

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2015

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WRIT PETITION NO.36728 OF 2015 AND M.P.NOS.1 AND 2 OF 2015

D.Visalatchi

...Petitioner

Vs

1.The Chairman, TNEB, No.800,
Anna Salai, Chennai-2.

2.The Chairman, Tamil Nadu Generation
& Distribution Corporation Ltd.,
(TANGEDCO), No.800, Anna Salai,
Chennai-2.

3.The Assistant Executive Engineer,
TANGEDCO, Tirupur Electricity
Distribution Circle, Town/South,
Tiruppur.

4.The Junior Engineer, TANGEDCO
Ltd., Tirupur Electrical Distribution
Circle, Town Hall, Tirupur.

...Respondents

PETITION under Article 226 of The Constitution of India
praying for the issuance of a Writ of Certiorarified Mandamus to
calling for the records of the fourth respondent relating to the
Impugned proceedings in Ka.No.E.Me.Po/
E.Pa/Thiru/Kho.Mi.E.Tho/Ve.No.071/15 dated 13.10.2015 and
Ka.No.E.Mi. Po/E.Pa/Thiru/Kho.Thani/Ve.No.089/15 dated
6.11.2015, quash the same and consequently direct the
respondents 3 & 4 not to insist the petitioner to change the LT
Tariff III B to any other tariff in respect of the Electricity
Service Connection No.220-006-1090.

For Petitioner : Mr.R.Bharathkumar

For Respondents : Mr.S.K.Raameshuwar

ORDER

Mr.S.K.Rameshwar, learned Standing Counsel takes notice for the respondents. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner is aggrieved by the demand raised by the fourth respondent directing her to pay a sum of Rs.2,00,020/-. The petitioner is running a cyber cafe in the premises leased out by the Tirupur City Municipal Corporation. The petitioner was issued a show cause notice by the fourth respondent dated 13.10.2015 demanding current consumption charges and simultaneously affording an opportunity to put forth her objections, while stating that the petitioner's service connection is a commercial service connection.

3. The petitioner sent her objections on 30.10.2015 wherein it was stated that she is entitled for the protection under the order passed by the Tamil Nadu Electricity Regulatory Commission and that she is rendering information technology services and therefore, they would fall within the Low Tension Tariff III-B. Apart from such a plea, other factual pleas were also raised in her objections. The objections were said to have been sent by registered post as well as by courier and received by the fourth respondent. The fourth respondent, by another order dated 6.11.2015, directed the petitioner to remit the amount as demanded in the notice dated 13.10.2015. The petitioner has come up with the above writ petition contending that the fourth respondent has failed to consider the specific issue raised by the petitioner that she is entitled to the Low Tension Tariff III-B.

4. The learned Standing Counsel appearing for the respondents submitted that the said tariff concession is available only for rendering information technology services and the petitioner is not rendering one such service. According to the learned Standing Counsel, the petitioner is running a cyber cafe and carrying on internet browsing activities, which will not fall within the scope of information technology services.

5. In any event, the fourth respondent has not rendered a specific finding with regard to the petitioner's objection that she is entitled to the benefit of Low Tension Tariff III-B, though such a specific plea has been raised by the petitioner in her objections dated 30.10.2015. It is not in dispute that the fourth respondent has received the objections of the petitioner,

which is evident from the impugned order dated 6.11.2015. Hence, this Court is of the view that the petitioner's case should be re-considered by the fourth respondent. However, this direction to re-consider the case of the petitioner has to be coupled with a condition.

6. Accordingly, the writ petition is disposed of with a direction to the petitioner to pay 50% of the demand raised by the fourth respondent within a period of four weeks from the date of receipt of a copy of this order. On such payment of the said amount, the fourth respondent shall consider the objections of the petitioner as to the applicability of Low Tension Tariff III-B to her nature of business, pass a speaking order and communicate the same to the petitioner within two weeks thereafter. In the event of the petitioner failing to pay 50% of the amount demanded within the time stipulated, the benefit of this Court will not enure to the petitioner and it will be open to the respondent - Board to proceed against the petitioner for recovery in accordance with law. No costs. Consequently, the above MPs are closed.

Sd/-
Assistant Registrar (CCC)

True Copy

Sub Assistant Registrar

To

1.The Chairman, TNEB,
No.800, Anna Salai,
Chennai-2.

2.The Chairman,
Tamil Nadu Generation & Distribution Corporation Ltd.,
(TANGEDCO), No.800, Anna Salai,
Chennai-2.

3.The Assistant Executive Engineer,
TANGEDCO, Tirupur Electricity
Distribution Circle, Town/South,
Tiruppur.

4.The Junior Engineer, TANGEDCO Ltd., Tirupur Electrical
Distribution
Circle, Town Hall, Tirupur.

+1 cc to Mr.R.Bharathkumar, Advocate Sr.62477

+ 1 cc to Mr.S.K.Raameshuwar, Advocate Sr 63059 (8/1/16)

W.P.No.36728 of 2015 &
M.P.Nos.1 and 2 of 2015

gj[col]
srg 27/11/2015



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