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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :13.12.2022

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THE HONOURABLE MR.JUSTICE K. KUMARESH BABU

W.P.(MD)No.15109 of 2015
and
M.P.(MD).Nos.1 & 2 of 2015

S.Iruthayaraj ... Petitioner

Vs.

1.The Superintending Engineer,
TANGEDCO,
Manarpuram,
Tiruchirappalli.

2.The Assistant Executive Engineer,
TANGEDCO,
Rural Mannarpuram,
Trichy. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in his impugned order dated 07.08.2015 fbj vz; 2 nr.ngh ,.fh fpuhkpak; Nfh.APTS/D.No.103/2015 and quash the same as illegal, arbitrary, without the authority of law and against the provisions of the Electricity Act 2003 and Electricity Supply code and consequently direct the 2nd respondent towards provisions assessment.

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For Petitioner :Mr.P.Sivachandran

For Respondents :Mr.S.Deenadhayalan
Standing Counsel

ORDER

The writ petition has been filed challenging the order of the 2nd respondent herein to pay a sum of Rs.2,34,410/- on the allegation that he had committed theft of electricity.

2. Originally, the petitioner was granted with a free electricity connection for carrying out agricultural purposes. According to the department, this connection has been utilized by the petitioner by way of activities of fisheries in a tank.

3. The learned counsel for the petitioner would draw attention of this Court to the proceeding dated 20.07.2014, by which he was granted fisheries rights by the village committee of Punganoor, Trichy District and since there was water scarcity and there was an excess water in the tank, he had attempted to take some water using this electricity connection for his

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agricultural purpose, enabling him to harvest.

4. When the final assessment order was passed, the same subject matter was challenged before this Court in W.P.(MD).No.15698 of 2014 and this Court, by order dated 19.09.2014, had set aside the final assessment order dated 04.09.2014, on condition that the petitioner has to pay a sum of Rs.50,000/-. On such deposit, it was directed that the electricity connection should be restored. This Court has also further directed a fresh enquiry to be conducted as to whether the petitioner could be charged compensation charges and penalty for 12 hours per day and the petitioner was directed to furnish necessary documents to substantiate his case during the enquiry. Pursuant to the order of this Court, an enquiry has also been conducted by the 1st respondent and from the minutes of enquiry, it is seen that the petitioner had produced the order granting him fishing rights in the tank on 20.07.2014. However, the 2nd respondent herein has reiterated the earlier permanent assessment order dated 04.09.2014, by holding that the petitioner had not produced any documents, whatsoever, to substantiate his claim. The 2nd respondent had also not complied with the directions issued by this

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Court, with regard to give a finding as to whether the petitioner is liable to be charged for 12 hours a day for 365 days.

5. The tank, in which the petitioner was granted a fishing right, was a public tank belonging to the village. He has no right to draw water from the public tank and if he drew any such water, for which, action would have been initiated by the village committee/the village panchayat, as he had no right to draw water. The petitioner had also produced the documents, under which, he had been granted fishing rights, which is dated 20.07.2014. The respondent has initiated the action and disconnected the electricity on 22.08.2014. Thereafter, only pursuant to the orders of this Court, the electricity connection has been restored, that too on the petitioner paying a sum of Rs.50,000/- as a condition for restoration of electricity.

6. Hence, in my view, the petitioner could not have utilised the electricity connection provided to him for fishing activities prior to 20.07.2014. Therefore, the order impugned in this writ petition is liable to be set aside as the same has been passed taking into account that the

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petitioner had used the free electricity connection for a period of 12 hours per day for 365 days. Further, the 2nd respondent shall calculate the theft of electricity from 20.07.2014 till 22.08.2014 and issue a fresh assessment order.

7. With the above directions, the impugned order dated 07.08.2015 is set aside and the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

13.12.2022

Index : Yes / No
Speaking Order/Non Speaking Order
sbn

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K.KUMARESH BABU, J.

sbn

To

1.The Superintending Engineer,
TANGEDCO,
Manarpuram,
Tiruchirappalli.

2.The Assistant Executive Engineer,
TANGEDCO,
Rural Mannarpuram,
Trichy.

W.P.(MD)No.15109 of 2015
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