

(2010) 02 MAD CK 0121

In the Madras High Court

Case No : Writ Petition No. 2669 of 2010 and M.P. No. 1 of 2010

Jumbo Bag Ltd.

APPELLANT

Vs

The Chairman, Tamilnadu Electricity Board, The
Superintending Engineer, Tamilnadu Electricity Board and
Tamil Nadu Electricity Regulatory Commission

RESPONDENT

Date of Decision : 11-02-2010

Acts Referred:

Citation : (2010) 02 MAD CK 0121

Hon'ble Judges : M. Jaichandren, J

Bench : Single Bench

Advocate : Kamalanathan, for the Appellant; A. Selvendran, for R1 and R2, for the Respondent

Judgement

M. Jaichandren, J.—Heard the learned Counsels appearing on behalf of the parties concerned.

2. Even though various averments have been made and many grounds had been raised in the affidavit filed in support of the writ petition, the main

grievance of the petitioner is that the impugned demand notice/bill in respect of the peak hour penalty has been issued by the second respondent,

without due notice being given to the petitioner and without affording sufficient opportunity of hearing to the petitioner.

3. The learned Counsel appearing on behalf of the petitioner has stated that the second respondent has no authority, under the relevant provisions

of the law, to levy the penalty, without the prior approval of the Tamil Nadu Electricity Regulatory Commission, which is the competent statutory

authority, established in accordance with the Electricity Act, 2003.

4. It has been further stated that the second respondent had failed to follow the

procedures laid down, under paragraph No. 33 of the order, made in M.P.No.42 of 2008, dated 28.11.2008, issued by the Tamil Nadu Electricity Regulatory Commission. Therefore, the impugned demand notice/bill issued by the second respondent is liable to be set aside.

5. Mr. A. Selvendran, the learned Counsel appearing on behalf of the first and the second respondents, has not refuted the claims made by the

learned Counsel appearing on behalf of the petitioner. However, he had submitted that if this Court deems it fit to set aside the impugned demand

notice/bill of the second respondent, liberty may be granted to the second respondent to pass appropriate orders, afresh, after due notice is issued to the petitioner.

6. In view of the submissions made by the learned Counsels appearing for the petitioner, as well as the respondents, and in view of the orders

passed by this Court, in a number of writ petitions, wherein similar issues have been raised, the impugned demand notice/bill, issued by the second

respondent, is set aside, only insofar as it relates to the peak hours penalty. The petitioner may be permitted to pay the balance of the demanded

amount, except the peak hours penalty. However, it would be open to the second respondent to pass appropriate orders, afresh, including the

issuing of the appropriate demand notice/bill, after giving due notice and after affording sufficient opportunity of hearing to the petitioner.

7. After due notice is issued by the second respondent, the petitioner would be at liberty to challenge the same, if it is found necessary to do so, by

raising all the grounds available to the petitioner, including those which have been raised in this writ petition. It would also be open to the petitioner

to raise the ground that the second respondent has no authority to levy the penalty, on the ground that it is against the dictum laid down by the

Tamil Nadu Regulatory Commission, in M.P. No. 42 of 2008, dated 28.11.2008.

8. In case the petitioner had already paid the bill amount it would be adjusted to the amounts that may be claimed by the Tamilnadu Electricity

Board, in the future bills relating to the petitioner, in case the final decision is in favour of the petitioner. The petitioner shall fully cooperate by

participating in the inquiry or hearing that may be held by the concerned authorities of the respondent Electricity Board.

The writ petition is ordered accordingly. No costs. Consequently, connected

miscellaneous petition is closed.