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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2021

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.26691 of 2017
and
W.M.P.No.28419 of 2017

MRF Limited,
Rep. by Mr.A.Manivannan,
Senior Manager

...Petitioner

Versus

- 1.Tamil Nadu Generation and Distribution Corporation Limited,
Rep. by its Chairman,
No.144, Anna Salai,
Chennai - 600 002.
- 2.Chief Financial Controller,
Tamil Nadu Generation and Distribution Corporation Limited,
No.144, Anna Salai,
Chennai - 600 002.
- 3.The Superintending Engineer
Vellore Electricity Distribution Circle,
Gandhinagar,
Vellore-6.
- 4.Tamil Nadu Electricity Regulatory Commission
Rep. by its Secretary
No.19A, Rukmani Lakshmipathy Salai,
Egmore, Chennai-600 008.

...Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorari, to call for the records of the third respondent contained in impugned letter Lr.No./SEV/DFC/AAO-HT/A2/F.Audit/2017 passed in HT SC 1199 dated 22.09.2017 and all proceedings pursuant thereto, and quash the same as arbitrary, illegal and violative of the provisions of the Electricity Act, 2003 and the orders of the TNERC.



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For Petitioner : Mr.M.Vijayan
for M/s.King and Partridge

For R1 to R3 : Mr.L.Jai Venkatesh
Standing Counsel

O R D E R

This Writ Petition has been filed seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records of the third respondent contained in impugned letter Lr.No./SEV/DFC/AAO-HT/A2/F.Audit/2017 passed in HT SC 1199 dated 22.09.2017 and all proceedings pursuant thereto, and quash the same as arbitrary, illegal and violative of the provisions of the Electricity Act, 2003 and the orders of the TNERC.

2.When the matter is taken up for hearing today, the learned counsel for the petitioner would submit that in an identical issue, this Court vide order dated 14.09.2018, in W.P.No.5916 of 2014 etc., batch, has quashed the impugned letter issued by the respondents.

3.The relevant portion of the order passed by this Court dated 14.09.2018, in W.P.No.5916 of 2014 etc., batch, is extracted hereunder:

"18. In view of the discussions made in the afore mentioned paragraphs, this Court is of the opinion that the Regulatory Commission has to under take the process of revision either suo-motu or through an application if any filed before the commission and conduct the adjudicative process by issuing notice to all the stakeholders and after hearing the parties aggrieved, decision shall be taken on merits and in accordance with law. The compliance of principles of natural justice has been contemplated in the business regulations, as stated supra. Thus Electricity Regulatory Commission is bound by that and they have to follow the procedures and thereafter take a decision and pass orders on merits and in accordance with law in respect of the withdrawal of the concession of the Deemed Demand Charges in respect of the writ petitioners. However, it is made clear that the observations made in this judgment will not affect the independent adjudication if any undertaken by the Electricity Regulatory



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Commission in accordance with the procedures contemplated. The Electricity Regulatory Commission is at liberty to decide the merits and demerits independently and pass orders without causing undue delay in view of the fact that the concession has been already cancelled in respect of other categories. Accordingly the impugned order passed by the second respondent in letter No. CFC/FC/DFC/AAO.HT/AS.3/REV/D.N.115/13 dated 29.07.2013 is quashed and these writ petitions are allowed. No costs. Consequently connected miscellaneous petitions are closed."

4.A perusal of the above would show that the issue in the present Writ Petition is covered by the order referred to above. Therefore, following the principle laid down by the order this Court dated 14.09.2018, in W.P.No.5916 of 2014 etc., batch, the impugned demand raised by the third respondent vide letter in Lr.No./SEV/DFC/AAO-HT/A2/F.Audit/2017 passed in HT SC 1199 dated 22.09.2017, is hereby quashed and the Writ Petition is allowed.

5.Further, at the time of admission, this Court directed the petitioner to pay 50% of the demand made by the third respondent. The learned counsel for the petitioner submitted that the same was complied with. If any such amount was paid as per the order of this Court dated 12.10.2017, the respondents shall adjust the said deposit made by the petitioner in the future electricity charges. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar

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1.The Chairman,
Tamil Nadu Generation and Distribution
Corporation Limited,
No.144, Anna Salai, Chennai - 600 002.

2.The Chief Financial Controller,
Tamil Nadu Generation and Distribution
Corporation Limited,
No.144, Anna Salai, Chennai - 600 002.



3.The Superintending Engineer,
Vellore Electricity Distribution Circle,
Gandhinagar,
Vellore-6.

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4.The Secretary,
Tamil Nadu Electricity Regulatory Commission
No.19A, Rukmani Lakshmipathy Salai,
Egmore, Chennai-600 008.

+lcc to M/s.King and Patridge, Advocate SR.No.62844

W.P.No.26691 of 2017
and W.M.P.No.28419 of 2017

GPL(CO)
RVM(20/12/2021)