



W.P.(MD)No.11632 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 10.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.11632 of 2016

and

W.M.P.(MD)Nos.8911 of 2016 and 11261 of 2017

S.Joel

... Petitioner

versus

1. The Superintending Engineer,
O/o. Tamil Nadu Electricity Board,
TANGEDCO,
Near Manimandapam,
Thanjavur Town.

2. The Assistant Executive Engineer,
Tamil Nadu Electricity Board,
TANGEDCO,
Thiruvaiyaru,
Thanjavur District.

3. The Assistant Executive Engineer (NI),
Operation and Maintenance,
Tamil Nadu Electricity supply Corporation,
Rural – Thirukattupalli,
Thiruvaiyaru Taluk,
Thanjavur District.

... Respondents



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WEB COPY Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned communication in K.No.J.E/E.Pa/Rural/Thi.Pa/Ko.Thani/No.53/2016 dated 16.06.2016 on the file of the 3rd respondent and quash the same and consequently, direct the respondents not to disconnect the supply of electricity in service No.59 which is situate in Survey No.56/1B at Vadugakudi Village, Thiruvaiyaru Taluk, Thanjavur District, by considering the representation dated 12.06.2016 of the petitioner.

For Petitioner : Mr.K.Siva Thilakar

For Respondents : Mr.S.Deenadhayalan,
Standing Counsel

ORDER

This writ petition has been filed challenging the demand notice issued by the 3rd respondent dated 16.06.2016.



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2. The learned counsel appearing for the petitioner submits that before passing the impugned notice, no opportunity was provided to the petitioner.

3. The learned Standing Counsel appearing for the Electricity Board submits that the respondent Board has issued the impugned demand notice based on the provisional assessment made by them that the petitioner has utilized the free agricultural service connection for Brick-kiln unit. He further submits that when this writ petition came up for hearing on 29.06.2016, this Court has also entertained this writ petition and has also granted an order of status quo. Even prior to that, final assessment order has been passed on 24.06.2016. He further submits that the petitioner has compounded the offence under Section 152 of the Electricity Act.

4. The learned counsel appearing for the petitioner claims that even prior to the assessment order, no opportunity was provided to the



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petitioner.

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5. The learned Standing Counsel appearing for the Electricity Board submits that this impugned notice has been issued in order to provide an opportunity to the petitioner, based on the provisional assessment made. He further submits that even prior to the filing of the writ petition, final assessment order has been passed.

6. This Court has considered the rival submissions and perused the materials available on record.

7. Admittedly, the petitioner has been provided free service connection for agricultural purpose, but, he is said to have misused the free electricity service connection for watering bricks manufactured in the adjacent land. Therefore, the respondent Board has treated it as theft of energy and imposed a penalty by passing the final assessment order.



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WEB COPY 8. The learned counsel appearing for the petitioner submits that the allegation against the petitioner is that he has misused the free electricity service connection which has been provided for agricultural purpose and therefore, the same can be treated it as misuse of energy and not as theft of energy.

9. The learned Standing Counsel appearing for the Electricity Board submits that even prior to the filing of the writ petition, final assessment order has been passed. As against the final assessment order, the petitioner is having an appeal remedy before the first respondent under Section 127 of the Electricity Act.

10. Considering that the issue is pending before this Court for the past seven years, this writ petition is disposed of with a liberty to the petitioner to file an appeal before the first respondent under Section 127 of the Electricity Act by depositing 50% of the amount as per the



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statute. In the event of filing any such appeal, the first respondent shall consider and dispose of the appeal within a period of four months from the date of filing of the appeal. No costs. Consequently, connected miscellaneous petitions are closed.

10.10.2023

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

To

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B.PUGALENDHI, J.

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