



WP(MD)Nos.4692, 9215 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 06.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)Nos.4692, 9215 of 2014

and

MP(MD)Nos.1, 1 of 2014

J.P.Boards (P) Ltd.,

Rep. by its Joint Managing Director

Syed Hussain

... Petitioner in both WPs

[Petitioner substituted vide order dated 07.03.2023]

v.

1.State of Tamil Nadu,

Rep. by its Secretary to Government,

Department of Energy,

Fort St.George, Chennai – 600 009.

2.The Superintending Engineer,

Tuticorin Electricity Distribution Circle,

Tuticorin – 2.

... Respondents in both WPs

PRAYER in WP(MD)4692/2014: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order in letter No.



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212/SE/TEDC/TTN/AO/REV/A.2/F.DKT/2014 dated 26.02.2014, received by the petitioner on 10.03.2014, passed by the second respondent and quash the same and directing the respondents to issue notice inviting objections for the average billing charges for the period from 02.08.2012 to 17.12.2013.

PRAYER in WP(MD)9215/2014: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the second respondent in Lr.No.SE/TEDC/TTN/AEE/DVT/AE/DVT/F.Doc/D.No. 223/2014 dated 24.02.2014 and quash the same and directing the second respondent to increase the demand as 220 KVA.

For Petitioner : Mr.K.Vadivelu

For Respondents : Mr.S.Dheenadhayalan,
Standing Counsel

[In both WPs]

COMMON ORDER

The petitioner is a Joint Director of a Paper and Board manufacturing Company. He availed a HT Service Connection from the respondents Board with a sanctioned load of 360 KVA and thereafter, on request, the sanctioned



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load was reduced from 360 KVA to 160 KVA on 18.09.2013. Again, on 20.12.2013, the petitioner submitted an application to increase the demand to 220 KVA. On inspection, the respondents Board found that the metre in the Company was defective and therefore, they have replaced the metre on 19.12.2013 and also raised a demand as per Clause 11 of the Tamil Nadu Electricity Supply Code. Challenging this demand notice dated 26.02.2014, the petitioner has moved the writ petition in WP(MD)No.4692 of 2014.

2.The main grievance of the petitioner is that the demand notice was issued without providing an opportunity to the petitioner. Learned Counsel appearing for the petitioner, by relying upon the provision under Section 171 of the Indian Electricity Act, submitted that a notice is contemplated before passing the impugned order. However, in this case, no opportunity was provided to him and no document was furnished to the petitioner. The respondents have unilaterally decided as if the metre is defected and the respondents Board have demanded a sum of Rs.35,17,145/- from the petitioner.



3.Learned Standing Counsel appearing for the respondents Board submitted that the petitioner was provided with sufficient opportunity and the petitioner has also gave an undertaking that he is ready to pay the amount. The petitioner has also sent a reply notice, which shows that the petitioner was aware of the proceedings initiated as against him. Therefore, the petitioner cannot now plead that he has not been provided with an opportunity.

4.This Court considered the rival submissions made by the respective parties and perused the available materials.

5.The respondents Board claim that the metre fixed in the petitioner's Company was found to be defective, when the enforcement wing made an inspection on 17.12.2013. They have replaced the defective metre on 19.12.2013. Thereafter, they have made the impugned demand notice as per Clause 11 of the Tamil Nadu Electricity Supply Code. As rightly pointed out by the petitioner's Counsel, no notice was issued to the petitioner before fixing the liability on the petitioner. Without providing an opportunity, the



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demand has been made. Section 171 of the Indian Electricity Act contemplates a notice along with the documents before passing the notice impugned, which was not complied with.

6.In view of the provision under Section 171 of the Indian Electricity Act and also on the violation of principles of natural justice, the impugned notice dated 26.02.2014 is set aside. However, the respondents Board are at liberty to issue a fresh notice to the petitioner along with the documents, if any, in support of their claim, provide an opportunity of hearing and thereafter pass appropriate orders, as expeditiously as possible, preferably within a period of twelve weeks from the date of issuance of the fresh notice.

7.Pending the writ petition in WP(MD)No.4692/2014, the petitioner has applied for additional load and by referring the earlier demand notice dated 26.02.2014 for a sum of Rs.35,17,145/-, the respondents Board have refused to grant additional load requested by the petitioner. Therefore, he has filed WP(MD)No.9215/2014. This Court, by an interim order dated 11.06.2014, has directed the petitioner to pay a sum of Rs.10,00,000/- as an interim



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arrangement, considering the pendency of WP(MD)No.4692/2014. It is reported that the petitioner has paid the sum of Rs.10,00,000/- and accordingly, the additional load was also sanctioned.

8.In view of the order now passed in WP(MD)No.4692/2014, this Court is not inclined to pass any orders in WP(MD)No.9215/2014. Depending upon the outcome of the enquiry as contemplated under Section 171 of the Act, as directed in WP(MD)No.4692/2014, the respondents Board shall take a decision with regard to the relief sought for in WP(MD)No.9215/2014. Till such time, the sum of Rs.10,00,000/- deposited by the petitioner before the respondents Board shall not be disturbed nor the additional load sanctioned.

With the above observations and directions, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
NCC : Yes / No
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