

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.04.2021

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THE HONOURABLE MR.JUSTICE R. MAHADEVAN

W.P.No.9610 of 2021 &
WMP.No. 10191 of 2021

Dyers Association of Tiruppur,
represented by its General Secretary
S. Murugasamy,
10/9, Sabapathipuram 1st Street,
Tirupur 641 601. Petitioner

Vs.

1. Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO),
represented by its Chairman and
Managing Director,
144, Anna Salai, Chennai 600 002.
2. The Chief Financial Controller/Revenue,
Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO),
144, Anna Salai, Chennai 600 002.
3. The Accounts Officer/Revenue,
Office of the Superintending Engineer,
Tirupur EDC, TANGEDCO,
Tirupur.
4. The Accounts Officer/Revenue,
Office of the Superintending Engineer,
Coimbatore EDC/South, TANGEDCO, Coimbatore.
5. Tamil Nadu Electricity Regulatory Commission (TNERC),
represented by its Secretary,
TIDCO Office Building, No.19-A,
Rukmani Lakshmipathy Salai,
Marshalls Road, Egmore,
Chennai 600 008.

.. Respondents

Prayer: Writ Petition filed under Section 226 of Constitution of India praying for issuance of Writ of Mandamus directing the 1st and 2nd respondents, their men, officers, agents, servants, representatives and/or any one claiming through or under them, to strictly comply with the Order dated 04.05.2020 passed in Suo

Motu Proceedings No.2 of 2020 by the 5th respondent and Regulation 6(b) of the Tamil Nadu Electricity Supply Code, 2004 in respect of Demand Charges and to refund the amounts collected from the HT Consumer members of the petitioner in their CC Bills towards demand charges in excess of 20% and Compensation Charges, etc., for low PF or for not maintaining the stipulated Power Factor (PF) limit during the lock-down and restricted working period imposed by the Governments.

For Petitioner : Mr.S.Prabhakaran

For Respondents : Mr. M. Vijay Mehanathan
R1 to R5

ORDER

According to the Petitioner, it is an Association of manufacturers of textiles and works contractors engaged in the process of dyeing, bleaching etc. It consists of 375 members, out of which, 67 are High Tension consumers. During the complete lock down period, on account of Covid-19 pandemic, the HT consumers were prohibited from running / operating their industries. Considering the same, the fifth respondent passed a suo motu order dated 04.05.2020 in respect of demand charges by applying Regulation 6 of the Tamil Nadu Electricity Supply Code, 2004 and directed that only 20% of the billable demand or recorded demand, whichever is higher, besides charges for the actual compensation of electricity should be collected by the first respondent from the HT consumers during the lock down period. Notwithstanding the same, the respondent authorities are refusing to abide by the said order of the fifth respondent, which is arbitrary, illegal and unsustainable in law. However, apprehending disconnection, the members of the petitioner Association have paid the charges demanded.

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 1 and 2 to strictly comply with the order dated 04.05.2020 passed in suo motu proceedings No.2 of 2020 by the fifth respondent and Regulation 6(b) of the Tamil Nadu Electricity Supply Code, 2004 in respect of demand charges and to refund the amounts collected from the HT consumers of the petitioner Association in their CC Bills in excess of 20% and compensation charges etc. for low PF or for not maintaining the stipulated Power Factor limit during the lock down and restricted the working period imposed by the Government.

3. Heard Mr.S.Prabhakaran, learned counsel for the Petitioner, who submitted that the members of the Petitioner Association are similarly placed persons 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.M.Vijay Mehanathan, 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 industries run by the members of the Petitioner Association were 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. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-IX)

//True copy//

Sub Assistant Registrar

msr

To

1. The Chairman and Managing Director,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
144, Anna Salai, Chennai 600 002.
 2. The Chief Financial Controller/Revenue,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
144, Anna Salai, Chennai 600 002.
 3. The Accounts Officer/Revenue,
Office of the Superintending Engineer,
Tirupur EDC, TANGEDCO,
Tirupur.
 4. The Accounts Officer/Revenue,
Office of the Superintending Engineer,
Coimbatore EDC/South,
TANGEDCO, Coimbatore.
 5. The Secretary,
Tamil Nadu Electricity Regulatory
Commission (TNERC),
TIDCO Office Building, No.19-A,
Rukmani Lakshmipathy Salai,
Marshalls Road, Egmore,
Chennai 600 008.
- +1cc to Mr.S.Prabhakaran, Advocate Sr.No.23795

W.P.No.9610 of 2021 &
WMP.No.10191 of 2021

SRA (CO)
HS (13/07/2021)

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