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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 22.3.2021

CORAM

THE HON'BLE MR.JUSTICE B.PUGALENDHI

W.P.No.16034 of 2020
and
W.M.P.No.19956 of 2020

M/s.Tulsyan NEC Limited,
HTSC Nos.1823 & 1771,
D-4, Sipcot Industrial Complex,
Gummidipoondi, Tiruvallur 601 201.
rep. by its Authorized Signatory
Mr.D.Eswaramoorthy

Petitioner

vs.

1. The Tamil Nadu Generation and
Distribution Corporation Ltd.
(TANGEDCO),
rep. by its Chairman & Managing Director,
10th Floor, No.144, Anna Salai,
Chennai 600 002.
2. The Superintending Engineer,
TANGEDCO,
Chennai Electricity Distribution
Circle/North,
144, Anna Salai, Chennai 600 002.
3. The Director of Industrial Safety
and Health,
No.47/1, Block 6,
Thiru.Vi.Ka. Industrial Estate,
Guindy, Chennai 600 032.
4. The Joint Director of Industrial
Safety and Health-I,
No.47/1, Block 6,
Thiru.Vi.Ka. Industrial Estate,
Guindy, Chennai 600 032.

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the records of the second respondent's impugned



notice Lr.No.SE/CEDC/N/DFC/AO/Rev/AAO/HT/A.1&4/1771/D.2167/2020 and Lr.No.SE/CEDC/N/DFC/AO/Rev/AAO/As-4/F.LB/D.2168/2020 both dated 23.10.2020 as arbitrary, illegal and contrary to Regulations 6(b)(i) of the Tamil Nadu Electricity Supply Code, 2004 and Section 9 of the Electricity Act, 2003 and consequently direct the 2nd respondent to revise the petitioner's CC bills for the September, 2020 for HTSC Nos.1823 & 1771 in line with Regulations 6(b)(i) of the Tamil Nadu Electricity Supply Code, 2004 by considering the 4th respondents temporary closure letter dated 1.9.2020 as the required certificate from the labour officer.

For Petitioner : Mr.R.S.Pandiyaraj

For Respondents : Mr.P.R.Dhilipkumar, Standing Counsel

ORDER

The petitioner is a manufacturer of TMT Rods and having their business operation from SIPCOT Industrial Complex. The petitioner has availed High Tension Service Connection in 1823 and 1771. An accident occurred in the petitioner's premises on 27.8.2020 resulted with a casualty. Consequent to the accident, the fourth respondent conducted an inspection in the petitioner's industry and issued a temporary total closure vide letter dated 1.9.2020 under Section 40(2) of the Factories Act, 1948 directing the petitioner industry to close with effect immediate effect. Therefore, according to the petitioner, the petitioner's factory was under closure from 1.9.2020 to 5.10.2020 and thereafter the petitioner's industry was permitted to be reopened. The petitioner made a request for waiver of electricity charges for the said period of closure by applying the provisions under the Electricity Supply Code.

2. The second respondent demanded 90% sanctioned demand and as against this demand notice, the petitioner made a representation to the respondent Board to levy minimum demand charges of 20% of the demand due to non usage of the petitioner's industry as per Supply code vide clause 6(b)(i) of the Tamil Nadu Electricity Supply Code, however, the same has been rejected by the impugned order directing the petitioner to produce the certificate from the Labour Officer with regard to the period of lockout or strike or temporary closure and the date on which it was called off.

3. The learned counsel for the petitioner submits that the letter dated 1.9.2020 issued by the fourth respondent and the subsequent orders dated 5.10.2020 revoking the closure would disclose that this petitioner was not in operation from 1.9.2020



to 5.10.2020 and the respondent can apply the principles in Rule 6(b)(i) of the Tamil Nadu Electricity Supply Code with the available materials alone.

4. Mr.Dhilipkumar, learned counsel for the respondent Board sought for a short accommodation for filing counter, however, submitted that the petitioner is liable to pay the entire demand charges even if it is utilised for the service during the interregnum period from 1.9.2020 to 5.10.2020.

5. This court paid its anxious consideration to the rival submissions made.

6. Vide the impugned order, the respondents have insisted the petitioner to produce certificate from the Labour Officer indicating the period of lockout or strike or temporary closure and the date on which it was called off. When the petitioner has placed all the materials including the proceedings of the fourth respondent dated 1.9.2020 calling upon this petitioner not to use the factory premises from 1.9.2020 and the subsequent proceedings dated 5.10.2020 in and by which the earlier order of prohibition has been removed which would disclose that the petitioner factory was not permitted to run during the interregnum period from 1.9.2020 to 5.10.2020 it is not fair on the part of the respondent to make such a demand.

7. However, the learned Standing Counsel appearing for the respondents would submit that if the petitioner had utilised the service connection during the interregnum period, they are liable to pay the charges as demanded by the respondents.

8. Therefore, it is made clear that if the respondents find the material to establish that the Service connection had been used during the interregnum period, it is always open to them to issue fresh notice to the petitioner and thereafter, take a decision on the waiver of demand charge as per Regulation 6(b)(i) of the Tamil Nadu Electricity Supply Code.

9. Accordingly, the writ petition is allowed. No costs. The connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar



To

1. The Chairman & Managing Director,
Tamil Nadu Generation and
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(TANGEDCO),
10th Floor, No.144, Anna Salai,
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Guindy, Chennai 600 032.

+1cc to Mr.R.S.Pandiyaraj, Advocate SR.No.18554
+1cc to Mr.P.R.Dhilipkumar, Advocate Sr.No.18650

AKM/09.04.21 /4P-7C/

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