



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2024

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THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P.Nos. 14613, 14684, 16269, 16276 and 15661 of 2020
and WMP. Nos.18260, 18118, 18119, 20339, 20342,
20350, 20352, 19505 and 19507 of 2015

Dr.SJS Paul Memorial College of Engineering & Technology
Rep. By its Authorised Signatory,
Shabnam Banu,
Having office at No.12, Halls Road,
Kilpauk, Chennai-10.

.... Petitioner in W.P.no.14613/2020

K.Premraja

... Petitioner in WP. No.14684/2020

M/s.Dr.Anbu Paul Hotels Private Ltd.,
Rep. By its Authorised signatory,
Shabnam Banu,
Having office at No.12, Halls Road,
Kilpauk, Chennai-10.

.... Petitioner in W.P.no.16269 of 2020

Dr.Sam Paul Sober Ravi Sounder,
Rep. By his Authorised Signatory,
Shabnam Banu,
Having office at No.12, Halls Road,
Kilpauk, Chennai-10.

... Petitioner in W.P.No.16276 of 2020

Christ College of Engineering & Technology,
Rep. By its Authorised Signatory,
Shabnam Banu,
Having office at No.12, Halls Road,
Kilpauk, Chennai-10.

... Petitioner in WP. No.15661 of 2020

Vs.



1. The Managing Director,
Electricity Department,
Government of Puducherry,
Puducherry.

2. The Financial Controller/Senior Account Officer-I,
Puducherry.

3. The Executive Engineer,
Electricity Department,
Government of Puducherry,
Puducherry.

4. The Joint Electricity Regulatory Commissioner,
Section 18, Udvoghvihar,
Gurugram, State of Haryana
(R4 Suo-motu impleaded vide order
dated 18.01.2021 in WP. No.14613 of 2020
by this Court)

.... Respondents in W.P.No.14613, 16269,
16276 and 15661 of 2020

1. Union of India,
Rep. By its Secretary – Electricity
The Government of Puducherry,
Chief Secretariat,
Puducherry- 605 001.

2. The Superintendent Engineer-1,
Electricity Department,
Main Office Campus,
No.137, NSC Bose Salai,
Puducherry-605 001.

3. The Financial Controller/
Senior Accounts Officer-1,
Electricity Department,
Main Office Campus,
No.137, NSC Bose Salai,
Puducherry-605 001.



4. The Joint Electricity Regulatory Commission,
(For the State of Goa and Union Territories)
3rd and 4th Floor, Plot No.55-56,
Sector 18, Udyogvihar – Phase IV,
Gurugram (122015) Haryana.

... Respondent in W.P.No.14684 of 2020

Prayer in W.P.No.14613 of 2020: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records leading to the issuance of the original impugned High Tension energy consumption bills issued by the Second respondent for the month of March 2020 dated 15.04.2020, April 2020 dated 15.05.2020, May 2020 dated 16.06.2020, June 2020 dated 16.07.2020 and July 2020 dated 12.08.2020 and August 2020 dated 14.09.2020 pertaining to H.T. Service connection Consumer No.201 and quash the same and direct the respondents to rework the HT Service connection Consumer No.201 and the excess amount shall be adjusted towards the future bills and the minimum charges alone shall be adjusted onwards the future bills and the minimum charges alone shall be collected till the lifting of the lockdown for petitioner college by the Government of Puducherry and not to levy penalty till the lock down is lifted and operation of college commences insofar the petitioner is concerned.

Prayer in W.P.no.14684 of 2020: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records leading to the issuance of the original impugned High Tension Energy Consumption Bills issued by the 3rd respondent for the month of March 2020 (Bill No. 65 / 2020-2021 dated 15.04.2020) April 2020 (Bill No. 582 / 2020-2021 dated 15.05.2020) May 2020 (Bill No. 1097/ 2020-2021 dated 16.07.2020) June 2020 (Bill No. 1613 / 2020-2021) dated 16.07.2020 July 2020 (Bill No. 2129 / 2020-2021 dated 12.08.2020) and for the Month of August 2020 (Bill No. 2648 / 2020-2021 dated 14.09.2020) pertaining to



Consumer Code No. 853 in violation of Clause 74(1) of the Terms and conditions of Supply of Electricity of the Electricity Department, Puducherry and quash the same and direct the respondents 1 to 3 herein to raise the monthly bill calculating actual recorded demand and consumption of electricity charges only in accordance with clause 74(1) of the Terms and conditions of Supply of Electricity of the Electricity Department, Puducherry, till the extended period of Lock Down is lifted by the Government of Puducherry insofar as the petitioner is concerned.

Prayer in W.P.No.16269 of 2020: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus Calling for the records leading to the issuance of the original impugned High Tension energy Consumption Bills issued by the Second respondent for the month March 2020 to July 2020 dated 12.8.2020 pertaining to HT service Connection Number Consumer No 870 and quash the same and direct the Respondents to rework the HT service Connection consumer no 870 and the excess amount shall be adjusted towards the further bills and the Minimum charges alone shall be collected till the lifting of the lockdown for petitioner hotel/ Lodging by the Government of Puducherry and not to levy penalty till the Lock Down is lifted and operation of Hotel/ Lodging commences in so far as the Petitioner is concerned.

Prayer in W.P.No.16276 of 2020: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified mandamus Calling for the records leading to the issuance of the original impugned High Tension Bills issued by the Second Respondent for the month of March 2020 dated 15.04.2020 April 2020 dated 15.05.2020 May 2020 dated 16.06.2020 June 2020 dated 16.07.2020 July 2020 dated 12.08.2020 August 2020 dated



14.09.2020 pertaining to H.T. Service connection Consumer No. 463 and quash the same and direct the Respondents to rework the H.T. Service connection Consumer No. 463 and the excess amount shall be adjusted towards the future bills and the minimum charges alone shall be collected till the lifting of the lockdown for petitioners hotel / lodging by the Government of Puducherry and not to levy penalty till the lock down is lifted completely and operation of hotel/lodging commences insofar as the petitioner is concerned.

Prayer in W.P.No.15661 of 2020: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari mandamus calling for the records leading to the issuance of the original impugned High Tension energy consumption bills issued by the second respondent for the month March 2020 dated 15.04.2020, April 2020 dated 15.05.2020, May 2020 dated 16.06.2020, June 2020 dated 16.07.2020, July 2020 dated 12.08.2020 and August 2020 dated 14.09.2020 pertaining to HT Service connection Consumer NO.116 and quash the same and direct the respondents to rework the HT Service connection consumer No.116 and the excess amount shall be adjusted towards the future bills and the minimum charges alone shall be collected till the lifting of the lockdown for the petitioner's college by the Government of Puducherry and not to levy penalty till the lock down is lifted and operation of college commences insofar as the petitioner is concerned.

For Petitioner : Mr.S.Prem Auxilian Raj
for W.P.No.14684/2020
Mr. Vijayan Subramanian
for 14613, 16269, 16276 and 15661 of 2020

For Respondents : Mr. V.Vasanthakumar, AGP (P)



COMMON ORDER

Since the issues arises in the writ petitions are one and the same, the same are disposed of by way of this common order.

2. The writ petitioners have obtained HT service connection for their colleges, hotels and premises. They used the electricity only for the maintenance purpose during Covid-19. However, the respondents demanded exorbitant amount for electricity charges from the month of March 2020 to August-2020 and the same is not in accordance with law. Hence, the petitioners have filed these petitions seeks to quash the impugned high tension energy consumption bills issued by the respective respondents on various dates.

3. The learned counsel for the petitioners submitted that the situation faced by the petitioners in not permitting them to run the hotel/colleges due to the lockdown order issued by the Puducherry Government. The second respondent should have collected only the minimum charges. As per the common clause in all the High Tension Power Supply agreement, the petitioner shall pay the minimum demand charges every month as prescribed in the supply code. The petitioner closed there premises as per the order passed by the Puducherry government and the closure continues till September 2020. For



this reason, the petitioner being the licensee cannot be demanded and collected the entire demand charges, when the consumer has been prevented from consuming electricity by way of lockdown order issued by Puducherry Government.

4. The learned counsel further submitted that in a similar situation, W.P.Nos.7678/2020 & etc., batch were filed in State of Tamil Nadu and the said batch of writ petitions were allowed on 14.08.2020 and this Court has concluded that the maximum demand charges and the compensation charges levied by TANGEDCO against the consumers who are HT consumers, is illegal and unsustainable. Accordingly, the maximum demand charges and the compensation towards low PF that have been questioned in the impugned bills raised by the TANGEDCO for each of the consumers are quashed. Hence, this Court may quash the impugned bills issued by the second respondent.

5. The learned counsel further submitted that while entertaining the writ petitions, the petitioners paid the HT unit charges, surcharge amount, PF incentive amount except demand charges. Even in respect of Pondicherry, this Court passed an order in W.P.no.660 of 2021 dated 30.03.2021 following the earlier order passed by this Court in W.P.Nos.7678/2020 & etc dated 14.08.2020.



6. The learned counsel for the respondents filed counter and the relevant paragraphs are extracted hereunder:

"8. I respectfully submit that the Petitioner has entered into the Agreement in accordance to the regulations framed by the Hon'ble Joint Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2010, the Terms and Conditions of the said HT agreement are strictly applicable as adopted and applied to all the HT Consumers. Hence, the Electricity Department has raised the Current Consumption charges bills by pursuing the guidelines of the Tariff orders issued by the Hon'ble Joint Electricity Regulatory Commission.

9. I respectfully submit that in exercise of the power conferred by section 51-A of the Indian Electricity Act, 1910 (Central Act IX of 1910), read with sections 21 and 49 of the Electricity (Supply) Act, 1948 (54 of 1948) and the Notification No.F-2/3/66-UTL,

10. I respectfully submit that the High Tension power supply agreement has been executed between the petitioner and the Electricity Department as per the regulations 6.08 of the Joint Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2010 only and in the said supply code, waiving of Current Consumption charges is not permissible. Hence, the contentions of the petitioner that he is entitled to claim waiver under clause 74 of the Terms and conditions of supply of Electricity (1993) is not tenable and emphatically denied.

11. I respectfully submit that the petitioner has contended



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that the Hon'ble High Court of Madras by its order dated 14.07.2020 was pleased to quash the impugned bills raised by Tamilnadu Electricity Supply Code, 2004 by applying Regulation 6 (b) of the Supply Code. The Hon'ble Joint Electricity Regulatory Commission for the State of Goa and the Union Territories has formed a separate supply code for the Union Territories and the state of Goa based on the section 56 of Electricity Act, 2003.

12. I respectfully submit that the Order passed by the Hon'ble High Court of Madras on 14.07.2020 shall not be applicable to Union Territories of Puducherry since the U.T. Administration has been following a separate supply code which was notified by the Hon'ble Joint Electricity Regulatory Commission for the State of Goa and Union Territories."

7. Heard the learned counsel for the petitioners and the learned Additional Government Pleader appearing for the respondents (P) and perused the materials available on record.

8. The facts of the case are not in dispute. Admittedly, the petitioners are HT service connection holders with the respondent Electricity Board of Puducherry.

9. The main grievance of the petitioners is that they do not have any objection to pay the charges in respect of consumption of electricity, HT unit



charges, surcharge charges and PF incentive amount. The petitioners have aggrieved over the maximum demand charges claimed by the respondent. For the very same issue, this Court has already been settled the issue in W.P.No.7678 of 2020 dated 14.08.2020 and the relevant paragraphs are extracted hereunder:

"45 The above discussion leads this Court to the only conclusion that the maximum demand charges and the compensation charges levied by TANGEDCO against the petitioners who are HT consumers, is illegal, unsustainable and in violation of the statutory regulations. Accordingly, the Maximum Demand Charges and the compensation towards low PF that have been questioned in the impugned bills raised by the TANGEDCO for each of the consumers who are parties in these batch of writ petitions, is hereby quashed. The following directions are also issued by this Court:

a) TANGEDCO shall issue a revised bill to the petitioners by applying Regulation 6(b) of the Supply Code for the entire period when the establishment was under shut down;

b) If TANGEDCO has already recovered the entire dues from any of the petitioners, the bill shall be reworked in accordance with the direction given in Clause (a) and the excess amount shall be adjusted towards the future bills;

c) If the demand made by TANGEDCO has been adjusted from the security deposit and any of the petitioner has been asked to pay any amount towards additional security deposit on that count, the said claim shall be withdrawn forthwith and the calculation of the additional security deposit shall be independently done under Regulation 5 of the Supply Code and demand/ adjustment shall be done in accordance with the said Regulation;



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d) *The TANGEDCO shall not levy compensation charges towards low PF from the petitioners during the period of lockdown. Even if such levy is made in future, show cause notice shall be issued to the consumer and an opportunity shall be given to the consumer before levying any compensation under Clause 6.1.1.6 of the Tariff Regulation;*

e) *If any amount has already been recovered towards levy of compensation charges for low PF from any of the petitioners, the said amount shall be adjusted towards future bills;*

f) *These directions will apply only for the period during which the establishment was under total lockdown due to the orders issued by the Government and it is made clear that it pertains only to the Minimum Charges payable under Regulation 6(b) of the Supply Code and there is no exemption or concession insofar as the charges payable for the actual consumption of electricity (Energy Charges); and*

g) *If any of the establishments continue to be under lockdown due to the Government Orders passed in this regard, the minimum charges alone shall be collected till the lifting of the lockdown.*

46 *All the writ petitions are accordingly allowed. Before parting with this case, this Court wishes to appreciate the efforts taken by each and every counsel who assisted this Court to*



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conduct the entire hearing through video conferencing and particularly on a court holiday. If not for the cooperation of the learned counsels, this Court would not have been able to decide these batch of writ petitions. This Court wishes that this trend continues and this institution proves itself effective in dispensing justice even during this pandemic situation. No costs. Consequently, the connected miscellaneous petitions are closed."

10. Considering the above relevant provisions of law as stated above and the similar orders passed by this Court and taking note of the fact that the companies were not permitted to function on account of lock down announced by the Government, the writ petitions are disposed of in terms of the order passed in W.P.No.7678 of 2020 etc., batch dated 14.08.2020. No costs. Consequently, connected miscellaneous petitions are closed.

15.10.2024

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To:

1. The Managing Director,
Electricity Department,
Government of Puducherry,
Puducherry.

2. The Financial Controller/Senior Account Officer-I,
Puducherry.

3. The Executive Engineer,
Electricity Department,



Government of Puducherry,
Puducherry.

4. The Joint Electricity Regulatory Commissioner,
Section 18, Udvogvihar,
Gurugram, State of Haryana.

5. Secretary – Electricity
The Government of Puducherry,
Union of India,
Chief Secretariat,
Puducherry- 605 001.

6. The Superintendent Engineer-1,
Electricity Department,
Main Office Campus,
No.137, NSC Bose Salai,
Puducherry-605 001.

7. The Financial Controller/
Senior Accounts Officer-1,
Electricity Department,
Main Office Campus,
No.137, NSC Bose Salai,
Puducherry-605 001.

8. The Joint Electricity Regulatory Commission,
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M. DHANDAPANI .J.

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