



WP(MD)Nos.9463 & 16207 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **22.11.2023**

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THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

W.P.(MD)Nos.9463 & 16207 of 2021

and

W.M.P.(MD)Nos.7189 & 13053 of 2021

Matha Memorial Educational Trust,
Represented by its Correspondent,
P.Jayakumar.

...Petitioner in both petitions

/Vs./

1.The Superintending Engineer,
TANGEDCO,
Sivagangai,
O/o.The Superintending Engineer,
Sivagangai District.

2.The Executive Engineer,
TANGEDCO - Distribution,
Manamadurai,
Sivagangai District.

3.The Assistant Executive Engineer,
TANGEDCO - Distribution,
Manamadurai,
Sivagangai District.

4.The Assistant Engineer,
Rural/TANGEDCO,
Manamadurai,
Sivagangai District.

....Respondents in both petitions



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PRAYER in W.P.(MD)No.9463 of 2021:- Petition - filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records pertaining to the Impugned Order in Ka.No.Vu.MiPho/Pa/Mana Kho.Thani/A.No.156/20212 dated 16.03.2021 on the file of the Respondent No. 4 and quash the same as illegal.

PRAYER in W.P.(MD)No.16207 of 2021:- Petition - filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to restore the electricity connection of the petitioner's college in EB Connection No.427025-158 and 427-025-289 within the time period stipulated by this Court.

Appearance in both petitions:-

For Petitioner : Mr.P.Muthu Vijaya Pandian
For Respondents : Mr.S.Deenadhayalan
Standing Counsel

COMMON ORDER

The issue involved in both these writ petitions is common and hence, they are taken up together, heard and disposed of through this common order.

2. The petitioner has challenged the impugned communication dated 16.03.2021 in WP(MD)No.9463 of 2021. The petitioner has sought for a



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direction to the respondents to restore the electricity service connection numbers 158 and 289 in WP(MD)No.16207 of 2021.

3. The brief facts of the case are that the petitioner had obtained five electricity service connections all availed under the Tariff-V. These writ petitions pertain to service connection numbers 158 and 289.

4. The Anti Corruption Theft Squad inspected the premises and found that the petitioner had committed theft of energy in electricity service connection No.289. The petitioner paid the compounding charges on 30.05.2017. Yet another inspection was made by the same squad on 28.02.2020 and once again, it was found that the petitioner had committed theft of energy. This also pertains to service connection No.289. The petitioner paid the compounding charges of Rs.52,000/- on 28.02.2020.

5. The Assistant Executive Engineer passed provisional assessment order dated 28.02.2020, wherein the total loss was quantified as Rs.7,63,307/-. A notice was also issued to the petitioner to pay this amount along with belated payment surcharge (BPSC).



6. The petitioner filed a writ petition in WP(MD)No.3965 of 2021 before this Court and undertook that the petitioner is willing to pay the entire amount of Rs.7,63,307/- in two installments. Considering the same, this Court passed an order on 09.03.2021 and the relevant portions in the order are extracted hereunder:-

“3.Considering the welfare of the students and also considering the interest of the TANGEDCO/respondents, this Court in the fitness of things would pass the following directions:-

i) The petitioner is directed to make payment of Rs. 4,50,000/- to the respondents on 10.03.2021 as committed by the learned counsel for the petitioner through Demand Draft and on such Demand Draft being produced and received by the respondents, the electricity connection to the petitioner institution shall be restored forthwith without any delay.

ii) The petitioner is further directed to make the remaining outstanding amount of Rs.3,13,307/- which according to the petitioner is due and payable to the respondents within a period of two months from the date of first instalment.

iii) If the petitioner is liable to pay any extra amount or the respondents claim any other payment from the petitioner towards consumption charges or penalty amount, it is open to the respondents to pass separate proceedings in that regard. As far as the restoration of the electricity connection presently, the same shall not be withheld against any other demand. It is clarified that direction to restore connection is without prejudice to the rights of the parties in regard to any additional demand/claim.”



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7. The further case of the petitioner is they had made payment of Rs.4,50,000/- on 10.03.2021. The petitioner was also willing to pay the balance amount within the time stipulated by this Court in the writ petition. While so, the impugned communication dated 16.03.2021 was issued to the petitioner and the petitioner was directed to pay a sum of Rs.10,31,467/-. Aggrieved by the same, the petitioner has filed writ petition in WP(MD)No.9463 of 2021. Since two service connections namely viz., 158 and 289, continued to be disconnected, the petitioner has sought for restoration of service connection in WP(MD)No.16207 of 2021.

8. The second respondent has filed a counter affidavit in both writ petitions and has taken a stand that the petitioner did not pay the consumption charges of Rs.7,63,307/- along with BPSC and hence, as per Regulation 17(8) of the Tamil Nadu Electricity Supply Code, 2004, this amount has been included in service connection No.158 and the petitioner was directed to make the payment. The second respondent has also taken a stand that only after the petitioner pays the entire amount that is due and payable towards service connection numbers 158 and 289, the petitioner will be entitled for restoration of service connection.



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9. Heard Mr.P.Muthu Vijaya Pandian, learned counsel for the petitioner and Mr.S.Deenadhayan, learned standing counsel for the respondents.

10. There is no dispute with regard to the fact that service connection numbers 158 and 289 continued to be disconnected on the ground that the petitioner has not settled the entire dues. Insofar as service connection number 158 is concerned, the petitioner has not questioned the demand made towards charges pertaining to this service connection. The main issue revolves around service connection number 289. According to the petitioner, the petitioner was willing to pay the entire amount as undertaken before this Court in WP(MD)No. 3965 of 2021 and while so, the impugned communication has been issued by the 4th respondent.

11. The main grievance of the petitioner is that the petitioner has already paid a sum of Rs.4,50,000/- on 10.03.2021 and inspite of the same, it was not given credit and the petitioner has been directed to pay the entire amount. That apart, when the dispute pertained to service connection number 289, the amount has been added towards service connection number 158 and thereby, the petitioner has been deprived from paying the balance amount and



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getting the service connection restored in both service connection numbers 158 and 289.

12. In the considered view of this Court, the dispute that has been raised in these writ petitions will get easily resolved if there is clarity in the manner in which the calculation has been done by the Department. The counter affidavit filed by the second respondent shows that insofar as service connection 158 is concerned, the total amount that is payable is Rs.4,68,779/-. While arriving at this amount, the fourth respondent has included a sum of Rs.3,89,453/-, which pertains to the amount that is payable by the petitioner for service connection number 289. The petitioner is bound to make this payment as per the earlier undertaking given before this Court in the earlier writ petition. If such payment is made, the amount that is due and payable by the petitioner to an extent of Rs.3,89,453/- will have to be taken as paid towards service connection number 289 also.

13. Hence, if there is any other additional charges, that has to be levied from the petitioner apart from the above amount, and the same alone can be recovered from the petitioner. Even in the earlier order passed by this Court in WP(MD)No.3965 of 2021, this Court had made it very clear that it will be left



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open to the respondents to issue separate proceedings, if any extra amount is payable by the petitioner towards consumption charges or penalty amount.

14. In the light of the above discussions, both the writ petitions are disposed with a direction to the fourth respondent to issue separate proceedings for service connection numbers 158 and 289. Whatever amount is payable for service connection number 289, shall be mentioned in the proceedings pertaining to service connection number 289. It shall not be included in the other service connection number 158. Apart from that, the fourth respondent shall also issue separate proceedings for service connection number 158 and whatever amount is due and payable for this service connection, shall be demanded from the petitioner. If there are any other additional charges or penalty amount that is leviable from the petitioner, apart from what has been calculated for the service connection numbers 158 and 289, separate proceedings shall be issued in that regard. On doing so, there will be more clarity for the petitioner to understand the amount that is due and payable by the petitioner towards each service connection.

15. This exercise shall be completed by the fourth respondent within a period of four weeks from the date of receipt of a copy of this order. Once the



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petitioner makes the payment, service connection shall be restored for service connection numbers 158 and 289. No costs. Consequently, connected Miscellaneous Petitions are closed.

22.11.2023

NCC : Yes/No
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N.ANAND VENKATESH, J.

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TO:-

- 1.The Superintending Engineer,
TANGEDCO,
Sivagangai,
O/o.The Superintending Engineer,
Sivagangai District.
- 2.The Executive Engineer,
TANGEDCO - Distribution,
Manamadurai, Sivagangai District.
- 3.The Assistant Executive Engineer,
TANGEDCO - Distribution,
Manamadurai, Sivagangai District.
- 4.The Assistant Engineer,
Rural/TANGEDCO,
Manamadurai, Sivagangai District.

Common Order made in
W.P.(MD)Nos.9463 & 16207 of 2021

Dated:
22.11.2023