



WP (MD) No. 9841 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.07.2023

CORAM:

THE HONOURABLE MR. JUSTICE B. PUGALENDHI

WP (MD) No. 9841 of 2023

and

WMP (MD) No. 8676 and 8677 of 2023

Chozhan Nagar Nala Sangam
Represented by its Secretary,
Chakkaravarthi,
3/320(2), Chozhan Nagar,
Kumbakonam Taluk,
Ammachatram,
Thanjavur District.

... Petitioner

Vs

1. The Executive Engineer,
Operation and Maintenance,
The Tamil Nadu Electricity Board,
Kumbakonam North,
Thanjavur.

2. The Assistant Engineer,
Operations and Maintenance,
The Tamil Nadu Electricity Board,
TANGEDCO, Thiruvidaimaruthur,
Thanjavur.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus to call for the records on the file of the 2nd respondent pertaining to the impugned proceedings vide Ka.No.U.Min.Po/e&Para/Tiruvadai/Ko.Vi.Maa/A.No.



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48/22-23, dated 03.11.2022 and quash the same as illegal and to direct the respondents to reconvert the tariff to III B Tariff V based on the petitioner's representation dated 10.08.2022.

For petitioner : Mr.S.Ramanathan
For Respondent : Mr.S.Deenadhayalan,
Standing Counsel

ORDER

The retired Staff of the Cholan Transport Corporation has formed a Society under the Tamil Nadu Registration Act and have purchased lands and constructed their houses thereon viz., Cholan Nagar. They have also erected overhead water tank for the purpose of supplying water to the residents of the Cholan Nagar. The respondent electricity Board provided electricity service connection to the overhead water tank under tariff III-B. During the audit, an objection was raised with regard to the applicability of the tariff III-B to the overhead water tank stating that the overhead water tank is used for commercial purpose. Based on the audit objection, the 2nd respondent Assistant Engineer has issued demand notice calling upon the



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petitioner to pay a sum of Rs.1,49,747/- towards electricity charges to the service connection No. 490-006-157, dated 03.10.2022. Aggrieved over the same, the Secretary of the Association has filed this writ petition.

2.The learned Counsel for the petitioner submits that impugned demand notice has been issued without even issuing any show cause and without providing any opportunity of hearing to the petitioner society. The overhead water tank is used only for the benefit of the residents of the Cholan Nagar and at no point the water is used for any commercial purpose. Therefore, the change of tariff to V from tariff III-B is not justified.

3.The learned Standing Counsel appearing for the respondent board submits that the petitioner society is not a Statutory body and it is a private society and by collecting money from the member of the society, they are supplying water. Therefore, they have to be charged under tariff V and accordingly, the demand notice has been issued based on the audit objection.



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4.The petitioner society claims that they have constructed the overhead water tank for the use the residents of the cholan nagar and they are not using it for any commercial purpose. The impugned demand notice has been issued without issuing any show cause or without even issuing any notice. The water supplied from the overhead water tank to the members of the petitioner society cannot be treated as a commercial one and therefore, the writ petition is allowed and the impugned order is set aside. No costs. Consequently connected miscellaneous petitions are closed.

10.07.2023

dsk

To

- 1.The Executive Engineer,
Operation and Maintenance,
The Tamil Nadu Electricity Board,
Kumbakonam North,
Thanjavur.
- 2.The Assistant Engineer,
Operations and Maintenance,
The Tamil Nadu Electricity Board,
TANGEDCO, Thiruvidaimaruthur,
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B. PUGALENDHI, J.

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