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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2022

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

W.P. No. 18470 of 2017
and

W.M.P.Nos. 20047 & 20048 of 2017

Hindu Educational Society,
rep. by its Secretary
M.R.Kanthiraj,
M. Road, Ambur,
Vellore Dt. - 635 802.

... Petitioner

Versus

1. Tamil Nadu Generation and Distribution
Corporation Ltd.,
rep. by its Chairman,
No.800, Anna Salai, Chennai-2.

2. The Superintending Engineer,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Thirupathur Electricity Distribution
Circle, Thirupathur-635 601.

3. Assistant Executive Engineer (O & M),
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Thirupathur Electricity Distribution Circle,
Vinamangalam, Vellore Dt.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the entire records relating to the proceedings in க.எண்.357/மே.பொ./திரு/துநிகஅ/வஓபி/கமே/உ.2/கோ./17, Dated 31.05.2017 on the file of the 2nd respondent herein and quash the same and consequently direct the respondents herein to provide electricity power supply to the premises in S.No.41/3, 42/4, 43/2 etc. of Solur Village, Vaniyambadi Taluk.



For Petitioner : Mr.V.R.Rajasekaran

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

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O R D E R

This Writ Petition has been filed challenging the order passed by the 3rd respondent rejecting the petitioner's application seeking for new service connection to the premises in Survey Nos.41/3 42/4, 43/2 etc. of Solur Village, Vaniyambadi Taluk.

2. Brief facts leading to the filing of this Writ Petition is as follows:-

The petitioner had purchased the property in public auction sale conducted by the District Collector, Vellore District on 09.01.2003, subsequently, a sale certificate was also issued in his favour. The previous owner of the property viz., M/s.Akbar Leathers Limited, which was under liquidation, has obtained electricity service connection to the above property and failed to pay monthly consumption charges from the year 1997. Hence, the service connection was disconnected. After the purchase of the said property, the petitioner Educational Society has approached the 3rd respondent seeking for fresh service connection to the above property, wherein, the 3rd respondent directed the petitioner to pay the dues payable by the previous owner to the 3rd respondent Board to the tune of Rs.9,08,109/-, but the petitioner has failed to pay the amount. Hence, the impugned order has been passed rejecting the petitioner's request invoking clause 17(9)(a) of Supply code. Now, challenging the same, the present Writ Petition has been filed.

3. Mr. V.R.Rajasekaran, learned counsel appearing for petitioner would submit that, the actual consumption charges payable by the previous owner is only Rs.2,06,154/-. Now, the respondents Electricity Board imposed BPSC at the rate of 18% per annum towards belated payment of surcharge for nearly 18 years and arrived the amount to the tune of Rs.6,98,862/- and directed the petitioner to pay a sum of Rs.9,05,016/-. According to the learned counsel, the petitioner is only liable to pay actual consumption charges and not liable to pay BPSC charges. The learned counsel also relying upon Sec.2(1) of Tamil Nadu Electricity Board Recovery of Dues Act, 1978, submitted that, the dues means only the actual consumption of electricity



supplied by the department and it will not include BPSC. Hence, the 2nd respondent Board cannot demand BPSC charges from the petitioner. He would further submit that, he is ready and willing to pay the actual consumption charges payable by the previous owner.

4. Mr. L.Jai Venkatesh, learned Standing counsel appearing for Respondents Board would submit that, admittedly, the vendor of the petitioner did not pay consumption charges for nearly 18 years to the tune of Rs.2,06,154/-, for which they are liable to pay BPSC at the rate of 18% per annum. Hence, there is an amount due to the tune of Rs.9,05,016/- under Clause 17(9)(a) of Supply Code, and the petitioner is liable to pay the amount. The learned counsel also relying upon clause 5(4) of Supply Code, submitted that, in the case of belated payment of consumption charges, the petitioner is liable to pay BPSC at the rate 1.5% per month. Even under clause 22(7) of Supply Code, the petitioner wants to get reconnection of disconnected service connection after the period of five years, it will be treated only as new service connection and he has to necessarily pay BPSC charges. The learned counsel would further submit that, the dues defined under Sec.2(1) of Tamil Nadu Electricity Board Recovery of Dues Act, 1978 (hereinafter called as 'Act') only related to recovery of dues, which is no way related to the payment under the Supply Code.

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

6. The primordial contention of the learned counsel appearing for petitioner is that, for the default committed by the previous owner, the subsequent purchaser is only entitled to pay actual consumption charges and not liable to pay BPSC charges. The learned counsel appearing for petitioner referring to Sec.2 (1) of the Act, submitted that dues only referable to the actual consumption charges and not for the BPSC. The above contention cannot be countenanced for the simple reason that, the above Act is enacted only for the purpose of recovery of dues payable to the Electricity Board. In the instant case, there is no proceedings initiated under the above said Act. The impugned proceedings only related to get the new service connection to the above mentioned property. As rightly contended by the learned standing counsel appearing for the respondents Board that, under Clause 17(9)(a) of the Supply Code, the petitioner, who is a subsequent purchaser, has to pay entire



amount payable to the Board for the default committed by the previous owner. That apart, the Board is also entitled to collect BPSC charges under Clause 5(4) of Supply Code.

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7. In the above circumstances, the 3rd respondent has rightly invoked clause 17(9)(a) of Supply Code and rejected the petitioner's application seeking new service connection. There is no irregularity in the order passed by the 3rd respondent. However, considering the fact that, there is an huge amount payable by the petitioner, he is directed to pay the same in four equal monthly instalments commencing from 01.06.2022. On payment of that amount, the respondents Board is directed to give service connection to the petitioner. However, it is made clear that the amount paid by the petitioner is subject to other remedy available to them. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

SD/-
ASSISTANT REGISTRAR

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SUB ASSISTANT REGISTRAR

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To

1. The Chairman,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
No.800, Anna Salai, Chennai-2.

2. The Superintending Engineer,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Thirupathur Electricity Distribution
Circle, Thirupathur-635 601.



3. Assistant Executive Engineer (O & M),
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Thirupathur Electricity Distribution Circle,
Vinamangalam, Vellore Dt.

+1cc to M/s.V.R.Rajasekaran, Advocate Sr.18065
+1cc to Mr.L.Jaivenkatesh, Advocate Sr.18914

W.P.No. 18470 of 2017

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srg 16/05/2022