
(2002) 07 MAD CK 0162

In the Madras High Court

Case No : Writ Petition No. 14670 of 2002 and W.P.M.P. No. 28216 of 2002

Madura Coats Ltd.

APPELLANT

Vs

The Tamil Nadu Electricity Board

RESPONDENT

Date of Decision : 22-07-2002

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2002) 07 MAD CK 0162

Hon'ble Judges : P.K. Misra, J

Bench : Single Bench

Advocate : P.S. Raman, for the Appellant; S.P. Prabhakaran, AGP for Respondent No. 1 and N. Srinivasan, for the Respondent

Final Decision : Allowed

Judgement

P.K. Misra, J.—Heard the learned counsel appearing for the parties.

2. Though the matter is listed for considering the prayer for a direction in the Writ Miscellaneous Petition, since the question involved in the Writ Petition is also one and the same, the Writ Petition itself is taken up for disposal.

3. The petitioner prays for a writ of certiorarified mandamus to call for the proceedings of the second respondent dated 23.03.2002, quash the same and consequently, direct the respondents to reduce the maximum sanctioned demand of its HT SC2 from 9000 KVA to 8000 KVA. Such a request has been rejected by the respondents, mainly only the ground that a litigation is pending in the High Court. It is relevant to quote the following assertion in the counter affidavit of the respondents on this aspect :

" On payment of Rs.500/- towards registration fee, the application received from the consumer requesting reduction of demand has been taken into account for scrutiny. While scrutinising the application of the petitioner, it is found that a litigation is pending in the Hon'ble High Court, Madras, filed by the petitioner. As per the Board's instructions, if there is any court case pending in respect of

service, the reduction in demand need not be considered. Hence, the petitioner's request for reduction of demand from 9000 KVA to 8000 KVA has been negated, which is in accordance with Board's instructions."

It is not disputed that the aforesaid litigation is pending before this Court in W.P.No.7748 of 2001. The said Writ Petition has been filed challenging certain demand made against the petitioner. However, it is not disputed that the said amount has been paid by the petitioner. Therefore, if, ultimately, the Writ Petition is allowed, the demanded amount may have to be refunded by the Board. On the other hand, if that Writ Petition is dismissed, the amount, which is already paid by the petitioner, would remain with the Board.

4. It is not understood as to how the mere pendency of a litigation in any Court can stand in the way of considering the application for reduction of demand. Every citizen has got a right to approach a competent Court of law for redressal of his grievances and that the petitioner has approached the Court for redressal of his grievances cannot be a ground for rejection of his petition, unless that pending litigation has got something to do with the rights and liabilities of the parties in respect of the very same matter. If the Board's instruction is taken to its logical conclusion, it would mean that no person would be able to seek for redressal of his grievances in a competent Court of law, including the High Court.

5. It is well known that the right under Articles 226 and 227 is a constitutional right of a person and no instruction, even though issued by the State Government or an instrumentality of the State like Electricity Board, can whittle down the scope of such a constitutional right.

6. For the aforesaid reasons, I allow this Writ Petition and direct the respondents to deal with the application of the petitioner for reduction of demand load in accordance with law. The mere fact that the petitioner has filed the Writ Petition No.7748 of 2001 in the High Court and the same is pending would not stand in the way. This exercise should be completed by the respondents within a period of two weeks from the date of receipt of copy of this order. No costs. Consequently, the connected W.P.M.P.is closed.