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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:06.07.2021

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.Nos. 12870, 12884, 12887, 12874 & 12880 of 2021

and

W.M.P.Nos.13687, 13678, 13681, 13684 & 13688 of 2021

- 1 Valliammai Society
Rep by its Secretary Mr P. Ravi,
No. 1, Jawaharlal Nehru Salai,
110 Feet Road SIMS Hospital,
Vadapalani Chennai 26. ...Petitioner in W.P.Nos.12870,
12884, 12874 & 12880 of 2021

SRM Valliammai Engineering College
Rep by its Principal,
SRM Nagar, Kattankulathur,
Chengalpattu District 603 203. ...Petitioner in
W.P.No.12887/2021

Vs.

- 1 Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO)
Rep. by its Chairman cum Managing Director,
No. 144, Anna salai, Chennai 02.
- 2 Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO)
Rep. by its Chief Financial Controller (Revenue),
NPKRR Maligai, 144 Anna salai, Chennai 02.
- 3 Tamil Nadu Electricity Regulatory Commission,
No. 19-A Rukmani Lakshmipathy Road,
Egmore Chennai-8.
- 4 The Government of Tamil Nadu
Rep. by its Secretary to Government,
Energy Department, Fort St. George, Chennai 09.
- 5 The Superintending Engineer,
Tamilnadu Generation and Distribution
Corporation Ltd., Chengalpattu. ...Respondents in
all W.Ps.



Prayer in W.P.No.12870 of 2021:

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 2nd Respondent leading to the issuance of the impugned High tension Bills (Provisional) from the months of April to October 2020 in Bill Nos. 9094110794052001 dated 06.05.2020 9094110794062002 dated 02.06.2020 9094110794072001 dated 02.07.2020 9094110794082001 dated 05.08.2020 9094110794092001 dated 04.09.2020 9094110794102001 dated 05.10.2020 and 9094110794112002 dated 05.11.2020 pertaining to Service connection H.P.No. 099094110794 issued in violation of scope of Regulation 6(b) of the supply code and To quash the same and consequently direct the Respondents to either refund or adjust the amount already paid for the month of April to October 2020 towards future bills.

Prayer in W.P.No.12884 of 2021:

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, Calling for the records of the 2nd Respondent leading to the issuance of the impugned High tension Bills (Provisional) from the months of April to October 2020 in Bill Nos. 9094110674052002 dated 06.05.2020 9094110674062003 dated 06.06.2020 9094110674072001 dated 02.07.2020 9094110674082002 dated 04.08.2020 9094110674092001 dated 02.09.2020 9094110674102002 dated 03.10.2020 and 9094110674112001 dated 03.11.2020 pertaining to Service connection H.T.No. 099094110674 issued in violation of scope of Regulation 6(b) of the supply code and to quash the same and consequently direct the Respondents to either refund or adjust the amount already paid for the month of April to October 2020 towards future bills.

Prayer in W.P.No.12874 of 2021:

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 2nd Respondent leading to the issuance of the impugned High tension Bills (Provisional) from the months of April to October 2020 in Bill Nos. 9094110926052001 dated 06.05.2020 9094110926062001 dated 01.06.2020 9094110926072001 dated 01.07.2020 9094110926082001 dated 04.08.2020 9094110926092001 dated 02.09.2020 9094110926102001 dated 05.10.2020 and 9094110926112001 dated 03.11.2020 pertaining to Service connection H.T.No. 099094110926 issued in violation of scope of Regulation 6(b) of the supply code and to quash the same and consequently direct the Respondents to either refund or adjust the amount already paid for the month of April to October 2020 towards future bills.



Prayer in W.P.No.12880 of 2021:

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, Calling for the records of the 2nd Respondent leading to the issuance of the impugned High tension Bills (Provisional) from the months of April to Octomber 2020 in Bill Nos. 9094110793052001 dated 06.05.2020 9094110793062002 dated 02.06.2020 9094110793072001 dated 02.07.2020 9094110793082001 dated 05.08.2020 9094110793092001 dated 04.09.2020 9094110793102001 dated 05.10.2020 and 9094110793112001 dated 05.11.2020 pertaining to Service connection H.P.No. 099094110793 issued in violation of scope of Regulation 6(b) of the supply code and to quash the same and consequently direct the Respondents to either refund or adjust the excess amount already paid for the month of Aprri to October 2020 towards future bills.

Prayer in W.P.No.12887 of 2021:

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, Calling for the records of the 2nd Respondent leading to the issuance of the impugned High tension Bills (Provisional) from the months of April to Octomber 2020 in Bill Nos. 9094110823052001 dated 06.05.2020 9094110823062001 dated 02.06.2020 9094110823072001 dated 04.07.2020 9094110823082001 dated 04.08.2020 9094110823092001 dated 02.09.2020 9094110823102001 dated 05.10.2020 and 9094110823112001 dated 05.11.2020 pertaining to Service connection H.T.No. 099094110823 issued in violation of scope of Regulation 6(b) of the supply code and to quash the same and consequently direct the Respondents to either refund or adjust the excess amount already paid for the month of April to October 2020 towards future bills.

For Petitioner in
all W.Ps.

: Mr.J.Srinivasa Mohan

For Respondents 1to3 & 5 : Mr.P.Gunaraj for T.N.E.B.

For Respondent No.4 : Mr.A.Selvendran, G.A.

COMMON ORDER

The common grievance of the petitioners in these batch of writ petitions relates to challenge of the levy of Demand Charges by the TANGEDCO in violation of the order passed by the Tamil Nadu Electricity Regulatory Commission as also in violation of Regulation 6(b) of the Tamil Nadu Electricity Supply Code, 2004.



2. The issue involved in these writ petitions were already raised in W.P.Nos.7678 of 2020 etc., batch, wherein the learned Judge, after considering the elaborate arguments made by the learned counsels for the parties and also taking into consideration, Regulation 6(b) of the Tamil Nadu Electricity Supply Code, has allowed the said writ petitions, vide common order dated 14.08.2020, with the following directions:

"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;



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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."

Following the aforesaid order passed by this Court, the respondent Board has issued a Circular in Memo No.CFC/REV/FC/REV/DFC/AO/D.698/20 dated 07.10.2020.

3. Now the learned counsel appearing for the petitioners seek similar relief as granted by this Court in W.P.Nos.7678 of 2020 etc., batch dated 14.08.2020. According to the writ petitioners, they have already paid the CC Bill amount to the respondent Board with protest and seeking refund or adjustment of amount in the future bills.

4. The learned Standing Counsel for the respondents Board would submit that they have preferred a Writ Appeal in W.A.No.836/2020 before this Court and the same is pending without any interim orders.

5. In view of the aforesaid common order passed by this Court in W.P.Nos.7678 of 2020 etc., batch dated 14.08.2020 and the Circular of the Respondents Board dated.7.10.2020, the respondent Board is directed to consider the individual claim of the petitioners by revising the bills, as per the directions issued by this Court in W.P.Nos.7678 of 2020 etc., batch dated 14.08.2020, by taking note of the lockdown notification issued by the State Government from time to time and to take appropriate decision and to communicate the same to the writ petitioners individually, within a period of six weeks from the date of receipt of a copy of this order. It is also made clear that any decision taken by the respondents Board, will be subject to the outcome of the orders passed in W.A.No.836/2020 filed by the respondent Board.



6. With the above direction, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar(CS-III)

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Sub Assistant Registrar

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To

1. The Chairman cum Managing Director,
Tamil Nadu Generation and
Distribution Corporation Limited (TANGEDCO)
No. 144, Anna salai, Chennai 02.
2. The Chief Financial Controller (Revenue),
Tamil Nadu Generation and
Distribution Corporation Limited (TANGEDCO)
NPKRR Maligai, 144 Anna salai, Chennai 02.
3. Tamil Nadu Electricity Regulatory Commission,
No. 19-A Rukmani Lakshmipathy Road,
Egmore Chennai 08
4. The Secretary to Government,
The Government of Tamil Nadu,
Energy Dept., Fort St. George,
Chennai-9.
5. The Superintending Engineer,
Tamilnadu Generation and Distribution Corporation Ltd.,
Chengalpattu.

+1cc to M/s.T.V.J.Associates, Advocate, S.R.No.31537

+1cc to Mr.P.Gunaraj, Advocate, S.R.No.31584

+1cc to the Government Pleader, S.R.No.31714

W.P.Nos. 12870, 12884, 12887, 12874 & 12880 of 2021
and W.M.P.Nos.13687, 13678, 13681, 13684 & 13688 of 2021

PCH(CO)
RGA(29/07/2021)