



W.P.(MD) No.13640 of 2017

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

**W.P.(MD) No.13640 of 2017
and
W.M.P.(MD) Nos.10662 to 10664 of 2017**

M/S.Natesan Housing (P) Ltd.,
rep by its Director
V.P.Seetharaman

... Petitioner

/vs./

- 1.Tamil Nadu Electricity Ombudsman,
19-A, Rukmini Lakshmipathy Salai,
Egmore,
Chennai -08.
- 2.The Chairman,
(Superintending Engineer)
Consumer Grievance Redressal Forum Trichy
Electricity Distribution Circle/Metro
TANGEDCO,
Mannapuram, Trichy -20.
- 3.The Junior Engineer /O&M/Thiruvanaikovil,
Trichy Electricity Distribution Circle/Metro
TANGEDCO,
No.26, Srinivasachari Street,



W.P.(MD) No.13640 of 2017

WEB COPY

Old JJ Kalyana Mandapam,
Srirangam,
Trichy -06.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records comprised in Appeal No. 99 of 2016/D792 dated 23.06.2017 on file of the 1st Respondent and the consequential demand notice in Ka.No. E.Mi.Po/E Ka/T. Kovil/Ko. Kattu/A.No. 56/17 dated 13.07.2017 on file of the 3rd respondent and quash the same as being arbitrary and illegal and consequently direct the 1st respondent to remand Appeal No.99 of 2016/D792 to the 2nd respondent for fresh consideration uninfluenced by the findings in Appeal No. 99 of 2016/D792.

For Petitioner : Mr.Raguvaran Gopalan

For Respondents : Mr.S.Deenadhayalan
Standing Counsel

ORDER

The challenge in the writ petition is to an order passed by the first respondent on the appeal filed by the petitioner against the demand made by the third respondent.

2. It is the case of the petitioner that the petitioner is engaged in a construction of retirement community houses and in the process, he had obtained



W.P.(MD) No.13640 of 2017

the planning permission. A separate area was earmarked for the residence of the workers, for which a service connection was obtained under category IA. He would submit that no construction activity or any commercial activity has been carried out in respect of the areas earmarked as residence for the workers. When that be so, the third respondent herein had revised the category by holding that the Tariff that is to be levied would be under category VI and not category Tariff IA. Having been aggrieved against the same, the petitioner had preferred an appeal before the first respondent herein.

3. He would vehemently contend that there is no commercial activity that has been carried out in respect of the area, where the workers were residing. He would further submit that there is no interconnection between the residences of the retired community and that of the workers and therefore, the change of Tariff from 1A to VI is without any basis.

4. He would further submit that the petitioner was not given any opportunity of hearing by the third respondent before changing the Tariff. However, without considering the said fact that no notice was given, the first



W.P.(MD) No.13640 of 2017

respondent had proceeded to hear the case on merits and held that the petitioner is liable only to pay the tariff VI and not Tariff IA. Therefore, he would submit that the first respondent ought to have remitted the matter back to the third respondent to pass orders after hearing the petitioner.

5. Countering his arguments, Mr.S.Deenadhayalan, learned Standing Counsel for the respondents would submit that even though the petitioner had pleaded that there is violation of principles of natural justice, he had argued the case on its own merits and only for that purpose, the first respondent had in detail considered the claim of the petitioner on merits and thereafter orders were passed holding him liable to pay the electricity consumption charges as per Tariff VI.

6. He would further submit that the petitioner had been providing retirement homes for the senior citizens and to carry out the work at such homes, he had also provided residential premises for the workers. Therefore, the connection given to the residential workers cannot be termed to be independent of the service connection that has been given to the retirement homes. Therefore, the said home could only be levied with Tariff VI and not Tariff IA, as it is the



W.P.(MD) No.13640 of 2017

commercial activity. Only pursuant to the said commercial activity, the petitioner had provided residential homes to its employees.

7. It is also an admitted case of the petitioner that the construction was a temporary construction and for supply to temporary activities and construction activities other than the residential buildings/residential complexes, the levy could only be made under Tariff VI and not Tariff IA. In such event, he would submit that there is no necessity to interfere with the order impugned as being violative of principles of natural justice, as the petitioner cannot be said to be prejudiced in that aspect.

8. I have considered the rival submissions made by the learned counsel on either side.

9. Even though a primary contention has been made that the order impugned had been passed in violation of principles of natural justice, it could be seen that the petitioner had taken out not only the said ground but also attacked the change of levy by contesting the same on merits. The petitioner having



W.P.(MD) No.13640 of 2017

contested the same on merits, he cannot be heard to say that the violation of principles of natural justice has caused prejudice to him, that too when the first respondent, who is an ombudsman, had independently considered the claim of both the petitioner and the third respondent. It is to be noted that it is an admitted case of the petitioner that the construction was purely temporary construction for accommodating the employees, who took care of the retirement homes. If that is so, the said premises could only be treated as commercial premises. Tariff VI is also applied for temporary structures and constructions for commercial activity. In such case, I do not find any infirmity or irregularity in the order passed by the third respondent warranting interference.

10. In such view of the matter, I am inclined to dismiss this Writ Petition as being devoid of merits and accordingly, the same is dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
Internet : Yes / No
mm

09.12.2024



WEB COPY



W.P.(MD) No.13640 of 2017

K.KUMARESH BABU, J.

mm

W.P.(MD) No.13640 of 2017

09.12.2024