



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.09.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) Nos. 6035, 6038, 6042, 12521, 12525 and 12528 of 2020

and

W.M.P. (MD) Nos. 5202, 5203, 5206, 10689, 10691 and 10693 of 2020

Nangil Integrated Dairy Development,
Rep. by its Managing Director,
Rev. Gerald Justin,
Mulagumoodu,
Kanyakumari District.

... Petitioner in all WPs

Vs.

1. Tamil Nadu Electricity Regulatory Commission,
Rep by its Secretary, 19-A, Rukmini Lakshmipathy Salai,
Marshalls Road, Egmore, Chennai-600 008
 2. Tamil Nadu Generation and Distribution Corporation (Tangedco),
(Formerly Tneb), Rep by its Chairman/Director, 144, Anna Salai,
Chennai-600 002
 3. The Assistant Engineer Distribution,
Tamil Nadu Generation and Distribution Corporation (Tangedco) Ltd,
Nanguneri, Tirunelveli District-627 951
 4. The Executive Engineer Distribution/Rural,
Tamil Nadu Generation and Distribution Corporation (Tangedco) Ltd,
Nanguneri, Tirunelveli District-627 951
- ... Respondents in WP (MD) No. 6035 of 2020

1. Tamil Nadu Electricity Regulatory Commission,
Rep by its Secretary, 19-A, Rukmini Lakshmipathy Salai,
Marshalls Road, Egmore, Chennai-600 008
2. Tamil Nadu Generation and Distribution Corporation (Tangedco),
(Formerly Tneb), Rep by its Chairman/Director, 144, Anna Salai,
Chennai-600 002
3. The Assistant Engineer Distribution,
Tamil Nadu Generation and Distribution Corporation (Tangedco) Ltd,
Adaikalapattinam, Tirunelveli District-627 951
4. The Executive Engineer Distribution/Rural, Tamil Nadu
Generation and Distribution Corporation (Tangedco) Ltd,
Adaikalapattinam, Tirunelveli District-627 951

... Respondents in WP (MD) No. 6038 of 2020



- 1.Tamil Nadu Electricity Regulatory Commission,
Rep by its Secretary, 19-A, Rukmini Lakshmipathy Salai,
Marshalls Road, Egmore, Chennai-600 008
- 2.Tamil Nadu Generation and Distribution Corporation (Tangedco),
(Formerly Tneb), Rep by its Chairman/director, 144,
Anna Salai, Chennai-600 002
- 3.The Assistant Engineer Distribution,
Tamil Nadu Generation and Distribution Corporation (Tangedco) Ltd,
Devarkulam, Tirunelveli District-627 951
- 4.The Executive Engineer Distribution/Rural,
Tamil Nadu Generation and Distribution Corporation (Tangedco) Ltd,
Devarkulam, Tirunelveli District-627 951
... Respondents in WP (MD) No. 6042 of 2020

- 1.Tamil Nadu Electricity Regulatory Commission,
Rep. by its Secretary, 19-A, Rukmini Lakshmipathy Salai, Marshalls
Road, Egmore, Chennai - 600 008
- 2.Tamil Nadu Generation and Distribution Corporation Limited,
(Tangedco), (Formerly Tneb), Rep. by its Chairman / Director, 144,
Anna Salai, Chennai -600 002.
- 3.The Junior Engineer, Distribution / Rural,
Tamil Nadu Generation and Distribution Corporation Limited,
(Tangedco), Kuruvi Natham, Kovilpatti, Tuticorin District.
... Respondents in WP (MD) No. 12521 of 2020

- 1.Tamil Nadu Electricity Regulatory Commission,
Rep. by its Secretary, 19-A, Rukmini Lakshmipathy Salai,
Marshalls Road, Egmore, Chennai - 600 008
- 2.Tamil Nadu Generation and Distribution Corporation Limited,
(Tangedco), (Formerly Tneb), Rep. by its Chairman / Director,
144, Anna Salai, Chennai -600 002.
- 3.The Junior Engineer, Distribution / Rural,
Tamil Nadu Generation and Distribution Corporation Limited,
(Tangedco), Radhapuram, Tirunelveli District.
... Respondents in WP (MD) No. 12525 of 2020

- 1.Tamil Nadu Electricity Regulatory Commission,
Rep. by its Secretary, 19-A, Rukmini Lakshmipathy Salai,
Marshalls Road, Egmore, Chennai - 600 008
- 2.Tamil Nadu Generation and Distribution Corporation Limited,
(Tangedco), (Formerly Tneb), Rep. by its Chairman / Director,
144, Anna Salai, Chennai -600 002.



3.The Executive Engineer, Revenue Branch -1,
Tamil Nadu Generation and Distribution Corporation Limited,
(Tangedco), Tiruchendur, Tuticorin District.

4.Assistant Accounts Officers, Revenue Branch, (Tangedco),
Tedo, Tiruchendur, Tuticorin District.

5.The Junior Engineer, Distribution,
Tamil Nadu Generation and Distribution Corporation Limited,
(Tangedco), Palaniappapuram, Tiruchendur, Tuticorin District.

... Respondents in WP(MD)No. 12528 of 2020

Prayer in WP(MD)No. 6035 of 2020 :

Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned demand notice in Ka.EN: Omipo. Na. Vi. Nangu: Ko. Vi. Ma. Aa. En; 184 dated 20.11.2019 and the consequential impugned notice in Ka. EN: Omipo/Vi/Na/Nangu/Ko. Aa. En: 214 dated 18.12.2019 on the file of the respondent No.3 and quash the same as illegal and consequently for a direction, directing the respondents to reimburse the excess tariff charges to the tune of INR One Lakh Six Eight Thousand and Ninety Two collected from the petitioner.

Prayer in WP(MD)No. 6038 of 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to call for the records pertaining to the impugned Demand notice in Ka.EN.O.mi.po.Na.Vi./A.Pa/Va.Me/Ko.Aa En 5 2020 dt 6.1.2020 on the file of the respondent No. 3

Prayer in WP(MD)No. 6042 of 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to call for the records pertaining to the impugned Demand notice in Ka.EN.O.mi.po/Ki/Vi/The.Kulam/Vi.Mo./Ko/Aa. En 007/ dt 4.1.2020 on the file of the respondent No. 3

Prayer in WP(MD)No. 12521 of 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus has been filed to call for the records pertaining to the Impugned Demand Notice in Ka.En. E.Ni.Mi.Po/Vi/Ooragam. Ko. Patti/ A. EN. 344 dated 18.09.2019 on the file of the Respondent No.3 and quash the same as illegal and consequently for a direction, directing the Respondents to reimburse the excess tariff charges to the tune of INR Eighty four thousand and seven hundred



and seventy three collected from the Petitioner within the time period stipulated by this Honourable Court.

Prayer in WP(MD)No. 12525 of 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorari has been filed to call for the records pertaining to the Impugned Demand Notice in Letter No. Ela /Po/Vi/Radhapuram/Koo.Kattu/ A.En 338/19 dated 04.03.2020 on the file of the Respondent No.3.

Prayer in WP(MD)No. 12528 of 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorari has been filed to call for the records pertaining to the Impugned Demand Notice in Lr. No. AAO /RB/ AS3/ F.DKT/ D 123/ dated 21.01.2020 on the file of the Respondent No.3.

For Petitioner : Mr.J.Pandi Dorai
in all WPs
For Respondents : Mrs.M.Rajeswari
in all WPs For Mr.S.M.S.Johnny Basha

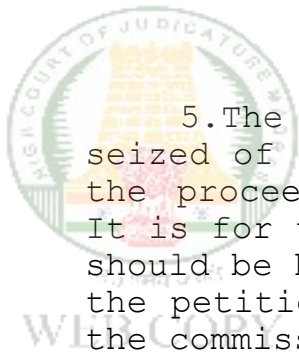
C O M M O N O R D E R

Heard the learned counsel appearing for the writ petitioner and the learned standing counsel appearing for the respondents.

2.TANGEDCO had called upon the writ petitioner to change the classification of their electric service connection from Tariff III B to Tariff V. The petitioner have also been directed to pay the short fall amounts also. The communications issued by the concerned authorities of TANGEDCO have been put to challenge in these writ petitions.

3.When the matter was taken up for hearing, it has been brought to my notice by the learned counsel on either side that similar writ petitions filed in W.P.(MD)Nos.23845 and 21945 of 2019 were disposed of by a learned Judge of this Court vide order dated 29.01.2020 in which, it was held that it is TNERC which has to decide the issue. In other words, whether the consumer unit shall be classified as industrial or commercial tariff user will have to be decided only by the first respondent commission.

4.Since the cases on hand also raise the very same issue, I dispose these writ petitions with the same direction. TNERC/first respondent herein is directed to decide the issue raised in these writ petitions as to whether the petitioners can be classified as industrial or commercial tariff users.



5.The learned standing counsel informs the Court that TNERC is seized of the matter. It is open to the petitioner to intervene in the proceedings that are presently pending before the commission. It is for the commission to decide as to whether the petitioner also should be heard or not. It appears that on behalf of the users like the petitioners, an association had taken out an application. Till the commission decides the issue, the petitioner will continue to be considered only under Tariff III B category. Therefore, the demand made by the respondents is also put on hold and the same will abide by the outcome of the proceedings before TNERC. The learned standing counsel states that some of the users have come forward to clear the liability. The said submission is recorded. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

+2 CC to Mr.J. PANDIDURAI, Advocate (SR-17938[F] dated 24/09/2020)

W.P. (MD) Nos. 6035, 6038, 6042, 12521, 12525 and 12528 of 2020
24.09.2020

VB (07.10.2020) 5P 3C