



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **14/02/2020**

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P(MD)No.2057 of 2020

and

W.M.P(MD)Nos.1731 & 1732 of 2020

Thiagarajar College,
Rep. by its Principal,
Kamarajar Salai,
Teppakulam, Madurai - 09.

... Petitioner

Vs.

The Superintending Engineer,
TANGEDCO,
Madurai Electricity Distribution Circle/Metro,
Madurai - 07.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records comprised in Lr.No.MePo/MaMiPava/Metro/Madu/ThuNiKaA/Varu/KaMe/ UmiPo/Ko.Umi No.169/A.No.401 dated 08.01.2020 and quash the same as being arbitrary, illegal and contrary to law and consequently, direct the respondent to shift the funds lying as security deposit to the defunct low tension service connections 027-003-95 & 027-003-96 and 027-003-98 to 027-003-105 to the account of High Tension Service Connection 169 in the name of the petitioner.

For Petitioner	: Mr.K.Prabhakar
For Respondent	: Mrs.Rajeswari for Mr.S.M.S.Johny Basha

ORDER

Heard the learned counsel appearing for the petitioner and the learned standing counsel appearing for the respondent Board.

2. The petitioner which is a College in Madurai, has filed this writ petition seeking to quash the impugned order passed by the respondent dated 08.01.2020.

3. The petitioner college originally had electricity service connections under the Low Tension category. Totally, there were eleven separate connections in its various buildings, within the campus. The college has also been paying the bills without any arrears or shortfall. The electricity service connections, which



were previously under LT IIB1 category was unilaterally changed to LT IIB2 with a higher tariff rate and that was also challenged by the college in W.P(MD)No.1250 of 2019 and wherein an order of interim stay was obtained.

4. In the meanwhile, as per the advice of the respondent Board, the petitioner had sought for shifting of eleven separate Low Tension Service Connections into one High Tension Service Connection. Accordingly, he applied for High Tension Service Connection and obtained the same on 17.06.2019. The petitioner had also paid all the new charges and deposits such as security deposit afresh while effecting the new HT SC No.169.

5. Now, the petitioner is seeking the refund or shifting of the security deposit given by the petitioner for its eleven Low Tension Service Connections to the account of the High Tension Service Connection No.169. The said request of the petitioner was rejected by the respondent vide impugned order dated 08.01.2020, citing the pendency of W.P(MD)No.1250 of 2019

6. In similar circumstance, a memo dated 23.01.2014 in Memo.No.CE/Cmi/EET/AEE/2/F, Consumers with arrears/D.28/13, was produced before this Court. As per the said memo, certain instructions were given to the Superintending Engineer, which are as follows:

''(i) Whenever any order of stay, injunction, etc., is granted by the Court, immediate action should be taken to vacate such order of stay, injunction, etc., so as to realize the outstanding dues, if any from the consumers.

(ii) When the consumers having outstanding dues approach TANGEDCO for their various requests such as new, additional demand, dedicated feeder, etc and if there is no order of stay by Court against collection of outstanding amount from the consumers, action may, be taken to realize the pending amount from the consumer before processing their request.

(iii) When the consumers having outstanding dues approach TANGEDCO for their various requests and if there is an order of stay, injunction etc granted by the Court restraining the TANGEDCO from collecting such outstanding dues, the consumers should not be insisted to remit such outstanding dues covered by stay as a condition precedent to process/allow their requests. Such request of the consumers shall be processed and thereafter a report is to be sent duly stating the full and complete details of the case such as brief



history of case, actual date of filing of a counter affidavit together with vacate stay/injunction Petition, number assigned by the registry of the Court on such vacate stay/injunction petition and the action taken to list such vacate /injunction petition for early hearing in consultation with the Standing Counsel /Government Pleader/Advocate on behalf of the TANGEDCO and subsequent developments that took place in such cases etc., with connected records.''

7. The petitioner herein would fall under third category, because an order has been obtained by him before this Court in W.P (MD)No.1250 of 2019 and he has also deposited a sum of Rs.4,50,000/- as directed against the demand under challenge in the said writ petition. The petitioner is not seeking any refund of money from the respondent and is seeking only for shifting of funds and while shifting the funds from one head to another head, the sum can be utilised.

8. Admittedly, the said Low Tension Service Connections for which the amounts were deposited, were shifted to one High Tension Service Connection, for which separate payments have been made. Therefore, there cannot be any impediment for the respondents to shift the deposit amount made for the Low Tension Service Connections. The petitioners are not asking for refund and they are only asking for shifting of the said fund. If such deposit is shifted, it could be adjusted towards their consumption charges in future.

9. As the only ground for the rejection of the petitioner's request was the pendency of the writ petition and even as per the memo referred to above, the respondent Board can shift the security deposit from the Low Tension Service Connections to the High Tension Service Connection.

10. The learned standing counsel for the respondent Board would submit that in the event of their success in the earlier writ petition in W.P(MD)No.1250 of 2019, it would be difficult for them to recover the amount from the petitioner. Therefore, the petitioner would be directed to file an undertaking affidavit to remit the outstanding dues in the event of the petitioner losing in the earlier writ petition.

11. In view of the above, the Writ Petition is allowed and the impugned order dated 08.01.2020 passed by the respondent is hereby set aside. The respondent Electricity Board is directed to consider the claim of the petitioner and shift the deposit amount made towards the Low Tension Service Connections to the High Tension



Service Connection account. Once such shift is done, it is open to the petitioner to request the respondent Board to adjust the said sum for any future consumption charges or any other dues payable by the petitioner. No Costs. Consequently, connected Miscellaneous Petitions are closed.

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Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

pm

To:

The Superintending Engineer,
TANGEDCO,
Madurai Electricity Distribution Circle/Metro,
Madurai - 07.

+1 CC to Mt.K.PRABHAKAR, Advocate (SR-6477[F] dated 14/02/2020)

W.P (MD) No.2057 of 2020

14.02.2020

VB (28.02.2020) 4P 3C