The learned Standing counsel appearing for the respondents submitted that the notice issued by the 3rd respondent is based on the shortfall in payment and only the 3rd respondent is the competent authority to issue notice. Hence, there is no illegality or irregularity in it.

4. This Court considered the submissions made on both sides and perused the materials available on records carefully.

5. From the perusal of the records, it could be seen that earlier, on 16.06.2011, the 2nd respondent has issued a notice directing the petitioner to pay a sum of Rs.97,981/- based on the audit objection, for which the petitioner has given objection, thereafter, in the month of November 2011, the petitioner was directed to produce the Annual Production Chat, which was also said to be submitted by the petitioner. However, no order has been passed so far. In the mean time, the impugned order said to have been passed by the Accounts Department. Admittedly, the enquiry initiated by the 2nd respondent is pending and hence, the 3rd respondent cannot pass the impugned demand and the impugned order is liable to be set aside.

6. Accordingly, the impugned order passed by the 3rd respondent is set aside and the matter is remanded back to the 2nd respondent. The 2nd respondent is directed to conduct enquiry and pass suitable orders on merits and in accordance



with law, after giving opportunity to the petitioner, within a period of six weeks from the date of receipt of a copy of this order.

7. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

mrp

To

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NSK/13/05/2022