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W.P.No.19383 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2023

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MR.JUSTICE N.SESHASAYEE

W.P.No.19383 of 2020
and W.M.P.Nos.23974, 23976 and 23977 of 2023

1.M.M.Mohiuddin
2.Shameem Mohiuddin

... Petitioners

Vs.

1.The Chairman and Managing Director
TANGEDCO
No.825, Link Road
Anna Salai, Triplicane
Chennai 600 002

2.The Chief Engineer
TANGEDCO
Distribution / Chennai North Region
Anna Salai
Chennai 600 002

3.The Executive Engineer
O & M / Anna Nagar North
TANGEDCO
Chennai 600 040



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4.The Assistant Executive Engineer
TANGEDCO
O & M/ Anna nagar CEDC / West
5th Street, H Block, Anna Nagar
Chennai 600 040

... Respondents

PRAYER: The writ petition filed under Article 226 of the Constitution of India, for issuance of a writ of Certiorari, to call for the records relating to the proceedings in letter dated 01.12.2020 in Lr.No.AEE/O & M/Anr/CI/F.EOS. Mohiuddin & Shameem/D.No.151/20 of the 4th respondent herein and quash the same.

For Petitioner : Mrs.A.L.Gandhimathi
Senior Counsel
for Mr.Karthik Lakshmanan

For Respondents : Mr.L.Jaivenkatesh
Standing Counsel - R1 to R4

ORDER

The petitioners herein together own separate blocks of land, totally 11596 sq. ft. They entered into a development agreement, by which an apartment comprising four floors and 12 dwelling units were constructed. The petitioners, thereafter made an application to the 4th respondent to install a RMU with 250 KVA. Response to the same, the 4th respondent raised a



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demand for Rs.30,40,030/- vide its proceedings dated 15.09.2020. The petitioners herein made a representation dated 21.09.2020, wherein they had indicated that the demand was exorbitant and requested him to reconsider his demand. The 4th respondent would now come out with a communication dated 01.12.2020, where under he increased the earlier demand by couple of lakhs and he made a demand for Rs.32,65,990/- and the break up is as below;

<i>Sl.No.</i>	<i>Description</i>	<i>Amount</i>
1.	Meter caution Deposit - A/c. code.47.504	32,400.00
2.	Current consumption deposit - A/c.code.48.01	79,200.00
3.	Development charges - A/c. code.47.501	3,30,000.00
4.	Estimate charges	28,24,390.00
	Total Amount	32,65,990.00

2.The petitioners now challenge the levy of development charges and estimate charges, which together would constitute Rs.31,54,390/- .

3.Learned counsel for the petitioners places before the Court the order made in M.P.No.2 of 2021 by TNERC dated 09.11.2021, the Commission has restrained TANGEDCO from charging Extension cost or estimate charges



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directly or indirectly. The learned counsel also places another order of the TNERC in M.P.No.34 of 2022 dated 23.05.2023. The latter mentioned order, the Commission has made a reference to that earlier mentioned proceedings and submitted that the Commission has reiterated its earlier stand and that the TANGEDCO cannot collect any development charges. That the cumulative effect of M.P.No.2 of 2021 and M.P.No.34 of 2022 is that, TANGEDCO can neither claim any estimate charges nor any development charges.

4.Per contra, the learned standing counsel appearing for TANGEDCO brought to the notice of the Court the paragraph No.4.26 (h) of the order in M.P.No.34 of 2022, which requires payment of extension cost or estimate charges.

5.TNERC, the entity which in terms of the Electricity Act which is entrusted to the authority to fix tariff etc. has come out with two categorical statements, that the licensee shall not charge any extension cost or estimate charges. The present claim made by TANGEDCO goes against the letter and



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tenor of the orders of TNERC in M.P.No.2 of 2021 and M.P.No.34 of 2022.

Therefore, on the face of it, the demand made by the respondents dated 01.12.2021 cannot be sustained. This Court is also informed that subject to the outcome of this litigation, the petitioners have already made the payment of Rs.32,65,990/- to TANGEDCO as per the interim order passed by this Court. Now, TANGEDCO is duty bound to refund a sum of Rs.31,54,390/- back to the petitioners.

6.This writ petition is accordingly allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

24.07.2023

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Index : Yes / No

Neutral Citation : Yes / No

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N.SESHASAYEE, J.

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