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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2023

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THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

Cont.P.Nos.2771 & 2891 of 2022

TCP Limited
W.F.H.T.S.C.No.039224391682 (Old No.990)
'Sapthagiri bhavan'
No.4, (old No.10) Karpagambal Nagar,
Mylapore Chennai – 600 004,
Repd. by its General Manager (Works)
R.Ganesh

...Petitioner in both Cont.Ps

Vs.

1.Thiru.RajeshLakhoni, I.A.S.,
Represented by its Chairman
Cum Managing Director,
Tamilnadu Generation and Distribution,
Corporation Ltd, (TANGEDCO),
10th Floor, 144, Anna Salai,
Chennai – 600 002.

2.S.Surendiran,
The Chief Engineer, NCES,
TANGEDCO,
2nd Floor,
144, Anna Salai, Chennai – 600 002.

3.Jawahar
The Superintending Engineer,

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TANGEDCO,
Palladam electricity Distribution Circle,
Palladam.

4.K.Sundaravadhanam
Director Finance
Tamil Nadu Generation and Distribution
Corporation Limited, 144, Anna Salai,
Chennai 600 002. ...Respondents in both Cont.P.'s

Prayer in Cont.P.No.2771 of 2022: Contempt Petition filed under Section 11 of the Contempt of Courts Act, 1971, to punish the Respondents for their act of committing Contempt of Court by disobeying the order of this Court dated 25.03.2022 made in W.P.No.6977 of 2022.

Prayer in Cont.P.No.2891 of 2022: Contempt Petition filed under Section 11 of the Contempt of Courts Act, 1971, to punish the Respondents for their act of committing Contempt of Court by disobeying the order of this Court dated 25.03.2022 made in W.P.No.6966 of 2022.

In both Cont.P.'s
For Petitioner : Mr.S.P.Parthasarathy
For Respondents : Mr.P.S.Raman, Senior Counsel
for Mr.D.R.Arun Kumar
Standing Counsel

C O M M O N O R D E R

Read this order in conjunction with order dated 03.01.2023 that reads as follows:

Mr.P.S.Raman, learned Senior Counsel appearing on behalf of

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Mr.D.R.Arunkumar, learned Standing Counsel appears for the respondents.

2.Learned Senior Counsel draws attention to a recent notification issued by the Ministry of Power on 03.06.2022 bringing into effect the Electricity (late payment surcharge and related matters) Rules, 2022. These Rules have been issued in suppression of the 2021 Rules and take effect from 03.06.2022.

3.The Rules provide for the liquidation of arrears in equated monthly installments of 12 to 48 depending on the quantum of outstanding dues as per Section 5 of the Notification extracted below:

> *'**5.Liquidation of arrears:-** (1) The total outstanding dues including Late Payment Surcharge upto the date of the notification of these rules shall be rescheduled and the due dates re-determined for payment by a distribution licensee in the following maximum number of equated monthly installments:-*

Outstanding dues amount (in Rs.Crore)	***Maximum no. of equated monthly installments (months)***
Up to 500	***12***
501 - 1,000	***20***
1,000 - 2,000	***28***
2,001 - 4,000	***34***
4,001 - 10,000	***40***
>10,000	***48***

> *.....'*

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4.The Ministry of Power has been approached by the Principal Secretary, Power, of the Government of Madhya Pradesh as well as the Chairman and Managing Director, TANGEDCO as per the application of the Rules to two issues. The first issue has no bearing on this contempt petition.

5.The second issue relates to the applicability of the 2022 Rules viz-a-viz Court orders that had been received by various generators in terms of which TANGEDCO has been directed to effect to (i) effect migration and (ii) remit the outstanding arrears within a time frame fixed by those Courts.

6.Vide clarification dated 04.08.2022, paragraph 4, the Ministry of Powers has specifically clarified that 'if there is a Court order prior to the date of notification of this rule i.e 03.06.2022, the orders of the Court of competent jurisdiction will prevail'. The case of the petitoner is thus that the question of equated monthly installments does not arise in case of those petitioners, who have obtained orders prior to the effective date of the 2022 Rules, being 03.06.2022.

7.That apart, yet another serious point is raised by the petitioner, who alleges selective/differential treatment by the officials of TANGEDCO in settlement of arrears effecting migration.

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8.Taking one at random, it is seen that in the case of one M/s.Anand Hosieries, who has not filed a writ petition, approval for migration has been granted on 31.12.2022 (page 254 of compilation) as per request dated 27.12.2022. It is unclear as to whether there has been any differential treatment qua the settlement of arrears and it is the case of the respondents that all generators are being settled only as per the 2022 rules.

9.A diretion is issued to the respondents to furnish a Report containing of all the following particulars:

(i) the name of the generator;

(ii)whether writ petition has been filed and if so, the number;

(iii)date of application seeking migration;

(iv)date of application seeking settlement of arrears,

(v) the status of migration and whether approval accorded,

(vi) the status of settlement of arrears and how many installments have been remitted thus far.

10.List on 24.01.2023. Report and Counter by then with copies served in advance upon the other side.

11.As far as Cont.P.No.2771 of 2022 is concerned, last opportunity is granted to the respondent to file counter. Registry is directed to print the

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name of Mr.D.R.Arunkumar in place of Ms.Keerthana Shenoi, learned Standing Counsel for the respondent.

2. Today, Mr.P.S.Raman, learned senior counsel for Mr.D.R.Arun Kumar, learned Standing Counsel for the respondents points out that as against orders dated 25.03.2022, in respect of which contempt is alleged, Writ Appeals were filed by the respondents that were dismissed on 03.01.2023. Thereafter, orders of this Court dated 25.03.2022 have been complied with.

3. Mr.Parthasarathy, learned counsel for the petitioner would concur on this position. In light of this, these Contempt Petitions survive no longer and are closed. No costs.

4. As regards the direction in order dated 03.01.2023 for filing of report containing various particulars called for, in light of compliance of orders dated 25.03.2022 and the closure of the Contempt Petitions, I see no necessity for the same now.

24.01.2023

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Index : Yes/No
Speaking Order/Non speaking Order

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DR.ANITA SUMANTH,J.

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