



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 08.07.2019

Coram::

The Honourable Dr.Justice G.Jayachandran

W.P.No.19312 of 2019

&

W.M.P.Nos.18772 & 18773 of 2019

Sumangala Steel Private Limited,
Rep by Rajendran Sabanayagam,
Managing Director,
PIPDIC Industrial Estate,
Mettupalayam, Puducherry - 605 009.

... Petitioner

/versus/

1. The Electricity Department,
Government of Puducherry,
Rep. by Financial Controller,
No.137, Nethaji Subash Chandra Bose Salai,
Puducherry.

2. The Electricity Department,
Government of Puducherry,
Rep. by Superintending Engineer,
No.137, Nethaji Subash Chandra Bose Salai,
Puducherry.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Certiorari/fidei Mandamus, calling for records pertaining to the communication of the respondents dated 28.01.2019 bearing No.144/ED/SAO/HT/U-I/2018-19/421 as affirmed in its subsequent communication dated 09.05.2019 bearing No.144/ED/SAO/HT/U-I/2019-20/44 and quash the same and consequently forbear the respondents from disconnecting the power supply to the petitioner's unit bearing consumer Code No.144 in pursuance of the above communications.

For Petitioner : Mr.P.S.Raman, Senior Counsel,
for Mr.Roshan Balasubramanian

For Respondents : Mr.A.V.Ramalingam,
Additional Government Pleader (Pondy)



O R D E R

Heard the learned counsel for the petitioner and the learned counsel for the respondents.

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2. The dispute of paying subsidy to the petitioner/Sumangala Steel Private Limited is seized of by the Supreme Court and subject matter of pending Civil Appeal. In view of that, the Hon'ble Division Bench of this Court in W.A.No.1354 of 2019 vide order dated 14.12.2017 has given concession to the petitioner/company, to pay one month average consumption charge as security deposit, instead of two months average consumption charges as contemplated under JERC (Electricity Supply Code) Regulation, 2010.

3. In view of increase in consumption charges, the respondents have made a demand for Additional security deposit, while doing so, following JERC (Electricity Supply Code) Regulation, 2010, the respondents had demanded two months average consumption charge as security deposit. If this demand is given effective, it will be in breach of the order passed by this Court in W.A.No.1354 of 2017 dated 14.12.2017, which reads as below:-

12.We direct the respondent to provide Bank Guarantee to cover the additional security deposit to the tune of Rs.3,50,00,000/- (Rupees Three Crore and Fifty Lakhs Only) in modification of the demand made in the notice dated 20.08.2014. The Bank Guarantee shall be given within a period of one week from the date of receipt of a copy of this judgment. The respondent is directed to pay the current consumption charges every month without default. In case, there is a default, even for a single month, it is open to the appellants to encash the Bank Guarantee without any formal notice to the respondent. The Bank in such a case shall honour the notice issued by the appellants invoking the Bank Guarantee. Similarly, it is open to the appellants to disconnect the supply and call upon the respondent to provide additional security in case there is default in payment of the monthly consumption charges.

4. The peculiar facts involved in this case is that there is a counter claim by the petitioner herein by way of subsidy, which is the subject matter of Civil Appeal [SLP No.12134 of 2011] pending before the Hon'ble Supreme Court.



Taking note of the peculiar facts, Division Bench of this Court has passed the above order. Therefore, it is appropriate that the petitioner shall be satisfied with collecting one month average consumption charge as security deposit and demand the difference alone as additional security deposit.

5. Accordingly, the Writ Petition is disposed of. Directing the respondent herein to cause fresh demand notice calculating the average consumption charge for the past six months and make a demand of one month charge as additional security deposit. If such demand is made the petitioner herein is directed to give the bank guarantee for the increased security deposit, within a period of 7 days. This order will be the subject to the outcome of the Civil Appeal Nos.164 to 167 of 2013, pending before the Supreme Court. The other conditions imposed by the Division Bench in W.A.No.1354 of 2019, dated 14.12.2017 as extracted above shall apply. No costs. Consequently, connected Miscellaneous Petitions closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

bsm

To,

1. The Financial Controller,
The Electricity Department,
Government of Puducherry,
No.137, Nethaji Subash Chandra Bose Salai,
Puducherry.

2. The Superintending Engineer,
The Electricity Department,
Government of Puducherry,
No.137, Nethaji Subash Chandra Bose Salai,
Puducherry.

+1cc to Mr.Roshan Balasubramanian, Advocate, S.R.No. 57233
+1cc to the Government Pleader(Pondicherry), S.R.No.57437

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RSK(CO)
GN(06/08/2019)