



W.P.(MD)No.1852 of 2009

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 17.10.2023

CORAM

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**
AND
THE HONOURABLE **MR.JUSTICE V.LAKSHMINARAYANAN**

W.P.(MD)No.1852 of 2009
and W.M.P.(MD) No.1 of 2009

M.Kadirvel

...Petitioner

-Vs.-

1.The Tamilnadu Electricity Regulatory Commission,
Chennai.

2.The Assistant Executive Engineer,
Operation and Maintenance,
Tamilnadu Electricity Board,
Puliyur, Karur District.

...Respondents

PRAYER:- Writ Petition filed under Article 226 of Constitution of India, praying for issuance of a Writ of Declaration, to declare the Tamilnadu Electricity (Amendment) Code 2008 in Notification No.TNERC/SC/7-10 Dated 31.7.08 issued by the 1st respondent and the consequential impugned order passed by the 2nd respondent in his proceedings Ka.No.Vu.Se.Po/Ee.Ka/Puliyur/Ko.file/A.No.462/09 Dated 4.3.09 as illegal, arbitrary, violative of Article 14 of the Constitution of India and without Jurisdiction.

For Petitioner : Mr.B.Saravanan



W.P.(MD)No.1852 of 2009

For Respondents : Mr.S.P.Maharajan,
Special Government Pleader
for R1

Mr.S.Deenadhayalan for R2

ORDER

(Order of the Court was made by **S.M.SUBRAMANIAM, J.**)

Writ of Declaration has been instituted to declare Tamilnadu Electricity (Amendment) Code 2008 in Notification No.TNERC/SC/7-10, dated 31.07.2008, issued by the 1st respondent and the consequential impugned order passed by the 2nd respondent in his proceedings Ka.No.Vu.Se.Po/Ee.Ka/Puliyur/Ko.file/A.No.462/09, dated 04.03.2009, as illegal, arbitrary, violative of Article 14 of the Constitution of India and without Jurisdiction.

2. The petitioner owned mosquito net manufacturing unit in the name and style of Senthil Filaments, which functioned at Door No.22, Chinna Goundanoor, Uppidamangalam, Karur District. Electricity Service connection was provided by the Tamil Nadu Electricity Board in S.C.No.2061 and the petitioner had a residence in the same address at Door No.22, Chinnagoundanoor, Uppidamangalam, Karur District, which has got separate electricity service connection in S.C.No.2067.



W.P.(MD)No.1852 of 2009

3. It is not in dispute that the petitioner was having two separate electricity service connections, one for mosquito net manufacturing unit and another for his residence, which is situated nearby the manufacturing unit. Authorities during inspection identified theft of electricity in the meter affixed in the premises of the petitioner. Theft was committed in the industrial unit run by the petitioner by directly tapping from the incoming service connection in S.C.1403. Since the authorities identified theft of electricity, further action was initiated and assessment was made regarding the extent of theft of electricity committed and accordingly demand notice was issued.

4. The petitioner has raised grounds relating to the methods of assessment made by the competent authorities. Along with the order of assessment, the petitioner has challenged the Tamilnadu Electricity (Amendment) Code, 2008, dated 31.07.2008. With reference to the constitutional validity of the amendment, petitioner raised a ground that the amendment is falling outside the scope of the purview of the Electricity Act, 2003. Thus, it is arbitrary and unconstitutional.



W.P.(MD)No.1852 of 2009

5. With reference to the said ground, Section 50 of the Electricity Act, 2003 is to be examined. Section 50 of the Act reads as under:-

“50. The Electricity supply code.—The State Commission shall specify an electricity supply code to provide for recovery of electricity charges, intervals for billing of electricity charges, disconnection of supply of electricity for non-payment thereof, restoration of supply of electricity, measures for preventing tampering, distress or damage to electrical plant or electrical line or meter, entry of distribution licensee or any person acting on his behalf for disconnecting supply and removing the meter, entry for replacing, altering or maintaining electric lines or electrical plants or meter and such other matters.”

6. Pertinently, Section 50 contemplates “Tampering of Electricity” and “Recovery of Electricity Dues”. Therefore, one cannot form an opinion that the amendment is falling beyond the purview of Section 50 of the Electricity Act, 2003. When tampering of electricity and recovery of electricity dues are contemplated under Section 50 of Electricity Act, 2003, the amendment of Rules made thereunder cannot be construed as unconstitutional. As per the amendment “Where any



W.P.(MD)No.1852 of 2009

consumer has more than one service connection, if he defaults in payment of dues relating to any one of the service connections, the licensee may cause service connections in the name of the consumer to be disconnected on issuing proper notice till all the arrears due for all the service connections are paid notwithstanding the fact that the service connections are covered under separate agreements.”

7. In the present case, admittedly, the petitioner was having two separate electricity service connections, one for his manufacturing unit and another for his residence. Therefore, the actions initiated are in consonance with the amended Rules, which were issued by invoking the powers conferred under Section 50 of the Electricity Act, 2003. Therefore, we are unable to hold that the amendment is arbitrary. The amendment, has been issued well within the powers conferred under Section 50 of the Electricity Act, 2003, so as to ensure that the electricity charges and dues are recovered in the event of tampering of electricity meter and theft of energy or otherwise.

8. Thus, there is no infirmity in the Tamil Nadu Electricity (Amendment) Code, 2008 and the impugned order and accordingly, the



W.P.(MD)No.1852 of 2009

Writ Petition is dismissed. However, the petitioner is at liberty to prefer statutory appeal in respect of the assessment order if any passed in the manner contemplated. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

[S.M.S.J.,] & [V.L.N.J.,]
17.10.2023

NCC :Yes/No
Index :Yes/No
SJ

To

1.The Tamilnadu Electricity Regulatory Commission,
Chennai.



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W.P.(MD)No.1852 of 2009

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AND
V. LAKSHMINARAYANAN, J.

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W.P.(MD)No.1852 of 2009

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