



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 22.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.15034 of 2021 and
WMP No.15920 to 15922 of 2021

M/s Alliance Mall Developers Co. Pvt. Ltd.,
rep. by its authorized signatory,
Mr.Babu B. Age: 36, S.F.No.201,
Sivanandapuram, Sathy Road,
Saravanampatti (PO),
Coimbatore 641 035.

... Petitioner

Vs.

1. Tamil Nadu Generation & Distribution
Corporation Limited (TANGEDCO),
10th floor, NPKRR Maaligai,
No.144, Anna Salai, Chennai 600002.
Rep. by its Chairman and Managing Director.
2. The Superintending Engineer,
Coimbatore Electricity Distribution Circle,
Metro, TANGEDCO Ltd., Coimbatore.

... Respondents.

Prayer: Writ petition filed under Section 226 of the Constitution of India to issue a writ of Certiorarified Mandamus to call for the records in High Tension Bill No.H4300628052111 dated 05.06.2021 and High Tension Bill No.H430062806211 dated 05.07.2021 for HT Service Connection No.039094300628 issued by the second respondent and all further penal or interest charges pursuant thereto (impugned proceedings) and quash the same insofar as it relates to Item 8 thereof i.e. demand charges and consequently direct the respondents to issue bills for minimum demand charges at 20% of the sanctioned demand strictly in compliance with regulation 6(b) of the Tamil Nadu Electricity Supply Code 2004 and to refrain from levying or recovering any demand charges in excess of minimum demand charges under regulation 6(b) of the Tamil Nadu Electricity Supply Code 2004 and to refund any amounts collected or adjusted from the security deposit towards the excess/maximum demand charges for any part of the covid-19 lockdown period.



For petitioner : Mr.Dwarakesh Prabhakaran
For respondents : Mr.Abdul Kalam (TNEB)

ORDER

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This writ petition has been filed to issue a writ of Certiorarified Mandamus to call for the records in High Tension Bill No.H4300628052111 dated 05.06.2021 and High Tension Bill No.H430062806211 dated 05.07.2021 for HT Service Connection No.039094300628 issued by the second respondent and all further penal or interest charges pursuant thereto (impugned proceedings) and quash the same inso far a it relates to Item 8 thereof i.e. demand charges and consequently direct the respondents to issue bills for minimum demand charges at 20% of the sanctioned demand strictly in compliance with regulation 6(b) of the Tamil Nadu Electricity Supply Code 2004 and to refrain from levying or recovering any demand charges in excess of minimum demand charges under rgulation 6(b) of the Tamil Nadu Electricity Supply Code 2004 and to refund any amounts collected or adjusted from the security deposit towards the excess/maximum demand charges for any part of the covid-19 lockdown period.

2. The petitioner, who aggrieved over the levy of Demand charges for the months of May 2021 and June 2021 by the TANGEDCO, in violation of the order passed by the Tamil Nadu Electricity Regulatory Commission and also in violation of Regulation 6(b) of the Tamil Nadu Electricity Supply Code, 2004, has sought the above said relief in this writ petition.

3. The issues involved in this writ petition is 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:



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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."



4. The learned counsel appearing for the petitioner seek similar relief as granted by this Court in W.P.Nos.7678 of 2020 etc., batch dated 14.08.2020. He would further submitted that the respondents have to suo moto adjust the entire bill amount for May 2021 and June 2021 against the refund of surplus security deposit payable by them to the petitioner.

5. 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.

6. In view of the aforesaid common order passed by this Court in W.P.Nos.7678 of 2020 etc., batch dated 14.08.2020, this court has no hesitation to quash the impugned bills issued by the second respondent for the month of May 2021 and June 2021.

7. Accordingly, the impugned bills issued by the second respondent for the month of May 2021 (dated 05.06.2021) and for the month of June 2021 (dated 05.07.2021) are quashed and the respondent Board is directed to consider the claim of the petitioner 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 petitioner, 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.

8. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

mst

To

1. The Chairman and Managing Director.
Tamil Nadu Generation & Distribution
Corporation Limited (TANGEDCO),
10th floor, NPKRR Maaligai,
No.144, Anna Salai, Chennai 600002.



2. The Superintending Engineer,
Coimbatore Electricity Distribution Circle,
Metro, TANGEDCO Ltd., Coimbatore.

+1CC to Mr. Dwarakesh Prabakaran, Advocate SR.No.34787

+1CC to Mr.M.A.Kalam, Advocate SR.No.34907

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PCH (CO)
B.VC (17/08/2021)