



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2021

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.NO.9777 OF 2021

Saveetha Medical and Educational Trust,
Rep., by its President Dr.N.M.Veeraiyan,
162, Poonamallee High Road,
Velappanchavadi,
Chennai - 600 077.

... Petitioner

Vs

1. The Tamil Nadu Generation and
Distribution Corporation Ltd (TANGEDCO),
Rep., by its Chairman & Managing Director,
10th Floor, No.144, Anna Salai,
Chennai - 600 002.
2. The Chief Financial Controller - Revenue,
TANGEDCO,
7th Floor, No.144, Anna Salai,
Chennai - 600 002.
3. The Superintending Engineer,
TANGEDCO,
Chengalpet Electricity Distribution Circle,
Chengalpet.

... Respondents

Prayer:-

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the Respondents to extend the benefits of the order of this Hon'ble Court, dated 14.08.2020, passed in W.P.No.7678 of 2020 to the Petitioner also by issuing fresh CC Bills for the months of April 2020 - December 2020 falling in the lockdown periods and thereafter to adjust the demand changes collected in excess from the petitioner, during the lockdown period, against the future demand.

For Petitioner : Mr.S.Saravanan

For Respondents : Mr.P.R.Dilip Kumar



ORDER

According to the Petitioner, it is an Educational Trust running an Engineering College. It has availed a service connection from the respondents in HTSC No.897. During the complete lock down period from 12.00 mid night of 24.03.2020 to till 07.12.2020, on account of Covid-19 pandemic, the Educational institution of the petitioner did not either conduct classes or provide any boarding facility to their students, however, the third respondent, for the months from March 2020 to December 2020, issued CC bills and thereby made assessment invariably @ 90% of sanctioned demand, contrary to Proviso 6(b) of the Supply Code, which provides for collection of minimum charges of 20% of the billable demand or recorded demand, whichever is higher, besides charges for the actual consumption of electricity.

2. The petitioner further stated that by order dated 14.08.2020, this Court, in a batch of writ petitions in W.P.No.7678 of 2020, after having held that maximum demand charges and the compensation charges levied by the TANGEDCO against the HT consumers are illegal, unsustainable and in violation of statutory regulations, allowed those writ petitions with certain directions. Therefore, the petitioner has come up with this Writ Petition for a mandamus, directing the Respondents to extend the benefit of the said order dated 14.08.2020 passed in W.P.No.7678 of 2020, etc batch, to them as well and consequently, issue a fresh CC bills for the months of April 2020 to December 2020 falling in the lock down periods and also adjust the demand charges collected in excess from the petitioner during the lock down period against the future demand.

3. Heard Mr.S.Saravanan, learned counsel for the Petitioner, who submitted that the Petitioner's College is similarly placed Institution like that of the Petitioners in WP.No.7678 of 2020 etc. batch, which were allowed by this Court by order dated 14.08.2020, the operative portion of which is profitably, extracted hereunder:-

"45.The above discussion leads this Court to the only conclusion that the maximum demand charges and the compensation charges levied by TANGEDCO against the petitioners who are HT consumers, is illegal, unsustainable and in violation of the statutory regulations. Accordingly, the Maximum Demand Charges and the compensation towards low PF that have been questioned in the impugned bills raised by the TANGEDCO for each of the consumers who are parties in these batch of writ petitions, is hereby quashed.



The following directions are also issued by this Court:

a) TANGEDCO shall issue a revised bill to the petitioners by applying Regulation 6(b) of the Supply Code for the entire period when the establishment was under shut down;

b) If TANGEDCO has already recovered the entire dues from any of the petitioners, the bill shall be reworked in accordance with the direction given in Clause (a) and the excess amount shall be adjusted towards the future bills;

c) If the demand made by TANGEDCO has been adjusted from the security deposit and any of the petitioner has been asked to pay any amount towards additional security deposit on that count, the said claim shall be withdrawn forthwith and the calculation of the additional security deposit shall be independently done under Regulation 5 of the Supply Code and demand/ adjustment shall be done in accordance with the said Regulation;

d) The TANGEDCO shall not levy compensation charges towards low PF from the petitioners during the period of lockdown. Even if such levy is made in future, show cause notice shall be issued to the consumer and an opportunity shall be given to the consumer before levying any compensation under Clause 6.1.1.6 of the Tariff Regulation;

e) If any amount has already been recovered towards levy of compensation charges for low PF from any of the petitioners, the said amount shall be adjusted towards future bills;

f) These directions will apply only for the period during which the establishment was under total lockdown due to the orders issued by the Government and it is made clear that it pertains only to the Minimum Charges payable under Regulation 6(b) of the Supply Code and there is no exemption or concession insofar as the charges payable for the actual consumption of electricity (Energy Charges); and

g) If any of the establishments continue to be under lockdown due to the Government Orders passed in this regard, the minimum charges alone shall be collected till the lifting of the lockdown."



Hence, the learned counsel prayed for similar order in this writ petition also.

4. Mr.P.R.Dhilip Kumar, Learned Standing Counsel taking notice for the Respondents submitted that as against the aforesaid order, the Respondent Board has filed Writ Appeals before a Division Bench of this Court and the same are yet to be taken up. However, he fairly submitted that the Petitioner's College was not in operation due to the lock down announced by the Government.

5. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side and also following the earlier order of this Court as referred to above, this Writ Petition stands allowed, in the same lines as done in the order dated 14.08.2020 made in W.P.No.7678 of 2020 etc. batch. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Chairman & Managing Director,
The Tamil Nadu Generation and
Distribution Corporation Ltd (TANGEDCO),
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2. The Chief Financial Controller - Revenue,
TANGEDCO,
7th Floor, No.144, Anna Salai,
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3. The Superintending Engineer,
TANGEDCO,
Chengalpet Electricity Distribution Circle,
Chengalpet.

+1cc to Mr.S.Saravanan, Advocate, S.R.No.25645

W.P.NO.9777 OF 2021

BP(CO)
PBS/27/07/2021