



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.01.2020

CORAM:

WEB COPY

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P(MD)NO.18359 OF 2019

and

W.M.P(MD)No.14775 of 2019

TCP Limited,
represented by its General Manager(Works),
Kovilur,
Karaikudi Taluk,
Sivagangai District- 630 307

:Petitioner

.vs.

1.The Chairman,
Tamil Nadu Generation and Distribution Corporation Limited,
(TANGEDCO),
144, Anna Salai,
Chennai - 600 002.

2.The Superintending Engineer,
Sivaganga Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Sivaganga.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records of the second respondent in his Letter No.SE/SEDC/SVGA/AEE/DEV/AE/F.HTSC.No.116/D.No.408/17, dated 26.4.2017 and consequential letter in Letter No.SE/SEDC/SVGA/AEE/DEV/AE/T/F.HTSC No.116/D/No.568/19, dated 17.7.2019 and quash the same as illegal, arbitrary, without law and contrary to the provisions of Electricity Act, 2003 and consequently direct the respondents to effect a reduction of Demand from 876 KVA to 100 KVA.

For Petitioner
For Respondents
1 and 2

:Mr.R.Parthasarathy
:Ms.M.Rajeswari
for M/s.S.M.S.Johnny Bash

O R D E R

The challenge in the Writ Petition is to the order passed by the second respondent refusing to effect reduction of Demand from 876 KVA to 100 vide Letter, dated 17.07.2019.



2. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

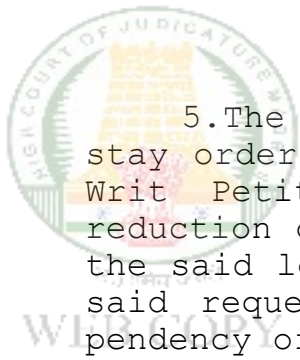
3. A reading of the impugned order would show that there is a court case for 50% start up power charge for Rs.24,88,363/- and the same is pending in W.P.No.26553 of 2013. Consequently, there is a deemed demand amount pending for the sister concern of the Petitioner to Rs.2,72,912/- in W.P.Nos.13738 and 13816 of 2019. As these Petitions are pending and the second respondent has expressed his inability to process the reduction of Demand and application to reduce the same. The learned counsel for the Petitioner points out that W.P.No.26553 of 2013 is pending and other Writ Petitions, were disposed of and the first respondent has taken it on appeal in W.A.Nos.2539 and 2540 of 2019.

4. During the course of the arguments, a memo, dated 23.1.2014 in Memo. No.CE/Comi/EET/AEE/2/F, Consumers with arrears/D.28/13 was produced and as per the memo, certain instructions are issued to the Superintending Engineers 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.''



5.The Petitioner would fall under the third category where a stay order has been obtained by him before this Court in the other Writ Petition. In this case, the Petitioner is only seeking reduction of Demand from 876 KVA to 100 KVA as they did not require the said load and unable to pay the charges for the same. Even the said request cannot be rejected by the respondents stating the pendency of the cases.

6.The learned counsel for the Petitioner would submit that if that is the apprehension of the respondents, the Petitioner would submit an Undertaking Affidavit to remit the outstanding dues in the event of losing the Writ Petitions.

7.In view of the above, the respondents/Electricity Board is directed to consider the claim of the Petitioner on receipt of such Undertaking Affidavit filed by the Petitioner, as the reduction of Demand need not be kept pending, because of the pendency of the Writ Petitions.

8.Accordingly, the Petitioner is directed to file an Undertaking Affidavit for payment of the outstanding arrears as and when they fall due, within a period of two weeks from the date of receipt of a copy of this order. On receipt of which, the second respondent is directed to consider the same and comply with the demand of the Petitioner, if otherwise the same is in order, within a period of four weeks thereafter.

9.With the above directions, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Vsn

To

1. The Chairman,
Tamil Nadu Generation and Distribution Corporation Limited,
(TANGEDCO),
144, Anna Salai,
Chennai - 600 002.



2.The Superintending Engineer,
Sivaganga Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Sivaganga.

+1 CC to Mr.R.PARTHASARATHY, Advocate (SR-3520[F] dated
28/01/2020)

ORDER MADE IN
W.P (MD) NO.18359 OF 2019
and
W.M.P (MD) No.14775 of 2019
27.01.2020

VB(10.02.2020) 4P 4C