



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.01.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NOs.29944 & 29947 of 2019

and

W.M.P.Nos.29852, 29855 & 29861 of 2019

The President,
Odapalli Pappampalayam
Neeretttru Pasana Sangam
Pappampalayam
Cauvery RS
Erode-638 007

...Petitioner (in both Wps)

Vs

1. The Secretary,
Energy Department,
Government of Tamil Nadu,
Fort St. George
Chennai-600 009.
2. The Chairman
Tamil Nadu Generation and Distribution Corporation Ltd.,
NPKRR Maaligai,
800, Anna Salai,
Chennai-600 002.
3. The Superintending Engineer
Tamil Nadu Generation and Distribution Corporation Ltd.,
Mettur Electricity Distribution Circle,
Mettur Dam-636 401.

...Respondents (in both Wps)

PRAYER IN W.P.No.29944 of 2019:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the proceedings relating to Lr. No.SE/MEDC/DFC/AOR/AAO/HT/F. Court Cases/D.149/19, dated 12.06.2019 of the 3rd respondent and quash the same and consequently direct the 2nd & 3rd respondents to refund the amount of Rs.81,43,279/- (Rupees Eighty One Lakhs Forty Three Thousand Two Hundred and Seventy Nine Only) in accordance with approval accorded by the similarly situated societies in proceedings of the 2nd respondent in (Per) B.P. (F.B) No.120 dated 08.08.2002.



PRAYER IN W.P.No.29947 of 2019:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the proceedings relating to Lr. No.SE/MEDC/DFC/AOR/AAO/HT/F. Court Cases/D.149/19, dated 12.06.2019 of the 3rd respondent and quash the same and consequently direct the 2nd & 3rd respondents to refund the amount of Rs.24,41,555/- (Rupees Twenty Four Lakhs Forty One Thousand Five Hundred and Fifty Five Only) in accordance with approval accorded by the similarly situated societies in proceedings of the 2nd respondent in (Per) B.P. (F.B) No.120 dated 08.08.2002.

(IN BOTH Wps)

For petitioner : Mr. V. Perumal
For Respondents : Mrs. C. Sangamithirai,
Special Government Pleader for R1
: Mr. Abul Kalam,
Standing Counsel for R2 & R3.

ORDER

The petitioner has filed these Writ Petitions seeking quashment of the impugned order dated 12.06.2019 issued by the 3rd respondent herein and a direction to the respondents 2 & 3 to refund the amount in accordance with approval accorded by the similarly situated societies in proceedings of the 2nd respondent dated 08.08.2002.

2. It is the case of the petitioner that the petitioner had made a representation dated 06.03.2019 to the 2nd respondent herein to refund the excess amount collected towards the electricity charges, pursuant to the order of this Court in W.P.Nos.35301 & 35971 of 2006 on 11.02.2019, for which an impugned order dated 12.06.2019 came to be passed by the 3rd respondent herein rejecting the claim of the petitioner, which is wholly contrary to the order of this Court. Aggrieved by the same, these Writ Petitions have been filed seeking quashment of the same.

3. Learned counsel for the petitioner submits that the impugned order passed by the 3rd respondent is liable to be set aside on the ground that similarly situated societies were granted the relief as sought for in this petition by the 2nd respondent vide proceedings dated 08.08.2002. Hence, the petitioner being entitled for the very same relief, had made the representation for availing the benefit, before the 2nd respondent herein, pursuant which, the impugned order came to be passed on 12.06.2019 which is not sustainable and the same is liable to be set aside.



4. Learned Standing Counsel appearing for the respondents 2 & 3 submits that the impugned order dated 12.06.2019 has been passed rejecting the claim of the petitioner on the ground that the amount had been collected as per the interim direction of this Court and tariff notification in G.O. (Ms).No.17 dated 14.02.2017. Therefore, the CC charges collected towards the said HT SC's cannot be refunded. Hence, filing of Writ Petition seeking quashment of the same is not sustainable.

5. Heard the learned counsel on the either side and perused the materials available on record.

6. A careful perusal of the materials available on record reveals that on the earlier occasion this Court had directed the petitioner to make a representation to the 2nd respondent for refund of excess amount collected from the petitioner towards the electricity charges and on receipt of the same, the 2nd respondent was directed to pass orders on merits in the light the proceedings dated 08.08.2002 passed by the 2nd respondent, wherein the similarly situated societies were granted the relief as sought for by the petitioner in this Writ Petition.

7. Despite the direction of this Court, the impugned order has come to be passed by the 3rd respondent without considering the proceedings dated 08.08.2002 which is wholly impermissible. Further, this Court is of the opinion, that while the similarly situated societies were granted the relief sought for, the petitioner being similarly placed, the relief should also be extended to the petitioner.

8. Accordingly, these Writ Petitions are allowed by setting aside the impugned order dated 12.06.2019 and the matter is remanded to the 2nd respondent. The petitioner is directed to file a copy of the representation along with a copy of this order before the 2nd respondent. On receipt of the same, the 2nd respondent is directed to pass appropriate orders on the same, in the light of the proceedings dated 08.08.2002 of the 2nd respondent. No Costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

NHS



To

1. The Secretary,
Energy Department,
Government of Tamil Nadu,
Fort St. George
Chennai-600 009.
2. The Chairman
Tamil Nadu Generation and Distribution Corporation Ltd.,
NPKRR Maaligai,
800, Anna Salai,
Chennai-600 002.
3. The Superintending Engineer
Tamil Nadu Generation and Distribution Corporation Ltd.,
Mettur Electricity Distribution Circle,
Mettur Dam-636 401.

+2cc to Mr. V. Perumal, Advocate, S.R.No.3723
+1cc to Mr. Abul Kalam, Advocate, S.R.No.4145
+1cc to the Government Pleader, S.R.No.4019

W.P.NOs.29944 &
29947 of 2019

SR(CO)
CT(02/03/2022)