

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P. No. 10787 of 2021
and
W.M.P. No. 11414 of 2021

Shrimathi Devkunvar Nanalal
Bhatt Vaizhnav College for Women
(Autonomous)
Represented by its Secretary
Chrompet, Chennai - 600 044.

...Petitioner

Vs.

1. Tamil Nadu Generation & Distribution
Corporation Limited (TANGEDCO)
Rep. by its Chairman & Managing Director
NPKRR Maaligai, 144, Anna Salai
Chennai - 600 002.
2. The Chief Financial Controller/
Revenue, TANGEDCO
NPKRR Maaligai, 144, Anna Salai
Chennai - 600 002.
3. The Deputy Financial Controller
CEDC /South, TANGEDCO
SS Complex, Anna Main Road
K.K.Nagar, Chennai - 600 078.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned high tension bills (Provision) issued by the Third Respondent pertaining to the demand of power consumption charges relating to month of March 2020 (Bill No. 9094011083042001) dated 02.04.2020; April 2020 (Bill No. 90940 110 83052001) dated 04.05.2020; May 2020 (Bill No. 9094011083062001) dated 02.06.2020, June 2020 (Bill No. 90940 110 83072001) dated 01.07.2020, July 2020 (Bill No. 9094011083082001) dated 03.08.2020, August 2020 (Bill No. 9094011083092002) dated 02.09.2020; September 2020 (Bill No. 9094011083092002) dated 02.09.2020; September 2020 (Bill No. 9094011083102001) dated 03.10.2020, October 2020 (Bill No. 909401 108 3112002) dated

02.11.2020, November 2020 (Bill No. H4011083122001) dated
01.12.2020, December 2020 (Bill No. H4011083122011) dated
05.01.2021, Jauary, 2021 (Bill No. H4011083012111) dated
03.02.2021, February 2021 (Bill No. H4011083022111) dated
04.03.2021), March 2021 (Bill No. H4011083032111) dated
07.04.2021 pertaining to HT service connection No. 0990094011083
and QUASH the same as is illegal being made without show cause
notice under Clause 6.1.1.6 of the Tariff Regulation and
consequently, direct the Respondents to raise the monthly bill
calculating the maximum demand charges at the rate of 20% as per
6(b) of the Tamil Nadu Supply Code 2004 of the Billable Demand
or Recorded Demand, whichever is higher, besides charges for the
actual consumption of electricity till the extended period of
lock down by the Government of Tamil Nadu and not to levy power
factory penalty till the locked down has been lifted and
operation of the college commences in so far as the Petitioner
institution.

For Petitioner : Mr. K.Shakespeare

For Respondents : Mr. P.Gunaraj

O R D E R

This Writ Petition has been filed, praying for the issuance
of a writ of Certiorarified Mandamus to call for the records
relating to the High Tension consumption bills (Provision)
issued by the Third Respondent relating to the months from March
2020 to March 2021, dated 02.04.2020, 04.05.2020, 02.06.2020,
01.07.2020, 03.08.2020, 02.09.2020, 03.10.2020, 02.11.2020,
01.12.2020, 05.01.2021, 03.02.2021, 04.03.2021 and 07.04.2021
pertaining to service connection bearing No.0990094011083 and
quash the same and for consequential direction.

2.According to the Petitioner, they are the Government Aided
Educational Institution, which was started after getting
permission from the statutory authorities and affiliation from
the concerned University. They are availing High Tension power
supply from the Respondents. During the Covid-19 pandemic
period, pursuant to the lock down announced by the Government,
the operations of the petitioner Institution were stopped. But,
the Respondent Board has raised bills at the rate of 90% of the
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. Aggrieved
over the same, the petitioner has come up with this writ
petition for the aforesaid relief.

3.The learned counsel for the Petitioner submitted that in similar circumstances, 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, 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.Gunaraj, 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 Institution 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. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

Maya

To

1. Chairman & Managing Director
Tamil Nadu Generation & Distribution Corporation Ltd.
NPKRR Maaligai, 144, Anna Salai
Chennai - 600 002.

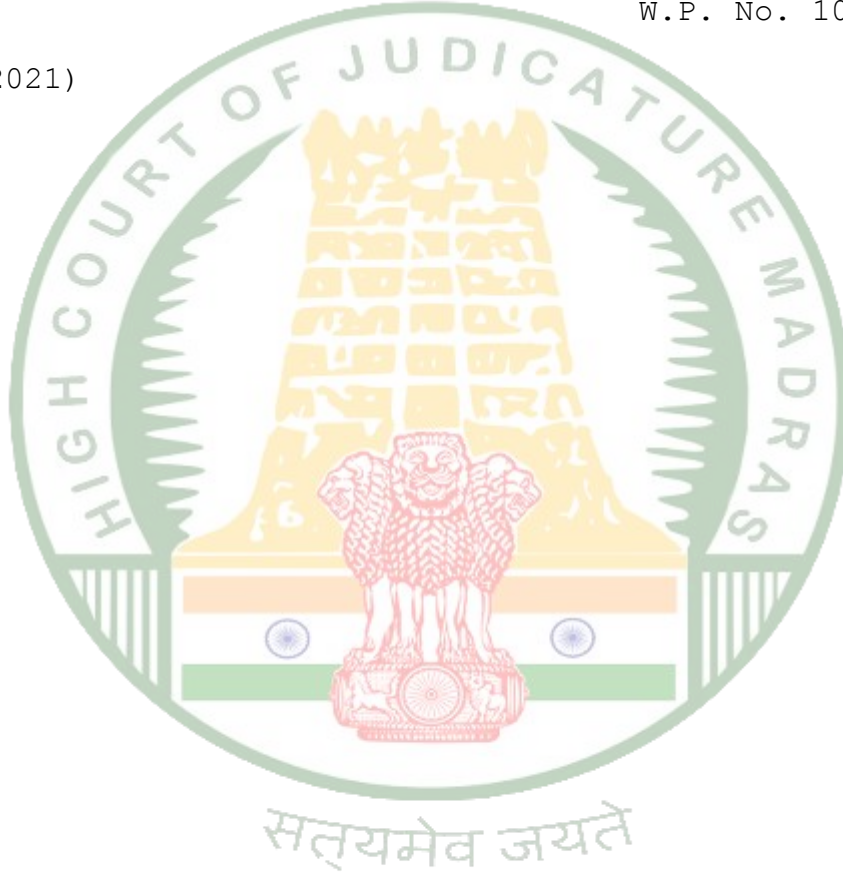
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+1cc to Mr.K.Sheksphere, Advocate, S.R.No.26311

W.P. No. 10787 of 2021

RGN(CO)
CB(13/07/2021)



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