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WP No.20387 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2024

CORAM

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. No.20387 of 2022
and W.M.P.No.19572 of 2022

M/s.Giri Sahajanya Projects
(Formerly known as K.S.Blue Metal Crusher (P) Ltd)
Rep. By its Managing Partner,
Mr.K.Selvakumar,
S.F.No.199/10, Sakthi Nagar,
Masinaikenpattu,
Salem 636 103.

... Petitioner

Versus

1.The Tamilnadu Generation and
Distribution Corporation Ltd.,
The Superintending Engineer,
Salem Electricity Distribution Circle,
Salem.

2.The Tamilnadu Generation and
Distribution Corporation Ltd.,
The Executive Engineer,
Operation & Maintenance,
Salem East, Salem.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India,
praying for issuance of a Writ of Certiorarified Mandamus, calling for the
records relating to impugned letter in
LR.No.SE/SEDC/AOR/AAO/HT/ASII/F.HTSC255/D.297/22 dated 29.06.2022

on the file of the 1st respondent, quash the same consequently directing the 1st

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respondent to restore the power supply without any demand within a stipulated period of time.

For Petitioner : Mr.R.Ezhilarasan

For Respondents : Mr.I.Syed Sibghatulla

ORDER

This Writ Petition is filed to quash the impugned letter in LR.No.SE/SEDC/AOR/AAO/HT/ASII/F.HTSC255/D.297/22 dated 29.06.2022 on the file of the 1st respondent and consequently to direct the 1st respondent to restore the power supply without any demand within a stipulated period of time.

2. The learned counsel for the petitioner would submit that the petitioner company namely M/s.Giri Sahajanya Projects [formerly known as K.S.Blue Metal Crusher (P) Ltd], is a partnership company involved in the business of stone crushing, blue metal and sales of Jelly, Gitti etc. at Survey No.199/10, Masinaikenpatti Village, Vallapadi Taluk, Salem. The said Quarry was established after obtaining order of consent dated 25.03.2018 to operate from the Tamil Nadu Pollution Control Board with production quantity to a maximum of 25,000 Metric Tonne per Month for the period upto 31.03.2027. The Tamil Nadu Pollution Control Board inspected the unit and issued a show cause notice mentioning certain deficiencies and violations. However, the



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Chairman, Tamil Nadu Pollution Control Board, issued a closure order as against the petitioner, pursuant to which the electricity connection was disconnected by the Tamil Nadu Electricity Board and the said order was challenged by the petitioner by way of an appeal in Appeal No.81 of 2021. The appellate authority by its order dated 19.01.2022 set aside the order of the Pollution Control Board. Along with the appellate authority order, the petitioner made a representation for restoring the said connection. However, the 1st respondent demanded a sum of Rs.20,95,360/- towards monthly minimum charges for the period of 20 months. Challenging the same, the Writ Petition has been filed.

3. Learned counsel for the petitioner submitted that as per the TNERC Supply Code Regulation, 2017, if the petitioner committed wilful default, for disconnection of electricity connection, then the petitioner has to pay necessary charges pursuant to the disconnection in view of the reconnection from the electricity board. However in the present case, there is no wilful default on the part of the petitioner and the service connection was disconnected based on the Pollution Control Board order, which was also subsequently set aside by the appellate authority, for which the respondents cannot claim monthly minimum charges from the petitioner without doing default. Accordingly, he prayed for



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allowing the Writ Petition.

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4. Per contra, the learned counsel appearing for the respondents filed counter affidavit, wherein it has been specifically stated as follows:

“6. The petitioner has given a representation to restore the service connection based on the order of the Chairman of Tamil Nadu Pollution Control Board proceeding No.T2/TNPCB/F.014521/SLM/Suspension of closure/W&A/2020 dated 27.05.2022 vide petitioner letter dated 12.06.2022. As requested by the petitioner, the 1st respondent has worked out an amount of Rs.20,95,360/- towards the monthly minimum charges upto 06/2022 and the fact was communicated to the petitioner for making payment by the 1st respondent for considering their request vide letter dated 29.06.2022.

7. I respectfully submit that as per the TNERC Supply Code Regulation 17(1) as reproduced as below;

Every consumer shall pay to the licensee, from the date of commencement of supply till the agreement is terminated, security deposit, minimum monthly charges,



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fixed charges if any, other charges as provided in the tariff orders, this code and any other order in this regard by the commission, from time to time. However, any consumer, who has not availed of reconnection even after the expiry of termination of agreement period, the monthly minimum charges shall be payable up to the date of termination of such agreement.”

In view of the above, all the consumers who have availing the supply from TANGEDCO, all the consumers have to pay the charges until termination of agreement. But the petitioner industry has not been terminated the agreement till then request of restoration.

8. I respectfully submit that the provision of TNERC supply code regulation 17(5) is reproduced below;

“If a service connection remains disconnected for a period of three months for non-payment of dues to the licensee, the licensee shall issue a notice requiring the consumer to get supply restored within three months from the date of receipt of such a notice and intimating him that failure to avail supply within that period will result in termination of the agreement. After the expiry of notice periods of three months, the agreement shall stand terminated.”

In the above provision, the agreement can be terminated only those who have default of payment to TANGEDCO.

But, the petitioner industry has been disconnected only on the order of Chairman of Tamilnadu Pollution Control



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Board due to non-compliance of condition as per terms of TNPCB rule. Whatever may be, if the service connection is under disconnection, the minimum charges have to be paid by all the consumer including the petitioner industry also. Based on that provision, an amount of Rs.20,95,360 has been worked out towards the monthly minimum charges by the 1st respondent which is in order as per the prevailing provision of code and regulation in force.”

5. Heard the learned counsel for the petitioner as well as the respondents and perused the entire materials available on record.

6. The fact in the present case is admittedly, the petitioner Company obtained the electricity service connection for running Quarry unit from the respondents and there is no default with regard to the payment of monthly consumption charges to the respondents. However, based on the closure order dated 07.10.2020 passed by the Tamil Nadu Pollution Control Board, the respondents disconnected the power supply. The said order was challenged before the appellant authority and the same was also set aside by order dated 19.01.2022 and the subsequently, the power supply was restored on 27.05.2022. Pursuant to the direction issued by this Court, restoration order



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was passed with a condition to the petitioner to deposit 20% of the demanded amount and subsequently, the respondents demanded Rs.20,95,360/- on the ground of default. The disconnection was ordered by the respondents only based on the Pollution Control Board order and not on the fault of the petitioner. Hence, the monthly minimum charges demanded by the respondents as against the petitioner is unsustainable and the order of the authorities is not sustainable.

7. In the result, the Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes/No

Internet : Yes/No

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To

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