

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2019

CORAM:

THE HONOURABLE MR. JUSTICE DR.G.JAYACHANDRAN

W.P.No.26836 of 2019

M/s.Shri PKP Spintex Mills Private Limited,
Rep by its Managing Directors,
No.69, Adhiyamam Bye-Pass Road,
Dharmapuri 636 701

... Petitioner

Vs.

- 1.The Chairman,
Tamil Nadu Generation and Distribution and
Cooperation Limited(TANGEDCO),
Chennai
- 2.The Superintending Engineer,
Tamil Nadu Generation and Distribution and
Cooperation Limited(TANGEDCO),
Dharmapuri

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus to call for the records of the second respondent pertaining to letter dated 25.07.2019 and quash the same as illegal and consequently direct the second respondent to adjust the excess Security Deposit towards the arrears claim amount and direct the second respondent to give reconnection to HT No.421, on payment of balance and necessary charges, in accordance with law within time frame.

For Petitioner : Mr.S.Rajesh

For Respondents: Mr.M.Varun Kumar,
Standing Counsel

ORDER

The writ petition has been filed to issue a writ of certiorarified mandamus to call for the records of the second respondent pertaining to letter dated 25.07.2019 and quash the same as illegal and consequently direct the second respondent to adjust the excess Security Deposit towards the arrears claim amount and direct the second respondent to give reconnection to HT No.421, on payment of balance and necessary charges.

2. Heard the learned counsel for the petitioner. The respondent was served with notice.

3. The claim of the petitioner is that the excess security deposit held by the respondent herein not been adjusted towards demand made by the petitioner for giving reconnection. The petitioner contends that the respondent is liable to refund Rs.58,37,595/- towards excess security deposit collected by the respondent. The service of the petitioner was disconnected during March 2019. As of now including consumption charge and penalty, the petitioner is liable to pay Rs.89,87,650/-. The request of the petitioner to adjust the money payable to the petitioner towards consumption charge not been accepted by the respondent citing TNERC Supply Code Clause 5(5)(V), which reads as follows:

"Where, on review, the amount of Security deposit held is found to be in excess of the requirement, the excess shall be adjusted against two future demands for the electricity supplied. Where, after such adjustment in future two demands, there is balance to be refunded, the refund shall be made by cheque before the due date for payment of the third demand."

4. The impugned order further justifies the disconnection relying upon the Clause 14(5) of TNERC Supply Code, which reads as follows:

"If the amount of any bill remains unpaid beyond the period specified the Licensee may also, without prejudice to any of its rights under the agreement entered into by the consumer with the Licensee, order supply of electricity to the consumer to be disconnected forthwith without further notice and keep the service connected disconnected until full payment for all obligations pending and the charge for the work of disconnection and reconnection has been paid. Such discontinuance of supply of electricity shall not relieve the consumer of his liability to pay the minimum monthly charges nor relieve the consumer of his liability to pay the minimum monthly charges nor shall such discontinuance affect any right, claim, demand or power which may have accrued to the Licensee hereunder."

5. The action of the respondent not to abide by the TNERC Supply Code Clause 5(5)(V) is unjust and improper. Having failed to adjust the excess amount in two future demands for the electricity supply, the respondent has gone further to disconnect the connection for non payment and now demanding around 90 lakh rupees without paying the excess security deposit held by the respondent to the tune of Rs.58,37,595/-. The respondent either has to return money which is held by them for the past six months or adjust the same towards consumption

charge and to collect the balance consumption charge with the penalty and give reconnection to the petitioner. The respondent has failed to opt for either of the above two options, which has forced the petitioner herein to approach this Court filing the writ petition.

6. This Court finds merit in the case of the petitioner. Hence, the writ petition is allowed. The respondent herein is directed to refund the excess amount to the petitioner within fifteen days from today. If the petitioner wants reconnection he can opt for adjustment of that amount towards the consumption charge demanded by the respondent and pay the balance. If the petitioner pays the balance amount after adjusting the excess caution deposit collected by the respondent, the respondent shall restore the connection forthwith. No costs.

lok

Sd/-
Assistant Registrar (CS II)

//True Copy//

Sub Assistant Registrar

To

1. The Chairman,
Tamil Nadu Generation and Distribution and
Cooperation Limited (TANGEDCO),
Chennai

2. The Superintending Engineer,
Tamil Nadu Generation and Distribution and
Cooperation Limited (TANGEDCO),
Dharmapuri

+1cc to Mr. S. Rajesh, Advocate, SR.No. 78327

+1cc to Mr. M. Varun Kumar, Advocate, SR.No. 78345

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Kak (13/09/2019)