

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.09.2019

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P. No.7732 of 2011
and M.P. Nos.1 to 4 of 2011

M/s.German Polymers and Coatings Pvt. Ltd.,
represented by its Managing Director
Mr.R.Selvaraj .. Petitioner

-vs-

The Superintending Engineer,
Chennai Electricity Distribution Circle/South,
Tamil Nadu Electricity Board,
110 KV SS Complex, K.K.Nagar,
Chennai-78. .. Respondent

Prayer: Petition filed under Article 226 of the
Constitution of India, praying for the issue of a Writ of
Certiorari calling for the records of the respondent in letter
No.SE/CEDC/S/AEE/GL/AE/Dev./F.German/ D.475/11 dated 07.03.2011
and quash the same as illegal and arbitrary and against the
Tamil Nadu Electricity Supply Code, 2004.

For Petitioner : Mr.M.Venkatakrishnan

For Respondent : Mrs.S.K.Raameshuwar,
Standing Counsel

ORDER

The petitioner has filed the writ petition challenging
the impugned letter No.SE/CEDC/S/AEE/GL/AE/Dev./F.German/
D.475/11 dated 07.03.2011 issued by the respondent.

2.Learned counsel appearing for the petitioner submitted
that the petitioner, being SSI Industry, has involved in labour
job applying powder coating and liquid painting catering to
industries. The respondent had sanctioned the high tension
electric supply to the petitioner's industry in H.T.SC. No.659
and they initially sanctioned the connected load to 162.5 H.P. +
26 KW and it was subsequently enhanced to 65 H.P. + 37 KW.
Thereafter, the petitioner applied for additional demand of 500
KVA over and above the existing 250 KVA on 23.07.2010. However,
the respondent directed the petitioner to pay a sum of
Rs.4,00,500/- towards registration fee and earnest money deposit

and the same was paid on 03.08.2010. Subsequently, on 21.08.2010, the respondent directed the petitioner to pay a sum of Rs.1,75,075/- for arranging to effect an additional demand of 500 KVA over and above 250 KVA and to execute an agreement within 15 days from the date of receipt of the said letter.

3.Learned counsel appearing for the petitioner would further submit that the respondent informed the petitioner that only on production of the safety certificate from the Chief Electrical Inspector to Government, the supply could be effected. Thereafter, the petitioner approached the Chief Electrical Inspector and requested early issuance of safety certificate with necessary particulars and he has also paid a sum of Rs.1,75,075 towards development charges and inspection charges on 04.09.2010 and also executed the statutory agreement on 06.09.2010. While so, the respondent issued first availability notice on 20.10.2010 intimating the petitioner to avail the supply within three months from the date of 18.10.2010 by producing CEIG Safety Certificate and as per Tamil Nadu Electricity Distribution Code, monthly minimum charges at the rate of Rs.300/- per KVA on the said additional demand of 500 KVA will be levied from the date of 18.10.2010 till the date of availing supply. It was further informed by the respondent that if the petitioner fails to avail supply within the above period, supply shall be extended for 2nd three months on making payment of monthly minimum charges for a period of 6 months from the date of 18.10.2010 within the notice period and the said application will be cancelled without any further notice and the agreement will also be terminated forfeiting all the amounts remitted except Meter Caution Deposit and the special guarantee clauses amount will also be recovered if the petitioner fails to avail the supply within the notice period or the extended period.

4.According to the learned counsel appearing for the petitioner, the Chief Electrical Inspector to Government issued permission for commissioning pending inspection on 29.12.2010 as per Rule 63(3) of Indian Electricity Rules, 1956 and the same was submitted to the respondent on 30.12.2010. While so, by letter dated 30.12.2010, the respondent informed the petitioner that the said permission is not enough and insisted production of certificate. When the refusal by the respondent to accept the certificate was taken up before the Chief Electrical Inspector, the respondent issued a second availability notice on 18.01.2011 and the Chief Electrical Inspector issued the said certificate on 21.01.2011 and the same was submitted to the respondent on the date itself. Thereafter, the respondent informed the petitioner that the certificate issued by the CEIG is only with regard to 270 KVA instead of 500 KVA and additional demand shall be effected for the proportionate demand and forfeiture of balance charges. It is further informed that the petitioner is liable to pay a sum of Rs.9,00,000/- towards the monthly minimum charges within 15 days from the date of receipt of the said

letter and threatened cancellation of the application on non-payment. Thereafter, the petitioner sent a reply stating the financial position and non utilisation of supply due to the delay on the part of the CEIG, who has issued a fresh safety certificate on 22.02.2011 and the same was submitted to the respondent on 24.02.2011 and the respondent effected the additional demand on 28.02.2011 and made corresponding entries in the meter card. While so, on 07.03.2011, the respondent has issued the impugned letter informing that the petitioner is liable to pay a sum of Rs.6,65,000/- towards monthly minimum charges for the period starting from 18.10.2010 to 27.02.2011 and the same will be added in forthcoming current consumption bill.

5.Learned counsel appearing for the petitioner contended that the respondent cannot collect the monthly minimum rate of Rs.300/- per KVA on the additional payment of 500 KVA from 18.10.2010 for the simple reason that both the petitioner and the respondent to comply the formalities as per Regulation 31(1) and (2) of the TNERC Electricity Distribution Code which mandates as under:

'31.Inspections, testing and effecting supply

(1)After completion of the wiring, notice must be sent to the Engineer by the intending consumer that the installation has been completed and tested and that the same is complete and ready for inspection and test by the Engineer. Notice of the Engineer's intention to inspect and test the installation will be sent to the intending consumer who must be present or his/her competent representative at the time fixed to give information that may be necessary concerning the installation.

(2)The intending consumer shall avail himself of the supply within three months in case of HT and one month in case of LT from the date of issue of notice in writing, informing him that supply is available.'

6.Learned Standing Counsel appearing for the respondent would submit that as per Clause 31(2) of TNEDC, the HT consumer shall avail the supply within three months from the date of supply availability notice and as per clause 31(3) since the consumer failed to avail the supply within the above period, a further three months' notice for availing HT supply was given to the consumer and within that period, he had availed supply and for that period only, as per clause 31(5) of TNEDC, the petitioner has paid monthly minimum charges. He would further submit that the delay involved in this case is due to non submission of CEIG Safety Certificate for additional load of 500 KVA by the petitioner and hence, the petitioner has to pay the monthly minimum charges till the date of availing the supply. Learned Standing Counsel would further submit that as directed by this Court vide order dated 01.04.2014, the said amount has also been paid by the petitioner.

7.It is seen from records that the petitioner has furnished the CEIG safety certificate only on 24.02.2011 and thereafter, the service was effected on 28.02.2011. Due to non submission of CEIG Certificate for additional load of 500 KVA by the petitioner, the petitioner is duty bound to pay the monthly minimum charges till the date of availing supply and therefore, the impugned notice has been correctly issued by the respondent. When the respondent is ready to provide the additional demand, the petitioner is duty bound to pay the monthly minimum charges.

8.Since it is submitted by the learned Standing Counsel appearing for the respondent that the petitioner has paid the entire amount at the rate of Rs.6,65,000/- towards monthly minimum charges, this Court, finding no more adjudication required in the petition, is inclined to dismiss the same. Accordingly, the writ petition is dismissed. Consequently, connected M.P. is closed. No costs.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

The Superintending Engineer,
Chennai Electricity Distribution Circle/South,
Tamil Nadu Electricity Board,
110 KV SS Complex, K.K.Nagar,
Chennai-78.

+lcc to Mr.M.Venkatakrishnan, Advocate, S.R.No. 80789

+lcc to Mr.S.K.Raameshwar, Advocate, S.R.No. 79840

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BP (CO)
GN (27/12/2019)