IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:06.01.2021

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.NO.20479 OF 2020
AND
W.M.P.NOS.25255 & 25257 OF 2020

Park Trust, Rep. by Chairman,
Dr.P.V.ravi, Park College,
SF No.104/2, Avinashi Road,
Kaniyur, Coimbatore - 641 659 ... Petitioner

vs.

1. The Chairman,
   Tamil Nadu Generation &
   Distribution Corporation Ltd.,
   Anna Salai,
   Chennai - 600 002.

2. Tamil Nadu Generation & Distribution
   Corporation Ltd., Coimbatore(s) Rep.
   By Accounts Officer/ Revnue,
   Coimbatore. ... Respondents

Prayer

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to adhere the concession granted for the lockdown period from March 2020 to till date a per Electricity Regulatory Commission guidelines.

For Petitioner .. Mr.P.R.Balasubramnian

For Respondents ... Mr.M.Damodhran,
Sanding Counsel

O R D E R

This Writ Petition has been filed seeking to issue a Writ of Mandamus directing the respondents to adhere the concession granted for the lockdown period from March 2020 to till date as per Electricity Regulatory Commission guidelines.

2. The petitioner is an Educational Institution having High Tension electricity connection. In view of the Covid-19 pandemic situation, all the Educational Institutions were ordered to be closed with effect from 27.03.2020 and it is yet to open. The petitioner is having a sanctioned kilowatts of 244 KV but during the lock down period, they have actually used below 20% of the sanctioned demand, except for the month of March and April,2020. But the 2nd respondent raised invoice for 90% of the sanctioned kilowatts by calculating it as 219.60 and for the non-payment of the electricity consumption charges, the electricity service connection was also disconnected for the petitioner College. The petitioner College has also made a representation claiming concession granted for the lock down period and to restore the electricity connection.

3. Mr.P.R.Balasubramanian, learned counsel for the petitioner, by referring to the provision under Regulation 6(b) of the Supply Code submitted that in similar issue, this Court in W.P.No.7678/2020 etc. batch dated 14.08.2020, directed the Board to claim only at the rate of 20% of the sanctioned demand or the actual recorded reading and not 90% of the sanctioned demand as claimed by the 2nd respondent. The relevant portion of the said order is extracted hereunder.

> 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;

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. Mr.M.Damodharan, learned Standing Counsel for the respondents submitted that as against the order passed in W.P.No.7678/2020 etc. batch, the Board has preferred an appeal before the Division Bench and the same is pending.

5. Heard both sides.

6. The demand for electricity charges raised by the respondents for the petitioner's College during the lockdown period i.e., from the month of March, 2020 to December, 2020 is at the rate of 90% of the sanctioned demand, apart from the actual consumption charges.

7. The Tabular column in respect of the usage of electricity by the petitioner's College in kilovats and its percentage for the relevant period, viz.,January, 2020 to December, 2020 are as follows:

Sl.No	Month	Permitted sanctioned Kilovats	90% demand	Used Kilovats	Used %
1	Jan-20	244	219.60	79.20	36.07
2	Feb-20	244	219.60	84.80	38.62
3	Mar-20	244	219.60	83.60	38.07
4	Apr-20	244	219.60	132.80	60.47
5	May-20	244	219.60	34.80	15.85
6	Jun-20	244	219.60	35.20	16.03
7	Jul-20	244	219.60	33.20	15.12
8	Aug-20	244	219.60	32.80	14.94
9	Sep-20	244	219.60	32.80	14.94
10	Oct-20	244	219.60	33.60	15.30
11	Nov-20	244	219.60	35.20	16.03
12	Dec-20	244	219.60	35.20	16.03

8. During the lockdown period, the petitioner College was not permitted to utilise the sanctioned kilovats. From May, 2020 onwards till date, they have used only below 20% of the sanctioned demand. The petitioner is claiming concession as per Regulation 6(b) only from the month of March, 2020 and not for the month of January and February,2020. Even for the month of March, 2020 and April, 2020, the petitioner College had used only 38.07% and 60.47% of the sanctioned demand respectively. Since the petitioner college has not paid the demand amount, the electricity service connection was disconnected.

9. Therefore, the Writ petition is allowed. The petitioner shall make payment as per the actual usage for the months of March and April, 2020 and for the remaining period i.e., May 2020 to December 2020, the respondents shall claim only 20% of the sanctioned demand as per the order passed by this Court in W.P.No.7678/2020 etc. batch. dated 14.08.2020. On payment of the

charges by the petitioner as directed above, the respondents shall restore the electricity service connection to the petitioner College forthwith. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vsi

To

1. The Chairman,
   Tamil Nadu Generation &
   Distribution Corporation Ltd.,
   Anna Salai,
   Chennai - 600 002.

2. Tamil Nadu Generation & Distribution
   Corporation Ltd., Coimbatore(s) Rep.
   By Accounts Officer/ Revnue,
   Coimbatore.

+1cc to Mr.P.R.Balasubramnian, Advocate, S.R.No.491

W.P.No.20479 of 2020

VSNII(CO)
CS/03/02/2021