



W.P.(MD)No.19230 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.08.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.19230 of 2022

and

W.M.P(MD)No.14020 of 2022

T.Lajapathi Roy

... Petitioner

Vs

1.The Superintending Engineer,
TANGEDCO, Distribution,
K.Pudur,
Madurai District.

2.The Assistant Executive Engineer,
TANGEDCO, Distribution,
K.K.Nagar,
Madurai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Lr.no. AEE/D/K.K.Nagar/CI/F-DOC/D.No. 274/2022 dated 11.8.2022 on the file of the second respondent and quash the same as illegal and consequently, forbear the second respondent from collecting the electricity Consumption Charges at Commercial Rates for the petitioners Office bearing Service no. 473/TFIA situated at Door No.593, Maharishi



W.P(MD)No.19230 of 2022

School Street, K.K.Nagar, Madurai District within a time period stipulated by this Court.

For Petitioner : Mr.M.Mahaboob Fazil

For Respondents : Mr.S.Deenadhayalan
Standing Counsel

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Standing Counsel appearing for TANGEDCO.

2. The writ petitioner is a practicing lawyer. The Special squad / enforcing unit of TANGEDCO inspected the petition mentioned premises and concluded that though the office space of the writ petitioner is beyond 200 sq.ft area, he has not installed any exclusive meter for the office portion. In that view of the matter, the impugned provisional assessment order came to be served on the petitioner. Questioning the same, this writ petition has been filed.

3. The learned Standing Counsel appearing for the TANGEDCO submitted that the writ petition is not maintainable, because, what was served on the petitioner is only the provisional order and the petitioner is at liberty to file objections.



W.P(MD)No.19230 of 2022

4. Though this stand of the learned Standing Counsel is well founded, in view of the submissions made by the learned counsel appearing for the petitioner I am inclined to dispose of the matter in the following terms:

a) The petitioner shall apply immediately for an independent connection for his office and the same shall be under commercial tariff (Tarrif 5);

b) In view of the decision of the Hon'ble Supreme Court reported in **2012 2 SCC 108 (The Executive Engineer Vs M/s.Sri Seetaram Ricemill)**, the act of the petitioner can only fall within the scope of Section 126 of the Electricity Act, 2003;

c) The impugned proceedings have been initiated under Section 135 of the Act. The second respondent is directed to issue fresh notice under Section 126 of the Act calling upon the petitioner to pay a sum of Rs.76,777/- (Rupees Seventy Six Thousand Seven Hundred and Seventy Seven only). The petitioner undertakes to remit the said amount immediately on receipt of the said notice; and

d) Since the amount demanded by the impugned order is going to be paid by the petitioner, the impugned proceedings issued under Section 135 of the Act is quashed.



W.P(MD)No.19230 of 2022

5. Recording the undertaking of the writ petitioner, this writ petition is allowed. Consequently, connected miscellaneous petition is closed. No costs.

22.08.2022

Index : Yes / No

Internet : Yes/ No

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To

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W.P(MD)No.19230 of 2022

G.R.SWAMINATHAN, J.

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W.P.(MD)No.19230 of 2022

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