



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2021

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P. No.15433 of 2020

and W.P. Nos.475, 11480, 12062, 12083, 12584 & 15861 of 2021
and W.M.P. Nos.19284 & 19283 of 2020
and W.M.P. Nos.18481, 556, 559, 562, 19009, 12218, 12213, 12215,
12836, 12837, 12835, 12858, 12860, 12859, 13382, 13383, 16751,
16755 & 16756 of 2021

W.P. No.15433 of 2020

Tamilnadu Power Producers' Association
Represented by its Authorized Signatory
Registration No.31/2017 (Old No.130/2004)
No.6, Sardar Patel Road, Guindy,
Chennai - 600 032

...Petitioner

Vs.

1. The Tamil Nadu Transmission Corporation Ltd,
(TANTRANSCO),
Rep. by its Chairman,
10th Floor, No.144, Anna Salai,
Chennai - 600 002.
2. The Tamil Nadu Transmission Corporation Ltd,
(TANTRANSCO),
Rep. by its Managing Director,
10th Floor, No.144, Anna Salai,
Chennai - 600 002.
3. The Director-Operations,
The Tamil Nadu Transmission Corporation Ltd,
(TANTRANSCO),
10th Floor, No.144, Anna Salai,
Chennai - 600 002.
4. The Superintending Engineer,
Commercial Division,
SLDC/TANTRANSCO,
Office of the Chief Engineer/Grid Operation,
No.144, Anna Salai,
Chennai - 600 002.



5. The Director-Distribution,
TANGEDCO,
10th Floor, No.144, Anna Salai,
Chennai - 600 002.

6. Tamil Nadu Electricity Regulatory Commission,
4th Floor, SIDCO Corporate Office Building,
Thiru.Vi.Ka. Industrial Estate,
Guindy, Chennai - 600 032.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the issuance of the impugned instruction issued by the 3rd respondent bearing Letter No. Dir/Opn/CE/GO/SE/CO/EE/OA/F.CGP/D1911/20 dated 24.09.2020 and quash the same, as arbitrary, illegal and without Jurisdiction and contrary to the provisions of the Electricity Act, 2003 and the Regulations framed by the State commission and goes against the affidavits filed by the state Commission and State Load Despatch Centre in WP No.27617 of 2019 filed by the Petitioner.

1 KAMATCHI INDUSTRIES LTD
REP BY ITS AUTHORISED SIGNATORY ABC TRADE
CENTRE 3RD FLOOR (INSIDE DEVI THEATRE
COMPLEX) OLD NO 50 NEW NO 39 ANNA SALAI
CHENNAI- 2 ...PETITIONER in WP No.475 of 2021

-VS-

- 1 THE TAMILNADU TRANSMISSION
CORPORATION LTD (TANTANSCO) REP BY ITS
CHAIRMAN 10TH FLOOR NO 144 ANNA SALAI
CHENNAI- 2
- 2 THE TAMIL NADU TRANSMISSION
CORPORATION LTD (TANTRANSCO) REP BY ITS
MANAGING DIRECTOR 10TH FLOOR NO 144 ANNA
SALAI CHENNAI- 2
- 3 THE DIRECTOR OPERATIONS
THE TAMIL NADU TRANSMISSION CORPORATION LTD
- 4 THE SUPERINTENDING ENGINEER
COMMERCIAL DIVISON SLDC/ TANTRANSCO OFFICE
OF THE CHIEF ENGINEER/ GRID OPERATION NO
144 ANNA SALAI
CHENNAI- 2.



5 THE DIRECTOR DISTRIBUTION
TANGEDCO 10TH FLOOR NO 144 ANNA SALAI
CHENNAI- 2

6 TAMIL NADU ELECTRICITY REGULATORY
COMMISSION 4TH FLOOR SIDCO
CORPORATE OFFICE BUILDING THIRU VI KA
INDUSTRIAL ESTATE GUINDY CHENNAI- 32

7 THE SUPERINTENDING ENGINEER
CHENNAI NORTH ELECTRICITY DISTRIBUTION
CIRCLE NO 144 ANNA SALAI
CHENNAI- 2 ...RESPONDENT in WP No.475 of 2021

WP No.475 of 2021

To calling for the records relating to the issuance of the Impugnd instrucion issued by the 3rd Respondent bearing LETTER NO DIR/OPN/CE/GO/SE/CO/EE/OA/F CGP/D1911/20 dated 24.9.2020 and quash the same as arbitrary illegal and without jurisdiction and contrary to the provisons of the Electrcity act 2003 and the Regulations framed by the State Commission and contrary to the affidavit filed by the State Comission and State Load Despatch centre in WP. No 27617/2019 and consequently direct the Respondents to redeaw the energy accounting without relying upon such instruction and effect necessary changes in the Current consupstion bills of the captive consumers of the petitioner for the entire period when such working was effected on the basis of the impugned circular.

1 ARS ENERGY PRIVATE LIMITED
REP BY ITS DEPUTY DIRECTOR FINANCE D-109
4TH FLOOR LBR COMPLEX ANNA NAGAR EAST
CHENNAI-102 ...PETITIONER in WP No.11480 of 2021

-VS-

1 THE TAMILNADU TRANSMISSION
CORPORATION (TANTRANSCO) REP BY ITS CHAIRMAN
10TH FLOOR NO.144 ANNA SALAI CHENNAI-
600002

2 THE TAMILNADU TRANSMISSION
CORPORATION LTD (TANTRANSCO) REP BY ITS
MANAGING DIRECTOR 10TH FLOOR NO.144
ANNA SALAI CHENNAI-600002

3 THE CHIEF ENGINEER/ GRID OPERATIONS
NO.144 ANNASALAI CHENNAI-600002



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- 4 THE DIRECTOR OPERATION
THE TAMILNADU TRANSMISSION CORPORATION LTD
(TANTRANSCO) 10TH FLOOR NO.144 ANNA SALAI
CHENNAI-600002
- 5 THE DIRECTOR DISTRIBUTION
TANGEDCO 10TH FLOOR NO.144 ANNA SALAI
CHENNAI-600 002
- 6 TAMIL NADU ELECTRICITY REGULATORY
COMMISSION 4TH FLOOR SIDCO
CORPORATE OFFICE BUILDING THIRU.VI.KA.
INDUSRIAL ESTATE GUINDY CHENNAI-600032
- 7 THE SUPERINTENDING ENGINEER
CHENNAI NORTH ELECTRICITY DISTRIBUTION
CIRCLE 144 ANNA SALAI
CHENNAI-600 002 ...RESPONDENT in WP No.11480 of 2021

WP No.11480 of 2021

calling for the records relating to the issuance of the impugned instruction issued by the 3rd respondent in Lr.No.CE / GO / SE/ ID and REMC / EE/ SCH/ F.OA Gen/ D 03 / 21, DT 20.4.2021 and quash the same as arbitrary illegal and without jurisdiction and contrary to the provisions of the Electricity Act 2003 and the Regulations framed by the State commission and contrary to the affidavits filed by the State Commission and State Load Despatch centre in WP No. 27617 of 2019 and consequently direct the Respondents to redraw the energy accounting without relying upon such instruction and effect necessary changes in the current consumption bills of the captive consumers of the petitioner for the entire period.

- 1 SURYADEV ALLOYS AND POWERS PVT LTD
NO.497 AND 498 ISANA BUILDING 8TH
FLOOR POONAMALLEE HIGH ROAD ARUMBAKKAM
CHENNAI-600 106. ...PETITIONER in WP No.12062 of 2021

-VS-

- 1 THE TAMILNADU TRANSMISSION
CORPORATION LTD. (TANTRANSCO) REP. BY ITS
CHAIRMAN 10TH FLOOR NO.144 ANNA SALAI
CHENNAI-600 002.
- 2 THE TAMILNADU TRANSMISSION
CORPORATION LTD (TANTRANSCO) REP. BY ITS
MANAGING DIRECTOR 10TH FLOOR NO.144 ANNA
SALAI CHENNAI-600 002.



3 THE CHIEF ENGINEER / GRID OPERATIONS
NO.144 ANNA SALAI CHENNAI-600
002.

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4 THE DIRECTOR-OPERATIONS
THE TAMILNADU TRANSMISSION CORPORATION LTD
(TANTRANSCO) 10TH FLOOR NO.144 ANNA SALAI
CHENNAI-600 002.

5 THE DIRECTOR DISTRIBUTION
TANGEDCO 10TH FLOOR NO.144 ANNA SALAI
CHENNAI-600 002.

6 TAMIL NADU ELECTRICITY REGULATORY
COMMISSION 4TH FLOOR SIDCO
CORPORATE OFFICE BUILDING THIRU.VI.KA.
INDUSTRIAL ESTATE GUINDY CHENNAI-600 032.

7 THE SUPERINTENDING ENGINEER
CHENNAI ELECTRICITY DISTRIBUTION
CIRCLE/NORTH 144 ANNA SALAI
CHENNAI-600 002. ...RESPONDENT in WP No.12062 of 2021

WP No.12062 of 2021

Calling for the records relating to the issuance of the impugned order by the 7th respondent in Lr.No.SE/ CEDC/ N/ DFC/ AOI/HT/ AAO/HT/AS/ F.Audit/ D.2413/21 dated 05.05.2021 and quash the same, as arbitrary, illegal and without jurisdiction and contrary to the provisions of the Electricity Act, 2003 and the Regulations thereunder

1 TULSYAN NEC LTD
APEX PLAZA 3 NUNGAMBAKKAM HIGH ROAD
CHENNAI 600 034 ...PETITIONER in WP No.12083 of 2021

-VS-

1 THE TAMILNADU GENERATION AND
DISTRIBUTION CORPORATION LTD. (TANGEDCO) REP
BY ITS CHAIRMAN 10TH FLOOR NO. 144 ANNA
SALAI CHENNAI 600 002

2 THE TAMILNADU TRANSMISSION
CORPORATION LTD (TANTRANSCO) REPRESENTED BY
ITS MANAGING DIRECTOR 10TH FLOOR NO. 144
ANNA SALAI CHENNAI 600 002

3 THE CHIEF ENGINEER / GRID OPERATION
NO. 144 ANNA SALAI CHENNAI 600 002



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- 4 THE DIRECTOR OPERATIONS
THE DIRECTOR-OPERATIONS THE TAMILNADU
TRANSMISSION CORPORATION LTD. (TANTRAMSCO)
10TH FLOOR NO. 144 ANNA SALAI
CHENNAI 600 002
- 5 THE DIRECTOR DISTRICUTION
TANGEDCO 10TH FLOOR. NO. 144 ANNA SALAI
CHENNAI 600 002
- 6 THE SUPERINTENDING ENGINEER
CHENNAI ELECTRICITY DISTRIBUTION CIRCLE /
NORTH. NO. 144 ANNA SALAI CHENNAI 600 002
- 7 TAMIL NADU ELECTRICITY REGULATORY
COMMISSION 4TH FLOOR SIDCO CORPORATE
OFFICE BUILDING THIRU. VI.KA. INDUSTRIAL
ESTATE GUINDY
CHENNAI 600 032 ...RESPONDENT in WP No.12083 of 2021

WP No.12083 of 2021

Calling for the records relating to the issuance of the impugned order by the 6th Respondent in Lr. No. SE / CEDC / N / DFC / AO / HT / AAO / HT / AS / F. Audit / D. 2416 / 21 dated 05.05.2021 and quash the same as arbitrary illegal and without jurisdiction and contrary to the provisions of the Electricity Act 2003 and the Regulations framed thereunder and pass orders.

- 1 KAMACHI INDUSTRIES LIMITED
REP BY ITS AUTHORISED SIGNATORY ABC TRADE
CENTER 3RD FLOOR (INSIDE DEVI THEATRE
COMPLEX) OLD NO.50 NEW NO.39 ANNA SALAI
CHENNAI- 600 002. ... PETITIONER in WP No.12584 of 2021

-VS-

- 1 THE TAMILNADU TRANSMISSION
CORPORATION LTD (TANTRANSCO) REP BY ITS
CHAIRMAN 10TH FLOOR NO.144 ANNA SALAI
CHENNAI- 600 002.
- 2 THE TAMILNADU TRANSMISSION
CORPORATION LTD (TANTRANSCO) REP BY ITS
MANAGING DIRECTOR 10TH FLOOR NO.144 ANNA
SALAI CHENNAI- 600 002.
- 3 THE CHIEF ENGINEER/ GRID OPERATIONS
NO.144 ANNA SALAI CHENNAI- 600 002.



- 4 THE DIRECTOR- OPERATIONS
THE TAMILNADU TRANSMISSION CORPORATION LTD
(TANTRANSCO) 10 TH FLOOR NO.144 ANNA SALAI
CHENNAI- 600 002.
- 5 THE DIRECTOR - DISTRIBUTION
TANGEDCO 10 TH FLOOR NO.144 ANNA SALAI
CHENNAI- 600 002.
- 6 THE SUPERINTENDING ENGINEER
CHENNAI ELECTRICITY DISTRIBUTION CIRCLE /
NORTH NO.144 ANNA SALAI CHENNAI- 600 002.
- 7 TAMIL NADU ELECTRICITY REGULATORY
COMMISSION 4TH FLOOR SIDCO CORPORATE
OFFICE BUILDING THIRU.VI.KA.INDUSTRIAL
ESTATE GUINDY
CHENNAI- 600 032. ... RESPONDENT in WP No.12584 of 2021

WP No.12584 of 2021

Calling for the records relating to the issuance of the impugned order by the 6th respondent in Lr.No.SE/ CEDC/ N/ DFC/ AOI/ HT/ AAO/ HT/ AS/ F.Audit/ D.2415/21 dated 05.05.2021 and quash the same, as arbitrary, illegal and without jurisdiction and contrary to the provisions of the Electricity Act, 2003 and the Regulations thereunder and pass orders.

- 1 OPG POWER GENERATION PVT. LTD.
REP. BY ITS AUTHORISED SIGNATORY OPG
NAGAR PERIYA OBULAPURAM VILLAGE NAGARAJA
KANDIGAI MADHARAPAKKAM ROAD GUMMIDIPOONDI
THIRUVALLUR 601 20 ... PETITIONER in WP No.15861 of 2021

-VS-

- 1 THE TAMIL NADU TRANSMISSION
CORPORATION LTD. (TANTRANSCO) REP. BY ITS
CHAIRMAN 10TH FLOOR NO.144 ANNA SALAI
CHENNAI 600 002.
- 2 THE TAMIL NADU TRANSMISSION
CORPORATION LTD. (TANTRANSCO REP. BY ITS
MANAGING DIRECTOR 10 FLOOR NO.144 ANNA
SALAI CHENNAI 600 002.
- 3 THE CHIEF ENGINEER / GRID OPERATIONS
NO.144 ANNA SALAI CHENNAI 600
002.



4 THE DIRECTOR - OPERATIONS
THE TAMIL NADU TRANSMISSION CORPORATION LTD.
(TANTRANSCO) 10TH FLOOR NO.144 ANNA
SALAI CHENNAI 600 002.

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5 THE DIRECTOR DISTRIBUTION
(TANGEDCO) 10TH FLOOR NO.144 ANNA SALAI
CHENNAI 600 002.

6 THE SUPERINTENDING ENGINEER
CHENNAI ELECTRICITY DISTRIBUTION CIRCLE /
NORTH 144 ANNA SALAI CHENNAI 600 002.

7 TAMIL NADU ELECTRICITY REGULATORY
COMMISSION 4TH FLOOR SIDCO
CORPORATE OFFICE BUILDING THIRU.VI.KA.
INDUSTRIAL ESTATE GUINDY
CHENNAI 600 032 ... RESPONDENT in WP No.15861 of 2021

WP No.15861 of 2021

Calling for the records relating to the issuance of the impugned order by the 6th respondent in Lr.N.SE / CEDC / N/ DFC / AO / Rev / AAO / HT / AS.4/ F.OPG / D.2300 /2021 dated 15/02/2021 and quash the same, as arbitrary, illegal and without jurisdiction and contrary to the provisions of the Electricity Act, 2003 and the regulations framed thereunder and consequently rework the energy accounting and adjust the lapsed units against the corresponding captive consumers in monthly current Consumption Bills of the respective consumers or alternatively pay a value of Rs.27,11,734 with interest @ 18 percent p.a. from February 2021 till date of payment, being the value of the units that were left unaccounted for due to the impugned action and pass such further order.

For Petitioners : Mr.Rahul Balaji
in all W.Ps

For Respondents : Mr.J.Ravichandran
in all W.Ps Additional Advocate General
assist by
Mr.S.Madhusudanan
Standing Counsel

O R D E R

The subject matter of challenge in all these writ petitions pertains to the instructions issued by the 3rd respondent through letter dated 24.09.2020 wherein TANGEDCO has been directed to proceed further with the commercial implementation of the energy



accounting which according to the petitioners is in violation of the regulations governing energy accounting of open access power and on account of the fact that the entire issue of energy accounting is still at the stage of finalization and is yet to be implemented.

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2. Heard Mr. Rahul Balaji, learned counsel appearing on behalf of the petitioners and Mr. J. Ravichandran, learned Additional Advocate General assisted by Mr. S. Madhusudanan, learned Standing Counsel appearing on behalf of the respondents.

3. The case of the petitioners is that the Indian Power Grid which is governed by the Indian Electricity Grid Code consists of the National Load Dispatch Centre and five Regional Load Dispatch Centres which coordinate electricity dispatch across the country. The grid has to be maintained by the State Load Dispatch Centre (SLDC) within the State and this position is held by TANTRANSO, which is a subsidiary of the Tamil Nadu Electricity Board.

4. The voltage and frequency of the grid are the two basic and important indicators of the health of the grid. Maintaining constant voltage and frequency within a certain tolerance level over a period of time becomes important for reliable and secure operation of the grid. Accordingly, an Availability Based Tariff (ABT) mechanism was introduced in the year 2000. This tariff system trifurcated the existing single part payment for energy into a) Capacity or fixed charge to be paid based on availability, b) Energy or variable charge to be paid on the basis of scheduled energy and c) Unscheduled Interchange (UI) as a penalty mechanism for deviation from generation/drawal schedule. The ABT mechanism has already been introduced in six States.

5. In light of the mandate, Deviation Settlement Mechanism (DSM) Regulations were notified by the TNERC on 01.03.2019 and it was published in the Government Gazette on 20.03.2019. The Regulations were notified with an object of further grid discipline and grid security as envisaged under the Grid Code through the commercial mechanism for Deviation Settlement through drawal and injection of electricity by the users of the grid. As per the original mandate, the DSM Regulations were to be implemented after six months from 20.03.2019, which means that it was expected to be implemented from 21.09.2019. However, this was subject to fulfillment of certain prior conditions that were pre-requisites under Regulation 15 of the DSM Regulations, 2019. A reading of the said Regulation shows that the SLDC must formulate Operating Procedures and Business Rules for constitution of State Power Committee. The same has to be approved by the TNERC and thereafter, the State Power Committee



(SPC) has to be constituted. It is only after the SPC is formed, the commercial operation can commence.

6.A writ petition came to be filed before this Court in W.P.No.27617 of 2019 questioning the DSM Regulations on the ground that it cannot be implemented unless the procedure prescribed under the Regulations are fulfilled. The TNERC and the SLDC have filed counter affidavits in the writ petition.

7.According to the petitioners, the formation of SPC is mandatory for implementation of the commercial arrangements under the DSM Regulations since the SLDC will handover the processed meter data and implemented schedule to the SPC for preparing deviation energy and charges statement. Thereafter, the SPC prepares the energy statements. This process has not been completed and even before that the DSM Regulations were sought to be implemented.

8.It is seen from the counter affidavit filed by the SLDC in the above writ petition that the SLDC has taken a specific stand to the effect that they have requested the TNERC for time extension to install the ABT meters and data communication facilities, to commence mock implementation and thereafter to commence commercial implementation. While so, the impugned letter dated 24.09.2020 came to be issued and in effect it provided for commencing commercial implementation of the DSM Regulations. The main issue that requires the consideration of this Court is as to whether the DSM Regulations has reached the commercial implementation stage.

9.The materials placed before this Court and the stand taken by the TNERC and SLDC (TANTRANSCO) does not make it clear with regard to the stage at which the DSM Regulations remain. Even though, the impugned instructions were given on 24.09.2020, a subsequent communication dated 14.10.2020 issued by TANTRANSCO shows that it is only at the stage of mock implementation. That apart there is absolutely no material to show that the SPC has been formed as per Regulation 15 of the DSM Regulations, 2019. Even as per the counter affidavit filed by the TANTRANSCO in these writ petitions, the following statement is made at Paragraph No16.7 of the counter and for proper appreciation, the same is extracted hereunder:

16.7 It is respectfully submitted with respect to the above that,

- a) the Hon'ble TNERC has notified the following regulations on 01.03.2019



It is for this reason, this Court had granted an interim order staying the operation of the impugned instructions dated 24.09.2020.

12. In view of the above discussion, this Court deems it fit to transfer all these writ petitions to the file of the TNERC. The TNERC can assess the stage at which the DSM Regulations are placed and also can ascertain whether the SPC has already been formed. Once the clarity is reached and TNERC passes an order, it will enable the respondents to proceed further with the commercial implementation of the DSM Regulations. It will be fit and proper if TNERC gives a ruling on this issue since the Commission is vested with the power to approve the Procedure and Business Rules and also the formation of the State Power Committee.

13. In the result, all these writ petitions are disposed of with the following directions:

- a) All these writ petitions shall be immediately transferred to the file of the TNERC and it will be left open to all the parties to raise all the issues before the Commission. The TNERC shall give a final ruling with regard to the commercial implementation of the DSM Regulations.
- b) The TNERC shall pass final orders, within a period of twelve weeks from the date of receipt of copy of this order and further action shall be taken depending upon the decision taken by TNERC and
- c) The interim orders already granted by this Court shall continue until final orders are passed by TNERC.

14. The Registry is directed to retain the original bundles in the Court and only a copy shall be sent to TNERC. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

/True Copy//

Sub Assistant Registrar

ssr



To

1. The Chairman,
Tamil Nadu Transmission Corporation Ltd,
(TANTRANSCO),
10th Floor, No.144, Anna Salai,
Chennai - 600 002.
2. The Managing Director,
Tamil Nadu Transmission Corporation Ltd,
(TANTRANSCO),
10th Floor, No.144, Anna Salai,
Chennai - 600 002.
3. The Director-Operations,
The Tamil Nadu Transmission Corporation Ltd,
(TANTRANSCO),
10th Floor, No.144, Anna Salai,
Chennai - 600 002.
4. The Superintending Engineer,
Commercial Division,
SLDC/TANTRANSCO,
Office of the Chief Engineer/Grid Operation,
No.144, Anna Salai,
Chennai - 600 002.
5. The Director-Distribution,
TANGEDCO,
10th Floor, No.144, Anna Salai,
Chennai - 600 002.
6. Tamil Nadu Electricity Regulatory Commission,
4th Floor, SIDCO Corporate Office Building,
Thiru.Vi.Ka. Industrial Estate,
Guindy, Chennai - 600 032.

W.P. No.15433 of 2020
and W.P. Nos.475, 11480, 12062, 12083, 12584 & 15861 of 2021
and W.M.P. Nos.19284 & 19283 of 2020
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12836, 12837, 12835, 12858, 12860, 12859, 13382, 13383, 16751,
16755 & 16756 of 2021

VG-II[co]
NSK 29/10/2021