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W.P.No.17996 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.17996 of 2020

And

W.M.P.No.22333 of 2020

P.R.Karunakaran

... Petitioner

Vs.

1.The Executive Engineer,
(Operations and Maintenance),
TANGEDCO,
Pulianthope,
Chennai – 600 012.

2.The Assistant Engineer,
O & M, Pulianthope,
CEDC/CENTRAL/TNEB,
1, Basin Bridge Road,
Pulianthope,
Chennai – 600 012.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the proceedings in Lr.No.AE/O&M/PULIANTHOPE/F.DKT/D.No.330/20-21 dated 08.10.2020, on the file of the second respondent and quash the same as illegal and without jurisdiction and to consequently direct the



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respondents to waive the belated payment surcharge (BPSC) charges in respect of the petitioner's service connection number AC 147.007.53.

For Petitioner : Mr.Govind Chandrasekhar
For Respondents : Mr.L.Jai Venkatesh

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for the records of the proceedings in Lr.No.AE/O&M/PULIANTHOPE/F.DKT/D.No.330/20-21 dated 08.10.2020, on the file of the second respondent and quash the same as illegal and without jurisdiction and to consequently direct the respondents to waive the belated payment surcharge (BPSC) charges in respect of the petitioner's service connection number AC 147.007.53.

2.The case of the petitioner is that the property in Old Door No.32, New Door No.33, Nacharammal Lane, Pulianthope, Chennai, originally belonged to the petitioner's sister – in – law and the electricity service connection for the said premises stood in the name of the petitioner's father. During the year 2001, the electricity board



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conducted inspection and found that the seal in the meter was tampered and hence launched prosecution case in C.C.No.1122 of 2001 before the X Metropolitan Magistrate, Egmore and thereafter, the said proceedings was quashed by this Court vide order dated 21.07.2011 made in CrI.O.P.No.5566 of 2010.

3.The further case of the petitioner is that the petitioner purchased the property in the year 2008 and applied for fresh service connection, however the said request was rejected by the respondents. Hence, the petitioner filed CrI.O.P.No.5857 of 2012 before this Court and this Court vide order dated 13.03.2012, directed the respondents to receive the application and to pass orders on merits. The respondents again rejected the petitioner's application and hence the petitioner filed W.P.No.17511 of 2013 and this Court vide order dated 28.06.2013 directed the respondents to provide temporary service connection on condition that the petitioner shall deposit a sum of Rs.75,000/-. The said condition was complied with by the petitioner. Thereafter, this Court vide order dated 04.09.2018 disposed of W.P.No.17511 of 2013 by directing the petitioner to pay the balance dues.



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4.The further case of the petitioner is that since the petitioner has already paid a sum of Rs.75,000/-, the balance amount would be only Rs.1,18,411/-, however, the respondents passed an order directing the petitioner to pay a sum of Rs.1,18,411/- along with additional sum of Rs.5,43,816/- as belated payment surcharge charges. The petitioner made representation to the respondents seeking to waive the BPSC charges and since the same was not considered, filed W.P.No.31265 of 2018 and this Court vide order dated 28.11.2018 disposed of the same by directing the respondents to consider the petitioner's representation in line with the Circular for BPSC waiver, however, the second respondent passed the impugned order. Hence, this writ petition.

5.The learned counsel appearing for the petitioner submitted that admittedly, the petitioner is an innocent purchaser who purchased the property from his sister – in – law, however, inorder to give quietus to the issue, the petitioner is ready to pay a sum of Rs.1,75,000/- in full quit.

6.The learned Standing Counsel appearing for the respondents



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submitted that during the year 2001, the electricity board conducted inspection in the subject premises and found that the seal in the meter was tampered and hence launched prosecution case in C.C.No.1122 of 2001 before the X Metropolitan Magistrate, Egmore and thereafter, the said proceedings was quashed by this Court vide order dated 21.07.2011 made in Crl.O.P.No.5566 of 2010. However, mere quashment of the criminal proceedings will not be a bar for the electricity board to collect the arrears which the petitioner has to pay with BPSC charges and further submitted that as per the Regulations, the petitioner has to necessarily pay BPSC charges.

7.Heard the arguments advanced on either side and perused the materials available on record.

8.The facts in the present case is not in dispute. Admittedly, the subject property originally belonged to the petitioner's sister – in – law and the electricity service connection for the said premises stood in the name of the petitioner's father. During the year 2001, the electricity board conducted inspection and found that the seal in the meter was tampered and hence launched prosecution case and the said proceedings was quashed by this Court vide order dated 21.07.2011



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made in Crl.O.P.No.5566 of 2010.

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9.All the above facts are not disputed. Admittedly, there was demand order passed by the respondents and the petitioner made representation to the respondents seeking to waive the BPSC charges and since the same was not considered, filed W.P.No.31265 of 2018 and this Court vide order dated 28.11.2018 disposed of the said writ petition by directing the respondents to consider the petitioner's representation in line with the Circular for BPSC waiver, however, the second respondent has passed the impugned order.

10.The electricity board ought to have collected the amount from the original offender, however, it appears that the original offender has passed away and in order to give quietus to the issue, the petitioner is ready to pay a sum of Rs.1,75,000/- in full quit to the respondents.

11.In view of the above, the petitioner is directed to deposit a sum of Rs.1,75,000/- in full quit before the respondents electricity board, within a period of four weeks from the date of receipt of a copy of this order. On receipt of the said amount, the respondents electricity board are directed to close the entire files as against the



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petitioner.

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12.With the above observations and directions, the writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

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

To

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