



W.P(MD)No.9337 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.09.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.9337 of 2015

and

M.P.(MD)No.1 of 2015

M/s.Sri Mappillai Vinayagar Roller
Flour Mills,
Rep. by its Partner,
K.Balamuruganandam,
No.163, Nethaji Road,
Madurai-625 001.

... Petitioner

Vs.

The Superintending Engineer,
Tamil Nadu Generation and Distribution
Corporation Limited,
Madurai Electricity Distribution Circle,
Madurai District.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned order passed by the respondent in his proceedings Lr.No.SE/MEDC/DFC/H.T./AS/F.BOAB 13/14/D 99/15 dated 02.06.2015 and quash the same as illegal.

For Petitioner : Mr.D.Kirubakaran

For Respondent : Mr.S.Deenadhayalan



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ORDER

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Heard the learned counsel on either side.

2. The petitioner is a consumer of electricity. Energy theft was detected. Demand was raised. Challenging the same, the petitioner filed W.P.(MD)No. 6796 of 2010. Along with the petitioner, the management of two other units were also targeted. W.P.(MD)No.6796 of 2010 was partly allowed on 21.04.2022 in the following terms:-

“9.The case of the petitioner is that the petitioner has nothing to do with the affairs of the other two Companies. Though the respondent board have taken a stand that all the three Units are under the same Management operated from the same Corporate office, they could not produce any material to substantiate the same. The office may function from a particular place but the Directors of the Company are not one and the same. In the absence of any such substantial material, this Court is not inclined to accept the contention of the respondent Board that all the units belong to the same Management. The other two service connections HT SC Nos. 105 and 116 stand in the name of Sri Mappillai Vinayagar Spinning Mills Unit II and Sri Manicka Vinayagar Spinning Mills Limited were already disconnected by the Board. The respective arrear amounts have to be recovered from the concerned Mills or from its directors. The service connection in respect of HT SC No.76 is not yet disconnected. As per the details found in the counter affidavit, the petitioner Mill is liable to pay the following details:-

DETAILS	Amount (In.Rs.)
CC Charges 09/2007 to 04/2008	5,82,415.00
BPSC for 10/2007 to 2013	5,80,781.00
DC & RC Fees	3,000.00
E-Tax Arrears	3,11,176.00
Theft of Energy	27,53,395.00



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MCD	5,000.00
Reg.Fees	500.00
EMD	1,92,000.00
Development Charges	84,000.00
Total	45,12,267.00
<u>Less:</u> Paid by the consumer in PR No. 462MD05008, dated 28.10.2005	6,88,349.00
<u>Less:</u> Available CCD	4,90,601.00
<u>Less:</u> Paid by the consumer in PR No.28699 dated 21.03.2013	27,53,395.00
Total	5,79,922.00

In addition to that, as per the regulation 5 (4) of Tamil Nadu Electricity Supply Code and Regulation 22, the petitioner is also liable to pay sum of Rs.22,30,250/- for the belated payment surcharge.(I.e theft of energy arrived at Rs.27,53,395/- X 1.5/100 X 54 months).

10.In the absence of any material, this Court is not inclined to accept the contention that the Management of other two Units, namely, Sri Mappillai Vinayagar Spinning Mills Unit II and Sri Manicka Vinayagar Spinning Mills Limited are one and the same. Therefore, the respondent Board is not justified in demanding the sum of Rs.25,80,004/-, the compensation amount due, out of theft of energy committed in HT SC Nos. 105 and 116. Therefore, the demand made by the respondent Board in respect of HT SC No. 116 and 105 of M/s.Sri Mappillai Vinayagar Spinning Mills Unit II and M/s.Sri Manicka Vinayagar Spinning Mills Limited for a sum of 25,80,004/- is hereby set aside. The respondent Board is at liberty to recover the same from the respective Management. The demand of compensation and other charges in respect of H.T.S.C.No.76 is sustained and the petitioner is liable to pay the due amount within a period of 12 weeks from the date of receipt of a copy of this order together with applicable interest.



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G.R.SWAMINATHAN, J.

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3. Thus, the primary demand raised against the writ petitioner had already been sustained by this Court. Payment of BPSC is rather consequential. It is for this reason I decline to interfere with the impugned demand on the technical ground of violation of principles of natural justice. It appears that the primary liability was already cleared. The petitioner's counsel is however not sure about the same. The dispute is more regarding the interest. Even though I sustain the impugned demand, liberty is given to the petitioner to avail remedy under Chapter VIA of the Legal Service Authorities Act, 1987.

4. With this liberty to the petitioner, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes/ No
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