

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 26.08.2019
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.20107 of 2010
And
M.P.Nos.2 and 3 of 2010

SRF Ltd.

Rep. by its Authorized Signatory

... Petitioner

Vs.

1.Tamil Nadu Electricity Board,
Rep by its Chairman,
800, Anna Salai,
Chennai - 600 002.

2.The Chief Engineer/ NCES
Tamil Nadu Electricity Board, II Floor
NPKRR Maaligai, 800 Anna Salai,
Chennai 600 002.

3.Superintending Engineer,
Chennai EDC/North
Chennai - 600 002.

4.The Chief Financial Controller/Rev
Tamil Nadu Electricity Board,
144 Anna Salai,
Chennai - 600 002.

5.Tamil Nadu Electricity Regulatory
Commission, 19-A,
Rukmini Lakshmipathy Salai,
(Marshall's Road),
Egmore, Chennai - 600 008
Rep. by its Secretary.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the 4th respondent comprised in its impugned instruction in Lr. No.CFC/ Rev/FC/R/D.No. /10/ dated 25.06.2010 pertaining to calculation of energy quota and the consequential demand of the 3rd respondent in its notice Lr.No.SE/SE/CEDC/N/DFC/HT.No.1263/D751/10, dated

15.7.2010 as confirmed by the consequential notice Lr.No.SE/CEDC/ N/DFC/HT.No.1263/D /10, dated 24.08.2010 for a sum of Rs.30,32,223/- towards levy of penalty for exceeding peak hour restrictions and quota and quash the same as illegal, arbitrary and without authority of law and direct the 3rd respondent to rework the calculations strictly in line with the internal memo dated 17.11.2008 and the order of the Hon'ble TNERC in Suo Moto Proceedings No.1 of 2009 dated 28.10.2009 and after giving due credit to the power generated by the petitioner and correcting the mistakes arising out of metering time lag and power holiday.

For Petitioner : Mr.Rahul Balaji
For Respondents : Mr.Aravind Pandian, AAG
Assisted by
Mr.S.K.Rameshwar

O R D E R

The issue raised in the present writ petition has already been settled before the Appellate Tribunal for Electricity (APTEL). The writ petition challenges the excess charges levied for exceeding quota by the 4th respondent. In this regard, the Tamil Nadu Electricity Regulatory Commission has passed an order on 04.05.2010, relevant portion of which reads as follows:

"Para 11.7 para 3.9 of the order of the commission in RPNO.2 of 2008 explicitly states as follows,

It must be borne in mind that excess demand charges and excess energy charges are liable in addition to the penalty of drastic reduction of electricity supply to 5% (or 10%) during the following 48 hrs as the case may be for violation of restriction and control measures."

2.Against which, the aggrieved similarly placed persons filed appeal before the Appellate Tribunal for Electricity (APTEL) and obtained final order on 11.01.2011.

3.In this regard, the Tamil Nadu Electricity Board approached the Hon'ble Supreme Court by filing Civil Appeal Nos.1090 - 1099 of 2011 and the Hon'ble Supreme Court vide order dated 04.02.2011 entertained the Civil Appeals against the judgment of the Appellate Tribunal. On a perusal of the interim order dated 04.02.2011, there is a direction to the appellant therein/Tamil Nadu Electricity

Board to furnish Bank Guarantee of a Nationalized Bank in favour of the Registrar (Judicial) of the Hon'ble Supreme Court.

4. Since the issue involved in the present writ petition is pending before the Hon'ble Supreme Court at the instigation of the respondent herein/ Tamil Nadu Electricity Board, the writ petition is disposed of directing the respondent to maintain status-quo as on date. Subject to the outcome of the Supreme Court order, the parties may seek remedy in the manner known to law.

5. Accordingly, the writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

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2. The Chief Engineer/ NCES
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NPKRR Maaligai, 800 Anna Salai,
Chennai 600 002.
3. The Superintending Engineer,
Chennai EDC/North
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4. The Chief Financial Controller/Rev
Tamil Nadu Electricity Board,
144 Anna Salai,
Chennai - 600 002.
5. The Secretary, Tamil Nadu Electricity Regulatory
Commission, 19-A,
Rukmini Lakshmi pathy Salai,
(Marshall's Road),
Egmore, Chennai - 600 008

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A.SK(30/09/2019)