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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.NO.16194 OF 2017

AND

W.M.P.NO.17492 OF 2017

"Mega Falls",
Vels Water Products Company,
rep. by its Partner
N.Palanivel

... Petitioner

Vs.

1. The Executive Engineer,
Operations and Maintenance,
Tamil Nadu Generation & Distribution
Corporation Ltd.,
Sankarapuram Taluk,
Villupuram Dt.
2. The Junior Engineer,
Operations and Maintenance,
Tamil Nadu Generation & Distribution
Corporation Ltd.,
Alathur, Sankarapuram Taluk,
Villupuram District.
3. The Chairman,
Tamil Nadu Generation & Distribution
Corporation Ltd.,
Anna Salai, Chennai-600 002.

... Respondents

Prayer :

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, to call for the order dated 31.05.2017 in Ref.No.Ka.No. E.MI.PO/E&P/Alathur/Va.A/Ko.Kattu/ A.No.085/2017 passed by the 2nd respondent and quash the same.



For Petitioner : Mr.V.R.Kamalanathan
For Respondents : Mr.L. Jai Venkatesh,
Standing Counsel

O R D E R

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This Writ Petition has been filed challenging the demand issued by the 2nd respondent directing the petitioner to pay a sum of Rs.3,19,610/- towards short levy on account of defective meter.

2. The grievance of the petitioner is that, the petitioner is running a mineral water company, wherein he has obtained electricity service connection from the respondents 1 and 2. After getting service connection, the meter became defective, which have been found by the respondents on 12.07.2016. Thereafter, after fixing the new meter, without following the procedures contemplated under the Supply Code, the present demand has been made. According to the petitioner, admittedly, when the meter is found defective, the respondents ought to have sent the meter for testing as per clause 7(9) of Tamil Nadu Electricity Supply Code, without doing so, the respondents cannot straight away issue the demand.

3. Mr.L.Jai Venkatesh, learned standing counsel appearing for respondents would submit that, admittedly, the meter connected to the petitioner premises has become defective, which was found during inspection and thereafter, a new meter has been fixed. After fixing the new meter, and after following the procedure contemplated under clause 11(4) of Supply Code as well as conducting enquiry, the demand notice has been issued and there is no error in the order passed by the respondents.

4. Heard and considered rival submissions of learned counsel appearing for both sides and perused the records carefully.

5. On perusal of impugned order, it could be seen that, the meter installed by the respondents is defective and after fixing the new meter, the respondents ought to have followed the procedures contemplated under clause 11(4) of the Supply Code and the demand notice ought to be issued. If the meter is found to be defective, the respondents have to follow the procedure as contemplated under clause 7(9) of the Tamil Nadu Electricity Supply Code, which reads as follows :-

"7. Installation of meter :-

(9) If the consumer considers that the meter is defective, he may apply to the licensee to have a special test carried out on the meters at any time



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and the cost of such a test shall be borne by the Licensee or the consumer according as the meter is found defective or correct as a result of such a test. (The aforementioned special test for the disputed energy meters including he suspected/defective meters shall be carried out in the Third Party testing laboratory accredited by National Accreditation Board for Testing and Calibration Laboratories (NABL) and till such time the Third Party Meter Testing Arrangement is established, the licensee shall have the special test conducted by the Chief Electrical Inspector to Government of Tamil Nadu). The meter shall be deemed to be correct if the limits of error do not exceed those laid down in the relevant rules made under the Act. The consumer may also be allowed to install a check meter after recalibration by the Licensee. Such check meter shall be of high quality, high precision and high accuracy and sealed by the Licensee. Whenever the Licensee's meter becomes defective the check meter reading may be taken for billing."

Without following the procedures contemplated under clause 7(9) of the Supply Code, the respondents cannot straight away issue the demand notice. Recently, a Division Bench of this Court in a Writ Appeal in W.A.No.2057 of 2021 dated 24.11.2021, has held that, without following the procedure contemplated under clause 7(9) of Supply Code, no demand can be issued.

6. In the above said circumstances, the impugned order has been passed in violation of clause 7(9) of the Supply Code. Hence, the impugned order is liable to be set aside. Accordingly, the order dated 31.05.2017 passed by the 2nd respondent is set aside. Now, it is stated that, the defective meter is still available with the 2nd respondent. In the said circumstances, the 1st and 2nd respondents are directed to follow the procedures contemplated under clause 7(9) of the Tamil Nadu Electricity Supply Code and thereafter, initiate proceedings in accordance with law.

7. With the above direction, this Writ Petition stands allowed. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

rpp

Sub Assistant Registrar



To

1. The Executive Engineer,
Operations and Maintenance,
Tamil Nadu Generation & Distribution
Corporation Ltd.,
Sankarapuram Taluk,
Villupuram Dt.
2. The Junior Engineer,
Operations and Maintenance,
Tamil Nadu Generation & Distribution
Corporation Ltd.,
Alathur, Sankarapuram Taluk,
Villupuram District.
3. The Chairman,
Tamil Nadu Generation & Distribution
Corporation Ltd.,
Anna Salai, Chennai-600 002.

+1cc to Mr.V.R.Kamalanathan, Advocate, S.R.No.23551
+1cc to Mr.L. Jai Venkatesh, Advocate, S.R.No.24425

W.P.No.16194 of 2017

SSN(CO)
PM/23/05/2022