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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2021

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.15316 OF 2021

AND

W.M.P.NO.16198 OF 2021

HRB Boarding & Lodging Private Limited,
Rep. by its Managing Director,
C.R.Bhaalakrishna Bhat,
Having office at S.F.No.32/2A1,
33/1A2A2, 2B2 & 33/3, Pallavaram,
OMR Okkiyam, Thoraipakkam Village,
Chennai - 600 097.

... Petitioner

.Vs.

1. Tamil Nadu Generation & Distribution
Corporation Limited (TANGEDCO),
Rep. by its Chairman and Managing Director,
No.144, Anna Salai,
Chennai - 600 002.

2. The Deputy Finance Controller, (E&OE)
Sholinganallur, Kancheepuram,
Chennai - 600097.

... Respondents

PRAYER:- The Writ Petition is filed under Article 226 of Constitution of India for writ of Certiorarified Mandamus, calling for the records leading to the issuance of the original impugned High Tension Bills (Provisional) issued by the 2nd respondent for the month of April 2021 dated 03.05.2021, May 2021 dated 01.06.2021 and June 2021 dated 01.07.2021 pertaining to Service No.099094011029 in violation of Regulation 6(b) of the Tamil Nadu Electricity Supply Code, 2004 and quash the same and direct the respondents to rework the HT bill with service number 099094011029 and the excess amount shall be adjusted towards the future bills and the minimum charges alone shall be collected by the 2nd respondent for the period from April 2021 to June 2021 and not to levy any penalty for the period of Lock Down.

For Petitioner : Mr.Vijayan Subramanian

For Respondent No.1 & 2 : Mr.Jai Venkatesh, TNEB



O R D E R

The challenge in the writ petition is against the impugned High Tension Bills (Provisional) issued by the 2nd respondent for the month of April 2021 dated 03.05.2021, May 2021 dated 01.06.2021 and June 2021 dated 01.07.2021 pertaining to Service No.099094011029 violating the Regulation 6(b) of the Tamil Nadu Electricity Supply Code, 2004 and consequently, direct the respondents to rework the HT bill with service number 099094011029 and the excess amount shall be adjusted towards the future bills and the minimum charges alone shall be collected by the 2nd respondent for the period from April 2021 to June 2021 and not to levy any penalty for the period of Lock Down.

2. The grievance of the petitioner relates to levy of Demand Charges made by 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.

3. The issue involved in the present 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 batch of 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



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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. Now, the learned counsel appearing for the petitioner seeks similar relief as granted by this Court in W.P.Nos.7678 of 2020 etc., batch dated 14.08.2020. According to the writ petitioner, they have already paid the CC Bill amount for the period from April 2021 to June 2021 to the respondent Board under protest and seeking refund or adjustment of the said amount in the future bills.



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.

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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, 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.

7. With the above directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

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Sub Assistant Registrar

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To

1. The Chairman and Managing Director,
Tamil Nadu Generation & Distribution
Corporation Limited (TANGEDCO),
No.144, Anna Salai,
Chennai - 600 002.

2. The Deputy Finance Controller, (E&OE)
Sholinganallur, Kancheepuram,
Chennai - 600097.

+1cc to Mr.Jai Venkatesh, Advocate, S.R.No.35899

W.P.NO.15316 OF 2021 AND
W.M.P.NO.16198 OF 2021

SPD(CO)
PBS/19/08/2021