



W.P(MD)No.9133 of 2012

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.09.2022

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.9133 of 2012

and

M.P(MD)No.3 of 2012

A.R.V.Jegadeesan (Deceased)

... Petitioner

1.J.Vasanthi

2.M.Sheela Priya

3.A.Abarna

... Proposed Petitioners

(Petitioners 1 to 3 are substituted vide Court order, dated 07.09.2022 in M.P(MD)No.1 of 2014 in W.P(MD)No.9133 of 2012)

Vs.

1.The Executive Engineer,
Tamil Nadu Electricity Board,
Sulakkarai,
Virudhunagar,
Virudhunagar District.

2.The Superintending Engineer,
Tamil Nadu Electricity Board,
Virudhunagar District,
Virudhunagar.

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings No.02/2004-2005, dated nil received by the petitioner on 29.06.2004 on the file of the second respondent herein confirming the order, dated 24.02.2004/01.03.2004 passed in proceedings in க.எண்.செ.பொ/பகிர/விருது/கொநுஉ/இமிவி/கோ.கட்டு/அ.எண்.13/04 passed by the first respondent herein and to quash the same and direct the respondents to restore the Electricity Service Connection No.313 in Thathampatti Village, Virudhunagar Taluk and District.

For Petitioner : M/s.P.Jessi Jeeva Priya
for Mr.G.A.Ravindran

For Respondents : Mr.S.Deenadhayalan
Standing Counsel

ORDER

The present Writ Petition has been filed challenging the final assessment order passed by the first respondent herein arising under Section 126 of the Electricity Act.

2. According to the learned Counsel for the petitioner, a provisional assessment order was issued on 24.02.2004, directing the petitioner to deposit a sum of Rs.2,500/-. Challenging the provisional



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assessment order, the petitioner has filed an appeal before the first respondent herein, which was disposed of, confirming the provisional order of assessment. Thereafter, the second respondent herein has passed the final assessment order, which is under challenge in the present writ petition.

3. The learned Counsel for the petitioner submits that under the provisional assessment order, a sum of Rs.2,500/- was imposed as penalty. Out of the said sum of Rs.2,500/-, a sum of Rs.1,250/- was paid before filing the appeal. For the balance sum of Rs.1,250/- in the final assessment order along with interest, the authorities have demanded a sum of Rs.96,862/-.

4. The learned Counsel for the petitioner relied upon Section 127 of the Electricity Act and contended that where an appeal is filed under Section 127 and an order is confirmed, thereafter, if any default is committed, the authorities can invoke only Section 127(6) of the Electricity Act for calculating the interest. According to the learned Counsel for the petitioner, the petitioner would be liable to pay an



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interest at the rate of 16% per annum compounded after six months, in case of belated payment of the amount demanded under Section 126 of the Electricity Act. However, the respondent authorities have invoked regulation 5(4) of the Tamil Nadu Electricity Supply Code to impose interest at the rate of 18% per annum. The learned Counsel for the petitioner further submitted that the regulation 5(4) of the Tamil Nadu Electricity Supply Code is applicable only to the default in payment of the current consumption charges and not relating to the default in payment of the amount demanded in the final assessment order arising under Section 126 of the Electricity Act.

5. In view of the above said submission, this Court finds that in all cases, where proceedings are initiated under Section 126 of the Electricity Act and an appeal gets culminated under Section 127 of the said act, the interest towards the non payment of the demanded amount can be calculated only as per Section 127(6) of the said Act. The respondent authorities have erroneously invoked regulation 5(4) of the Tamil Nadu Electricity Supply Code which is applicable towards non payment for the current consumption charges. According to the learned



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Counsel for the petitioner, the petitioner is still continuing with his agriculture operations and the respondent authorities cannot change the tariff from tariff IV to tariff V.

6. In view of the above said facts, the order impugned in the writ petition is set aside. The matter is remitted back to the file of the second respondent herein for issuing a fresh demand notice, calculating interest as per Section 127(6) of the Electricity Act. However, it is made clear that the service connection of the writ petitioner shall not be transferred from tariff IV to tariff V. With the above said observations, the writ petition stands allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

15.09.2022

Index : Yes / No
Internet : Yes / No
btr



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R.VIJAYAKUMAR, J.

btr

Order made in
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