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W.P.No.11303 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.11303 of 2020

And

W.M.P.Nos.13779 and 13781 of 2020

M/s.Mailam Murugan Mines,
Rep. by its Proprietor
Mrs.Geetha Uthayarajan

... Petitioner

Vs.

1.The Chairman and Managing Director
Tamil Nadu Generation and
Distribution Corporation Limited,
10th Floor, NPKRR Maaligai,
144, Anna Salai,
Chennai – 600 002.

2.The Chief Financial Controller – Revenue,
Tamil Nadu Generation and
Distribution Corporation Limited,
10th Floor, NPKRR Maaligai,
144, Anna Salai,
Chennai – 600 002.

3.The Superintendent Engineer,
CHENGAI Electricity Distribution Circle,
Tamil Nadu Generation and
Distribution Corporation Limited,
No.49, Alagesan Nagar,
Chengalpettu – 603 001.



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4.Accounts Officer – Revenue,
CHENGAI Electricity Distribution Circle,
Tamil Nadu Generation and
Distribution Corporation Limited,
No.49, Alagesan Nagar,
Chengalpettu – 603 001.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for records of the Supply Availability Notice issued by the third respondent by E-Mail dated 10.10.2019 at 12.00 p.m. and quash the same in so far as it relates to fixing 21.09.2019 as a starting date for payment of Monthly Minimum Charges and consequently quash impugned TANGEDCO Chengalpattu – High Tension Bill (Provisional) for the month of December 2019 dated 10.01.2020 in Sl.No.20 Adjustment Charges (not affecting) of Rs.8,86,667/- in Bill No.9094111406012001 for HT Service Connection No.099094111406 issued by the fourth respondent and further direct the third respondent herein to fix 06.12.2019 as starting date for Payment of Monthly Minimum Charges and direct the respondents to adjust Rs.8,86,667/- paid by the petitioner as Adjustment Charges, with the Demand for Additional Current Consumption Deposit in SE/ChengalpattuEDC/DFC/AO/AS/HTSC No.099094111406 / Dno.995/20 dated 24.07.2020.

For Petitioner : Mr.V.P.Sengottuvel
Senior Counsel
for M/s.K.Indupriya

For Respondents : Mr.L.Jai Venkatesh



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Standing Counsel (TANGEDCO)

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ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for records of the Supply Availability Notice issued by the third respondent by E-Mail dated 10.10.2019 at 12.00 p.m. and quash the same in so far as it relates to fixing 21.09.2019 as a starting date for payment of Monthly Minimum Charges and consequently quash impugned TANGEDCO Chengalpattu – High Tension Bill (Provisional) for the month of December 2019 dated 10.01.2020 in Sl.No.20 Adjustment Charges (not affecting) of Rs.8,86,667/- in Bill No.9094111406012001 for HT Service Connection No.099094111406 issued by the fourth respondent and further direct the third respondent herein to fix 06.12.2019 as starting date for Payment of Monthly Minimum Charges and direct the respondents to adjust Rs.8,86,667/- paid by the petitioner as Adjustment Charges, with the Demand for Additional Current Consumption Deposit in SE/ChengalpattuEDC/DFC/AO/AS/HTSCNo.099094111406/Dno.995/20 dated 24.07.2020.

2.The case of the petitioner is that the petitioner is the owner of



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the lands in S.Nos.73/3A1, 73/3A2 totally measuring an extent of 6.00 acres situated at No.102, Nerkunapattu Village, Cheyyur Taluk, Chengalpattu District. The petitioner established Blue Metal and M-Sand Manufacturing unit in the said lands and commenced production with the use of power generated from Gen Set. Thereafter the petitioner submitted application dated 05.02.2018 for HT service connection with an estimated requirement of 1000 KVA before the third respondent. The third respondent vide proceedings dated 27.10.2018 directed the petitioner to submit some additional documents and the petitioner also submitted the required documents. The petitioner also made all electrical installations to avail HT service connection.

3.The further case of the petitioner is that the third respondent vide e-mail communication dated 10.10.2019 issued supply availability notice stating that monthly minimum charges will be levied from 21.09.2019 until the date of availing the supply and further directed the petitioner to submit safety certificate of the Chief Electrical Inspector to Government under the Regulations of Central Electricity Authority (Measures relating to Safety and Electric Supply) Regulations, 2010 to avail supply of electricity within three months



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from 21.09.2019. Challenging the same, this writ petition has been filed.

4.The learned Senior Counsel appearing for the petitioner submitted that admittedly, the petitioner made application for availing HT service connection before the third respondent. It is the simultaneous duty of the petitioner as well as the electricity board to complete the construction for enabling and receiving electricity supply. Petitioner completed the construction and was ready for receiving electricity supply. Electricity board also erected transformer, however, before completing the erection work and without drawing line, the third respondent mechanically issued the supply availability notice, which is not sustainable one.

5.The learned Senior Counsel appearing for the petitioner further submitted that on the date of issuance of supply availability notice, the work of the electricity board was not completed and electricity line was not drawn, whereas, the petitioner completed the construction work, however, not obtained CEIG certificate. The CEIG certificate was obtained by the petitioner on 03.12.2019 and produced before the Authority on 04.12.2019.



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6.The learned Senior Counsel appearing for the petitioner further submitted that during the pendency of the writ petition, the petitioner paid the entire charges under protest and availed electricity service connection from the respondents. The issue in this writ petition is mainly with regard to adjust the amount paid by the petitioner as Adjustment Charges, with the Demand for Additional Current Consumption Deposit and further submitted that there is no loss to the electricity board.

7.The learned Standing Counsel appearing for the respondents submitted that the erection of structure and fixing the metering set along with all the erection of poles and stringing the lines was completed on 20.09.2019. Only after receipt of the completion report received from AE, ADE, EE/(O&M)/Madurandagam, the supply availability notice was issued to the petitioner on 21.09.2019. He further submitted that the respondent was ready to effect electricity supply from 21.09.2019, however, the petitioner produced the CEIG safety certificate only on 04.12.2019 and was ready to avail the supply only on 04.12.2019.



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8. Heard the arguments advanced on either side and perused the materials available on record.

9. The facts in the present case is not in dispute. Admittedly, the petitioner submitted application dated 05.02.2018 for HT service connection with an estimated requirement of 1000 KVA before the third respondent. The third respondent vide proceedings dated 27.10.2018 directed the petitioner to submit some additional documents and the petitioner also submitted the required documents. The third respondent vide e-mail communication dated 10.10.2019 issued supply availability notice stating that monthly minimum charges will be levied from 21.09.2019 until the date of availing the supply and further directed the petitioner to submit safety certificate of the Chief Electrical Inspector to Government under the Regulations of Central Electricity Authority (Measures relating to Safety and Electric Supply) Regulations, 2010 to avail supply of electricity within three months from 21.09.2019.

10. The third respondent has filed a detailed counter affidavit claiming that the erection of structure and fixing the metering set along with all the erection of poles and stringing the lines was



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completed on 20.09.2019. Only after receipt of the completion report received from AE, ADE, EE/(O&M)/Madurandagam, the supply availability notice was issued to the petitioner on 21.09.2019. He further submitted that the respondent was ready to effect electricity supply from 21.09.2019.

11.Though it is the duty cast upon the petitioner to avail electricity supply by producing CEIG safety certificate as per the Rules and Regulations, it is also un-disputed fact that the CEIG certificate was obtained by the petitioner on 03.12.2019 and produced before the Authority on 04.12.2019, which is within three months as mentioned in the supply availability notice.

12.The claim made by the petitioner is that on the date of issuance of supply availability notice, the work of the electricity board was not completed and electricity line was not drawn and supply was not effected, however, the electricity board has produced some photographs to show that the erection work was completed. The photographs would not substantiate that the work would have been completed on that particular day.



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13.Further, during the pendency of the writ petition, the petitioner has paid the entire charges under protest and availed electricity service connection from the respondents. The grievance of the petitioner is that if the petitioner succeeds, whether the amount paid by the petitioner would be adjusted as Adjustment Charges, with the Demand for Additional Current Consumption Deposit. On the sole ground, the impugned order is set aside and the matter is remanded back to the respondents for fresh consideration.

14.The respondents need not refund the amount paid by the petitioner, but shall consider the matter afresh and after providing opportunity to the petitioner, shall pass appropriate orders, within a period of three months from the date of receipt of a copy of this order.

15.With the above observations and directions, the writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

22.06.2023

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Speaking Order/ Non Speaking Order

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Index: Yes/ No
Internet: Yes/ No

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