



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 08.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

**W.P(MD)No.5521 of 2011**  
**and**  
**M.P(MD)Nos.1 and 2 of 2011**

S.Saraswathy

... Petitioner

Vs

1.The Divisional Engineer,  
TANGEDCO (TNEB),  
Thuraiyur,  
Trichy District.

2.The Assistant Executive Engineer (O and M),  
TANGEDCO (TNEB),  
Uppiliapuram,  
Thuraiyur Taluk,  
Trichy District.

3.The Assistant Executive Engineer,  
Vigilance,  
TANGEDCO (TNEB)  
Trichy - 20.

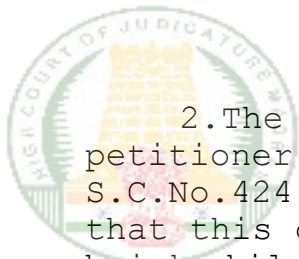
... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorarified mandamus and call for the records of the respondents in the calculation sheet and order No.Nil dated 21.04.2011 and quash the same and consequently direct the respondents to permanently restore the free agricultural power supply to SC No.424 situated under T.Mangapatti Distribution limit under TANGEDCO Uppiliapuram in Trichy District and also refund the amount of Rs.12,000/- collected from the petitioner on 21.04.2011.

For Petitioner : Mr.R.M.Makesh Kumaravel  
For Respondents : Mr.S.Deenadhayalan  
Standing Counsel

**ORDER**

This writ petition is filed as against the working sheet provided by the respondents in respect of penalty and consumption charges under Section 135 of the Electricity Act.



2.The learned Counsel for the petitioner submits that the petitioner has got agricultural electricity service connection in S.C.No.424 in the year 1992. On the allegation that this connection was used for the purpose of drawing water for a brick kiln situated in the adjacent land, the respondents have issued working sheet for energy theft under Section 135 of the Electricity Act.

3.The learned Counsel further submits that the amount has to be collected only as per clause 126 of the Electricity Act and as per circular issued by the Electricity Board dated 16.05.2005. The learned Counsel has also relied on the orders of this Court in **Chinnammal Vs The Assistant Executive Engineer, TANGEDCO, Ariyalur** [W.P.Nos.30257 of 2014 and 42291 of 2016, dated 01.02.2017] and the relevant portion is extracted hereunder:

*"7. A perusal of the above clearly shows that the matter has been remitted back to the authorities for their fresh consideration as to whether action has to be taken under Section 126 or Section 135 of the Electricity Act. The respondent dealt with the case of the petitioner succinctly, that there was dishonest intention while taking up the water, but no such finding has been given. Secondly, till date, either at the time of inception by the Electricity Board or subsequently, no complaint has been lodged against the petitioner on the file of the concerned Police Station for theft of electricity. Thirdly, the circular dated 16.05.2005 issued by the Electricity Board also clearly shows that the extra lighting had during night hours other than the permitted is found connected un-authorisedly or misuse of tariff is detected in agricultural services during inspection, action may be taken as per Section 126 of the Electricity Act, 2003 and the said circular further reads that the water pumped from the un-metered service pump set used for brick manufacturing purpose is to be dealt with under Section 126 of the Act.*

4.The learned Counsel for the respondent Board submits that the petitioner has got free agricultural electricity service connection in S.C.No.424 in the year 1992. On 21.04.2011 the respondents have conducted inspection in the presence of the petitioner on the electricity service connection of the petitioner and it was found the free agricultural electricity service connection was used for commercial purposes for a brick kiln.

5.The learned Counsel further submits that the electricity was used for other purposes than it was granted and such 'Other usage' is defined under Section 126 of the Electricity Act and 'Theft of Electricity' is defined under Section 135 of the Electricity Act. In this case, the petitioner, who has got free agricultural



electricity service connection has utilised the same for commercial purposes. Therefore, this action of the petitioner falls under Sub clause 1(e) of Section 135 of the Electricity Act, which is extracted hereunder:

"135. Theft of electricity:

1. Who ever, dishonestly

(a) ... ..

(b) ... ..

(c) ... ..

(d) ... ..

(e) uses electricity for the purpose other than for which the usage electricity was authorised, so as to abstract or consume or use electricity shall be punishable with imprisonment for a term which may extend to three years or with fine with both."

6. The learned Counsel further submits that this petitioner accepted the guilt and also paid the compounding charges under Section 156(2) of the Act on the date of inspection itself.

7. This Court considered the rival submissions and perused the materials placed on record.

8. The grievance of the petitioner is that the amount has to be calculated as per Section 126 of the Act and not as per Section 135 of the Act. Though the learned Counsel for the petitioner has relied on the circular of the respondent Board dated 16.05.2005, he has not placed the same before this Court.

9. The petitioner has got free agricultural electricity service connection to his land. On the date of inspection, it was noticed that water was drawn using the said electricity connection and used for brick kiln. The petitioner has also admitted the guilt and paid the compounding charges as per Section 156(2) of the Electricity Act.

10. Once the petitioner has admitted the guilt for the offence under Section 156(2) of the Electricity Act and paid the compounding charges, he cannot claim that it has to be calculated under Section 126 of the Act. Therefore, this Court is not inclined to entertain this writ petition.

11. Accordingly, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions also stand dismissed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

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+1 CC to M/s.R.M. MAKESH KUMARAVEL, Advocate ( SR-17679[F] dated  
11/04/2022 )

+1 CC to M/s.S. DEENADHAYALAN, Advocate ( SR-18344[F] dated  
12/04/2022 )

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MGJ(11.05.2022) 4P 6C