



W.P. Nos.27115/2021, etc. Batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
25.09.2024	07.11.2024

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

**W.P. NOS.27115, 27131, 27120, 27122, 27124, 27177,
27126 & 27130 OF 2021**

W.P. NO. 28186 OF 2022

**W.P. NOS. 34600, 34604, 34605, 34610, 34021, 34614,
34618 & 34625 OF 2023**

AND

W.M.P. NOS. 28598, 28599, 28587, 28590, 28594, 28603 & 28585 OF 2021

**W.M.P. NOS. 4999, 3295, 2864, 4278, 4279, 4280, 4273, 5019,
21191, 21195 & OF 2022**

**W.M.P. NOS. 34553, 34573, 34522, 34523, 34528, 34531, 34535, 34536,
34554, 34558, 34562, 34564, 34569, 34570, 34572 OF 2023**

W.P. NO.27115 OF 2021

1. The Chairman & Managing Director
TANGEDCO, NPKRR Maligai
144, Anna Salai, Chennai 600 002.
2. The Superintending Engineer
Chennai Electricity Distribution Circle/South-II
TANGEDCO, 110 KV SS Complex
K.K. Nagar, Chennai 600 078.
3. The Chief Engineer/Distribution
Chennai Region
TANGEDCO, 110 KV SS Complex
144, Anna Salai, Chennai 600 002.



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4. The Chief Engineer/Commercial
TANGEDCO, NPKRR Maaligai
TANGEDCO, 110 KV SS Complex
144, Anna Salai, Chennai 600 002.

.. Petitioners

- Vs -

1. Tamil Nadu Electricity Ombudsman
4th Floor, SIDCO Corporate Office Building
Thiru-Vi-Ka Industrial Estate
Guindy, Chennai 600 032.
2. M/s.Navin Housing Properties Pvt. Ltd.
C/o Stephen & Stephen Advocates Associates
BRIO Hall, 4/23E, Kamaraj Nagar
4th Main Road, Thiruvannamiyur
Chennai 600 041.

.. Respondents

W.P. No.27115 of 2021 filed under Article 226 of the Constitution of India
praying this Court to issue a writ of certiorari calling for the records relating to
the impugned order of the 1st respondent dated 24.09.2021 in A.P. No.32/2021
and quash the same.

For Petitioners : Mr. P.Kumaresan, AAG
Assisted by Mr.L.Jai Venkatesh in WP
27115, 27131, 27120, 27122, 27124,
27177, 27126 & 27130/2021
Mr. Rahul Balaji in WP 28186/2022
Mr.Richardson Wilson in WP 36400,
34604, 34605, 34610, 34021, 34614,
34618 & 34625/23

For Respondents : Mr. D.Stephen for R-2 in WP 27115,
27131, 27120, 27122, 27124, 27177,
27126 & 27130/2021



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No Appearance for R-1 in WP 27115, 27131, 27120, 27122, 27124, 27177, 27126 & 27130/2021

Mr. L.Jai Venkatesh in WP 22186/2022

Mr.R.S.Pandiyaraj in WP 34600, 34604, 34605, 34618 & 34625/23

Mr.Rahul Balaji for R-1 in WP 34621/23

Mr. S.Giridharan for R-2 in WP 34621/23

Mr. N.L.Rajah, SC, for

Mr.Arun Anbumani in WP 34614 & 34610/23

COMMON ORDER

Two sets of writ petitions have been filed, viz., one challenging the order passed by the Tamil Nadu Electricity Ombudsman (for short 'TNEO') and the other by the Tamil Nadu Electricity Regulatory Commission (for short 'TNERC'), in and by which both the authorities have directed the refund of the excess charges collected from the respective petitioners, who are respondents herein, with regard to installation of Distribution Transformers. The said orders are put to test by the petitioners by filing the present writ petitions.



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Facts in the writ petitions assailing the order of TNEO :

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2. It is the case of the petitioners that the respective 2nd respondents had developed a group housing project consisting of multiple apartments, viz., dwelling units and had sought new LT Domestic connection vide application application on various dates, as stated in the affidavit and the respective Assistant Engineer had arrived at the total required load and sanction was also accorded.

3. It is the further case of the petitioners that based on the above order, estimate was given by the Assistant Engineer vide slip for the respective 2nd respondents to pay the sum as mentioned in the slip towards for laying cable, erection of four pole structure, erection of distribution transformer, DT metering, laying of UG cable and erection of LT switch gear along with GST charges. The said amount was also paid by the 2nd respondent on 3.9.2020 and service connections were effected to the entire dwelling units.

4. It is the further case of the petitioner that after payment of the charges on 3.9.2020 and availing connection, the respective 2nd respondents preferred a complaint before the Consumer Grievance Redressal Forum, Chennai, EDC/South



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2 challenging the levy of estimate charges as mentioned in the respective slips.

It was the case of the respective 2nd respondents herein before the Consumer Grievance Redressal Forum, Chennai, that inclusion of price/cost of transformers, equipment, cable, line cost in the category of estimate charges is contrary to TNERC Regulations when the respective 2nd respondents had already provided sufficient space for development of substation and for erection of transformers. It was the further contention of the respective 2nd respondents that the petitioners herein did not seek the approval for levy of estimate charges from TNERC and, therefore, the respective 2nd respondents had no other option, but to pay the estimate charges due to the undue delay in processing the application of the 2nd respondent.

5. It is the further case of the petitioners that counter affidavit was filed in the said petition claiming that the estimated charges collected is as per Regulation 45 (1) and Regulation 29 (16) of the Tamil Nadu Electricity Distribution Code (for short 'Distribution Code').

6. It is the further case of the petitioners that the respective 2nd respondent preferred an appeal before the 1st respondent herein in which



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counter was also filed by the petitioners herein and after hearing both the parties, the 1st respondent passed the respective order as impunged in the respective writ petitions directing the petitioners to revise the estimate and to refund the excess charges including the equipment cost to the respective 2nd respondents within a period prescribed in the said order. Further direction was also given by the 1st respondent to revise the estimate for all such similar cases and refund the excess charges collected to the consumer. Aggrieved by the said order in and by which order of refund of excess charges was made to the 2nd respondent herein as also to the persons, who have not approached the 1st respondent, the present set of writ petitions have been filed.

Facts in the writ petitions assailing the order of TNERC :

7. It is the case of the petitioners that the respective respondents are the owners of the flat and they had applied for domestic service connection for their newly constructed apartment. It is the further case of the petitioners Regulation 29 (12) of the Distribution Code, erection of Distribution Transformers and allied structures inside the consumers premises is mandatory for which the consumers have to provide necessary space for erection. Towards the same, estimate was sanctioned and the respective respondents were directed to pay the charges



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towards meter, caution deposit, current caution deposit, development charges, as per the loads applied. It is the further averment of the petitioners that the petitioners is the distribution Licensee and is entitled to collect the charges incurred in the erection of Distribution Transformers within the premises of the consumer for the purpose of effecting electricity connection.

8. It is the further averment of the petitioners that the original applicant is a consumer of electricity, who has either purchased or constructed flats in a housing project and for effecting supply to the respondent's premises as per the Distribution Code, erection of a Distribution Transformer (for short 'DT') is necessary and, therefore, a demand for erection of a DT was made. However, against the said demand, the respective respondents had filed petitions before TNERC which was allowed by TNERC against which review was filed by the petitioners which was also dismissed.

9. It is the further averment of the petitioner that a number of DTs are being erected to meet the load requirements of the entire project where there are multiple towers and upon allocation of space, the DT is erected as per Regulation 29 (11) of the Distribution Code. It is the further averment of the



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petitioner that even as per Regulation 29 (11) the cost of installation for the DT to the meter including the cost of HT line within the premises of the consumer is chargeable on the consumer.

10. It is the further averment of the petitioner that TNERC has no jurisdiction to entertain the petition and adjudicate the disputes in exercise of powers conferred u/s 86 (1)(f) of the Electricity Act as TNERC is only vested with power to adjudicate upon disputes between licensees and generating companies and to refer any disputes for arbitration. However, in the present case, the dispute is between the licensee and the consumer, which cannot be adjudicated by TNERC.

11. Laying emphasis on Section 42 (5) of the Electricity Act, which provides for the distribution licensee to establish a forum for redressal of grievances of the consumer, TNERC has framed Regulations and, accordingly, the Consumer Redressal Forum has been created under Regulation 3 and under Regulation 4, the forum has jurisdiction to entertain complaints between the consumer and the Distribution Licensee and grievance against its orders is appealable before the Tamil Nadu Electricity Ombudsman by filing appeal. It is the further



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averment of the petitioner that the orders of the Electricity Ombudsman is not appealable before the State Electricity Commission but only before this Court under Article 226 and before the Apex Court under Article 32 of the Constitution.

12. It is the further averment of the petitioners that the respective respondents, being consumers of electricity, if aggrieved by the demand raised by the petitioner against the estimate for erecting Distribution Transformer, ought to prefer a petition before the Consumer Grievance Redressal Forum and an appeal before the Electricity Ombudsman. However, the petition before the TNERC is wholly not maintainable as the consumer cannot approach the State Commission under Section 142 of the Electricity Act as against the petitioner, which is a Distribution Licensee.

13. It is the further averment of the petitioner that the DT which is installed for housing complex project is exclusively for the said project and is not utilised for common purpose and, therefore, erection of such DT u/r 29 (11) of the Distribution Code and clause 44 of the Distribution Code would have to be borne by the owners as the cost incurred for erection is to be collected from the person requiring the supply of electricity. It is the further averment of the



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petitioner that electrical line includes any apparatus required for supplying electricity and a DT would also be deemed to be an apparatus, which is required for supplying the electricity through the electrical line.

14. It is the further averment of the petitioners that Regulation 29 (11)(c) of the Distribution Code mandates the consumer to bear the cost of installation works and, therefore, the petitioner had claimed estimate charges for laying the cable, erection of four pole structure, erection of distribution transformer, DT metering, laying of underground cable and erection of LT switchgear. It is the further averment of the petitioners that identically placed consumers had approached the Electricity Ombudsman where relief was granted in their favour against which W.P. Nos.27115/2021, etc., batch was preferred before this Court in which an order of interim stay has been granted.

15. It is the further averment of the petitioners that the present orders suffers the vice of jurisdiction as held by the Apex Court in ***Maharashtra Electricity Regulatory Commission – Vs – Reliance Energy Ltd. & Ors. (2007 (8) SCC 381)***, wherein it was held that TNERC has no jurisdiction to decide a consumer–licensee dispute and the present batch of writ petitions are squarely



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covered by the said decision and the jurisdiction is only vested with Electricity Ombudsman u/s 42 of the Electricity Act.

16. It is the further averment of the petitioners that the DT is erected for the use of the apartments in a group housing scheme, which is not for the benefit of general public or persons outside the housing project and such being the case, mandating the petitioners to bear the entire cost of erection of such DT is wholly arbitrary and unjust. Therefore, for all the aforesaid reasons, the present batch of writ petitions have been filed on the ground that TNERC has no jurisdiction to entertain the dispute.

17. Learned Addl. Advocate General appearing for the petitioners in both the batch of petitions submitted that the DT being erected in a group housing scheme for the use of the apartment houses is specifically for the specific community and it is not used by the general public and, therefore, the cost towards such erection cannot be directed to be borne by the petitioners. In this regard, learned Addl. Advocate General, drawing the attention of this Court to Rule 29 (11) of the Distribution Code submits that the DT would also fall within the equipment which is used for the supply of electricity through the electrical



lines and, therefore, read along with clause 44 of the Distribution Code, the charges for the installation of the apparatus for the DT would squarely fall on the shoulders of the consumers in a housing community and the petitioners cannot be burdened with the cost of erection of the DT.

18. It is the further submission of the learned Addl. Advocate General that the respondent failed to consider Regulation 29 (16) of the Distribution Code, which specifically provides for the consumer to bear the cost of the service line that is to be paid for the provision of electrical supply to the consumer. Learned Addl. Advocate General also invited the attention of this Court to Regulation 45 (1) of the Distribution Code, which casts responsibility on the consumer to pay the actual cost of meter board, labour, transport and overhead charges.

19. It is the further submission of the learned Addl. Advocate General that the DT, which is laid within the premises of the gated community is for the specific use of the consumers within the community and, therefore, essentially, it is for the said consumers to bear the cost of the DT, as the other general public cannot use the DT and get electrical connection through the said Dt. Therefore, when the DT is exclusively used for the consumers within the community, the



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cost for erection and installation of the DT has to be borne by the consumers, who would be using the DT.

20. Insofar as the batch of petition sin W.P. Nos.36400/2021, etc. Batch, where order has been passed by TNERC, in addition to the aforesaid submissions, it is the specific submission of the learned Addl. Advocate General that the order passed by TNERC is without jurisdiction as TNERC is not vested with jurisdiction to decide with respect of dispute between a consumer and a distribution licensee. However, in the case on hand, the respective respondents being individual consumers, who have dispute against the petitioners, which is a distribution licensee, the proper forum for the respective respondents, who are consumers, to ventilate their grievance is before the Consumer Grievance Redressal Forum and order passed by the forum is appealable before the Electricity Ombudsman. Therefore, the respective respondents in the batch of petitions have to be relegated to approach the Consumer Grievance Redressal Forum by setting aside the impugned orders passed by TNERC. Accordingly, learned Addl. Advocate General prays that this Court may pass appropriate orders with regard to both the batch of petitions in favour of the petitioners.



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21. Per contra, the respective learned counsel appearing for the respective respondents, viz., the builder, who had sold the apartments to the consumers, who are consuming electricity as individuals and the respective individual consumers, who had approached the TNERC, squarely fall within individual consumers and merely because the apartments are within a community, the same, by no stretch can be treated to be not individual apartments.

22. It is the further submission of the learned counsel that Section 42 of the Electricity Act casts a duty on the distribution licensee to develop and maintain an efficient, coordinated and economical distribution system for the supply of electricity and Section 43 mandates the distribution licensee to supply electricity to the owner of the premises. Therefore, the present respondents, being the owner of the premises are to be provided electricity connection as mandated u/s 43 of the Electricity Act.

23. It is the further submission of the learned counsel that Section 46 of the Act permits the State Commission, by regulations, authorising the licensee to charge from a person requiring a supply of electricity the expenses reasonably incurred for providing electrical line or electrical plant and Regulation 44 of the



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Distribution Code permits the licensees to collect the charges from the person for the supply of electricity any expenses reasonably incurred.

24. It is the further submission of the learned counsel that Regulation 3 (4) of the Distribution Code casts a duty on the distribution licensee to develop and maintain an efficient, coordinated and economical distribution system and Regulation 29 (17) prescribes that the entire service line would be the property of the licensee and it would be their duty to maintain the service line.

25. Placing great emphasis on the aforesaid Sections and Regulations of the Act and the Distribution Code, it is the submission of the learned counsel that onus is on the distribution licensee to develop the network with equipments to extend the supply and TNERC, which the statutory authority has, u/s 46 of the Act, has rejected the request of the petitioners for collection of estimate charges. It is therefore the submission of the learned counsel that the entire service line, being the property of the licensee and the licensee having to maintain it at their cost, the collection of equipment costs is in violation of Regulation 29 (17) of the Distribution Code.



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26. It is the further submission of the learned counsel that Regulation 44 of the Distribution Code permitting the licensee to collect reasonable expenses incurred would not take within its ambit the provisioning of a DT as the DT would be the property of the licensee, it is the duty of the licensee to make provisioning of the DT and no amount can be collected from the consumers, who are individual owners.

27. It is the further submission of the learned counsel that Regulation 29 (11) of the Distribution Code specifically provides the consumers to provide only space for the installation of the DT and it is the duty of the licensee to bear the cost of the transformer and allied structure material. The said provision having been not challenged by the petitioners, the petitioners cannot turn back and claim that the individual owners being within a housing community would not be entitled to the benefit of provision of DT at the cost of the licensee. Further, the said stand, if otherwise allowed, would be nothing but perpetuating inequality between two sets of individual consumers, who are provided with LT electrical supply.



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28. It is the submission of the learned counsel that all the aforesaid materials have been considered in proper perspective by TNEO, while passing the impugned order and, therefore, the W.P. Nos.27115/2021, etc., batch, assailing the impugned orders therein does not require any interference.

29. It is the further submission of the learned counsel that insofar as W.P. Nos.36400/2021, etc., batch, in which the order passed by TNERC is challenged on the ground that TNERC is not having jurisdiction to entertain the petitions between the consumers and licensees, it is submitted that though the order has been passed by TNERC, which is impugned and prayer is made to set aside the same and direct the respondents therein to approach the Consumer Grievance Redressal Forum and, thereafter, TNEO, according to the respondents, TNEO, with regard to similar issue, having already held that the petitioners have no authority to claim the charges towards installation of DT, which orders have been challenged in W.P. Nos.27115/2021, etc., batch, the petitioners in W.P. No.36400/2021, etc. batch, also being identically placed, this Court, sitting under Article 226 of the Constitution of India could very well extend the very same relief to the respondents so as to avoid multiplicity of proceedings and, accordingly, prayed this court to pass appropriate orders.



30. In support of their aforesaid submissions, learned counsel for the respondents placed reliance upon the following decisions :-

- i) *J.Jayalalithaa & Ors. – Vs – State of Karnataka & Ors. (2012 (2) SCC 401);*
- ii) *State of U.P. – Vs – Singhara Singh & Ors. (1963 SCC OnLine SC 23)*

31. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record as also the decisions relied on by the learned counsel for the parties.

32. The main contention raised with regard to claim of charges from the consumers towards installation of DT by the petitioners within a community revolves around Section 45 (1) of the Electricity Act and Regulation 29 (16) of the Distribution Code on which it is contended that the said provisions provide for charging the consumers with the charges towards installation of DT. However, countering the same, the respondents rely upon the very same Regulation 29 (16) and 29 (11) of the Distribution Code as also Regulation 26 (i), (iii) and (iv) of



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the Distribution Code, which has since been amended by TNERC vide notification dated 9.6.2020 to claim that the charges for erection/installation of DT would be that of the licensee and it cannot be passed on to the consumers. Therefore, for better appreciation, the relevant provisions are extracted hereunder :-

“26 . Categories of Supply :

* * * * *

(i) Space for erection of a Distribution Transformer by the licensee shall be provided by the consumer free of cost and such space for erecting the Distribution transformer shall either be provided within the consumer’s premises or in a private land within a radius of 50 meters from the consumer’s premises. The site provided for erection of Distribution transformer should have free access for inspection and maintenance.

* * * * *

(iii) Installation of Distribution Transformer with associated equipments/accessories, viz., AB switch, HG fuse, DT structure/pole shall be carried out by the licensee at the licensee’s cost.

(iv) The cost of installation works from the Distribution Transformer to the consumer’s meter including portion of any HT line within the consumer’s premises when the Distribution transformer is erected in the consumer’s premises, shall be borne by the consumer.

29. Service Lines :

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(11) In storeyed building and for any building/premises requiring LT service connection(s) having either (a) total area of 900 square metre and above (excluding the stilt floor/basement floor) or b) the total demand of all the LT services in the building exceeds 112 kW, sufficient space shall be made available free of cost to the licensee for installing transformers, switchgears, etc., as stated below :

* * * * *

(16) Having agreed on the position of point of supply, the Engineer will render to the intending consumer an estimate for the cost of laying the service line. Amny work of laying the service line will be taken up only after the intending consumer pays the estimated amount in advance in full . The charges payable by the intending consumer for service line shall be as estimated by the licensee from time to time.”

33. There is no quarrel with the aforesaid provisions, as found in the Distribution Code. The entire argument of the petitioner hinges on Regulation 29 (16), which provides that the estimate offered by the Engineer should be paid in advance in full to the licensee and that the said payment is relatable to Section 45 (1) of the Electricity Act, which provides that “*subject to the provisions of this section, the prices to be charged by a distribution licensee for the supply of electricity by him in pursuance of Section 43 shall be in accordance with such tariffs fixed, from time to time and conditions of his licence*”.



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34. There is no ambiguity with Section 45(1) of the Electricity Act as it relates to the prices to be charged by a distribution licensee for the supply of electricity in accordance with the tariffs. Tariffs with regard to the supply of electricity is fixed by the petitioners on the approval of the appropriate authority. Section 45 (1) clearly speaks only about the tariffs and it not relatable to any other charges. Therefore, there is a clear prescription that Section 45 of the Electricity Act is relatable to tariffs for the electricity supplied and not for erection of DT.

35. In this background, a perusal of Regulation 29 (16) of the Distribution Code would show that the words used therein relate to agreement on the position of point of supply, meaning thereby, that it is relatable only to the place from where the distribution licensee would provide the consumer with supply and from the said place to the place of the consumer, the charges for taking the supply and any materials thereon, would be chargeable on the consumer. This clearly shows that the DT would stand installed at the place and from that place, electrical line would be drawn to the premises of the consumer, the cost of which would have to be borne by the consumer. Therefore, neither Section 45 (1) of



the Electricity Act nor Regulation 29 (16) of the Distribution Code speaks in explicit terms that the amount for the erection and installation of the DT should be borne by the consumer. Rather, as stated above, Regulation 29 (16) is only to the effect that the charges for providing the electrical connection from the DT, which is the point of supply, to the premises of the consumer is to be borne by the consumer and nothing more.

36. Further, a perusal of Regulation 26 (i), (ii) and (iv) of the Distribution Code, which have been extracted above, clause (i) of Regulation 26 only mandates that space, free of cost, shall be provided by the consumer to the licensee for erection and installation of the DT. Clause (iii) of Regulation 26 of the Distribution Code in specific terms provide that installation of DT with associated equipments/accessories, viz., AB switch, HG fuse, DT structure/pole shall be carried out by the licensee at the cost of the licensee. There is a clear prescription that the erection and installation of the DT at the place provided by the consumer shall be by the licensee and at the cost of the licensee.

37. When it is an individual consumer in a general space, the line is drawn from the post and provided to the consumer, as the line is taken from the DT to



the pole from where it is provided to the consumer. However, in the case of individual houses within a community, which is also a place of public living, the line is drawn from the mains to the DT, which is to be established at the place where the bunch of houses in the community are put up and from which DT, the electrical supply is provided to each of the individual consumer.

38. Only from the said place where the DT is installed/erected by the licensee, the supply would be provided to the doorsteps of the consumer by receiving the requisite amount of charges for providing the electrical supply. Regulation 44 of the Distribution Code provides the licensee with power “to collect charges from a person requiring supply of electricity **any expenses reasonably incurred** in providing any electric line or electrical plant used for the purpose of giving that supply”. From Regulation 44, it is amply clear that the expenses reasonably incurred could only be taken to mean that the expenses, which are incurred for the purpose of providing electrical supply from the DT to the doorsteps of the consumer. Installation of DT for providing electrical supply rests with the petitioners and only to the extent of provision of space for installation of DT, that too within a community, the consumer is burdened with the responsibility to give space free of cost. Giving any wider interpretation to



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the term “*expenses reasonably incurred*” to take within its fold even the expenses towards the installation/erection of DT would be nothing but importing something which is not provided in the Distribution Code. Further, when it is the duty of the petitioners to provide electrical supply to the consumer’s premises, it necessarily means that the infrastructure for providing the same like installation of DT should be made by the petitioners and it cannot be transposed to the head of the consumers. When there is no ambiguity in the provision, it has to be understood in its literal sense and nothing can be added or subtracted to it.

39. In this regard, useful reference can be had to the decision of the Apex Court in *Jayalalithaa’s case (supra)*, where the Apex Court has held that “*when the statute provides for a particular procedure, the authority has to follow the same and cannot be permitted to act in contravention of the same. In other words, where a statute requires to do a certain thing in a certain way, the thing must be done in that way and not contrary to it at all. Other methods or mode of performance are impliedly and necessarily forbidden*”.

40. In the present case, there is clear prescription under Regulation 26 (iii) of the Distribution Code that the cost towards the installation/erection of DT,



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including the provisioning of AB switch, HG fuse, DT structure/pole shall be borne by the licensee. The said provision has been brought in by way of amendment to the Distribution Code vide notification dated 9.6.2020. The said Regulation has not been challenged by the petitioners and when such being the position, the provision putting the charges towards installation of DT on the licensee, calling upon the individual consumers to pay the charges towards the installation of DT is wholly impermissible.

41. Though a contention has been raised on behalf of the petitioners that the DT provided in a community, where there are dwelling units, is only for the exclusive purpose of the community alone and, therefore, it is the individual consumers, who have to bear the cost collectively towards the installation of the DT, however, it is to be pointed out that the collectiveness of individual consumers in the community cannot be the basis to claim that the charges towards the installation of the DT should be borne by the consumers. Even if a DT is provided in a public space, it is for the use of the public, from where the connection is provided to individual household. Merely because the place from where individual lines are drawn is a community, it cannot be the basis to hold that it is in a way different, as a community is also a public space where the



public live and, therefore, the same analogy as is given for public space outside a community is to be given even with respect to the consumers living within a community consisting of individual households, which is also a public space. The mere fact that the community is a closed one cannot be taken to mean that it divests itself of the public character, when the individuals in the community, as individual consumers, use the supply from the DT for their individual households and, therefore, necessarily, the same is also a public space and the rigours of Regulation 26 (iii) of the Distribution Code would squarely be applicable to a community as well.

42. It is not the case of the petitioners that the consumers in the community are not individual households. When even the petitioners fairly agree that the consumers are individuals and individual connections are sought, merely because their stay is in a community, which is developed in a particular manner, it cannot be put against them to collect the charges for installation of DT from the said consumers. Even the consumers in the community are general public, who are to benefit from the DT by getting supply from the same.



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43. Pausing for a moment and visualising a scenario that instead of a community development, the individual consumers had built the house individually, in that scenario, can the petitioners claim the charges for installation of DT should be borne by the said consumers, when it is not charged from other persons, who have built houses and are similarly placed. The similarity in the utilisation of the electrical supply and living should form the basis for collection of charges and not the character of the community.

44. Even in the grounds raised by the petitioners, advertence is made to Regulation 29 (11)(c) of the Distribution Code which provides that the cost of installation works from the Distribution Transformer to the consumer's meter including portion of any HT line within the consumer's premises when the DT is erected in the consumer's premises shall be borne by the consumer. The aforesaid Regulation clearly prescribes that the charges are collectable only with respect to the supply from the DT to the consumer's premises and not for the installation of the DT. Installation of DT is very much the duty of the petitioners, as the State is bound to give to its citizens electrical supply, which is evident from the objects and reasons of the Electricity Act. When such is the position, giving a different interpretation to the Regulations in the Distribution Code with regard to



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collecting the charges towards installation of DT is wholly against the intent and purpose of the notification issued by TNERC and also the objects and reasons spelt out in the Electricity Act.

45. In the aforesaid backdrop, the contention of the petitioners that the charges towards the installation of DT is collectable from the individual consumers in a community is against the letter and spirit of the provisions of the Distribution Code and rightly appreciating the aforesaid provisions, TNEO had allowed the claim for refund of the charges collected from the respective respondents as also others, who are similarly placed, and, therefore, no interference is warranted with the orders passed by TNEO.

46. However, it is to be made clear that while the charges towards the installation of the DT, which is spelt out in Regulation 26 (iii) of the Distribution Code is to be borne by the licensee, however, insofar as the charges for getting electrical supply from the said DT, the consumers have to bear the charges for drawing the electrical line from the DT to the premises of the said consumers.



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47. Insofar as the writ petitions filed by the individual consumers before TNERC, which had passed the impugned orders in W.P. Nos.36400/2023, etc. Batch, are concerned, it is the stand of the petitioners that Section 86 (1)(f) of the Electricity Act clearly prescribes that the disputes between the licensee and the generating companies alone is adjudicable before TNERC and the disputes between consumers and distribution licensees are adjudicable only before the Consumer Grievance Redressal Forum and any order passed by it is appealable only before TNEO.

48. A perusal of Section 86 (1)(f) of the Electricity Act clearly shows that the disputes between the licensee and the generating companies are alone adjudicable before the TNERC. However, erroneously the petitions have been filed before TNERC, which has also adjudicated the issue, which is impermissible. Therefore, to that extent, the impugned orders passed by TNERC with respect to collection of charges for installation/erection of DT at the hands of the consumers is without jurisdiction and cannot be permitted.

49. However, it is to be noted that the orders passed by TNEO which have been impugned in W.P. Nos. 27115, 27131, 27120, 27122, 27124, 27177, 27126



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& 27130/2021, have been approved by this Court by declining to entertain the contentions advanced by the petitioners. Similar issue has been raised in the second batch of writ petitions in W.P. Nos. 28186/2022 and 34000, 34604, 34605, 34610, 34021, 34614, 34618 & 34625/2023, though, erroneously before the TNERC, however, it is to be noted that TNEO, in the orders impugned in W.P. Nos. 27115, 27131, 27120, 27122, 27124, 27177, 27126 & 27130/2021 had extended the benefit to similarly placed persons and directed the petitioners to refund the excess amount collected from the respective respondents/consumers.

50. The case of the petitioners in W.P. Nos. 28186/2022 and 34000, 34604, 34605, 34610, 34021, 34614, 34618 & 34625/2023 being similar and already there is a direction by TNEO to extend the benefit to similarly situated persons, though the order of TNERC, which is impugned in W.P. Nos 28186/2022 and 34000, 34604, 34605, 34610, 34021, 34614, 34618 & 34625/2023 is identical, but impermissible, this Court, relegating the said petitioners to approach TNEO, would be nothing but protracting the litigation further, though an affirmative ratio had been laid down by TNEO, which has since been confirmed by this Court. Therefore, no useful purpose would be served in setting aside the orders impugned in W.P. Nos.28186/2022 and 34000, 34604, 34605, 34610, 34021,



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34614, 34618 & 34625/2023 and directing the respondents/consumers therein to approach the TNEO as the order passed in W.P. Nos. 27115, 27131, 27120, 27122, 27124, 27177, 27126 & 27130/2021 is squarely applicable to the petitioners in W.P. Nos.28186/2022 and 34000, 34604, 34605, 34610, 34021, 34614, 34618 & 34625/2023.

51. Therefore, in the aforesaid facts of the issue, to render substantial justice, this Court, exercising its inherent jurisdiction under Article 226 of the Constitution, is inclined to grant similar relief to the petitioners in W.P. Nos.28186/2022 and 34000, 34604, 34605, 34610, 34021, 34614, 34618 & 34625/2023, by adopting the order passed by TNEO in W.P. Nos. 27115, 27131, 27120, 27122, 27124, 27177, 27126 & 27130/2021, which has since been confirmed by this Court, as the respective respondents/consumers in W.P. Nos.28186/2022 and 34000, 34604, 34605, 34610, 34021, 34614, 34618 & 34625/2023 are similarly placed, which course alone would meet the ends of justice and would be rendering complete justice.

52. Accordingly, all these writ petitions are disposed of with the following directions :-



- i) *The charges towards the installation/erection of DT would be borne by the licensee, viz., the petitioners herein as per the provisions of the Distribution Code;*
- ii) *The respective respondents, who are the owners of the premises shall provide the necessary space, if not provided, for the installation of DT by the licensee free of cost as provided under the Distribution Code;*
- iii) *The excess charges collected by the petitioners from the respective respondents/consumers in the writ petitions towards the installation of DT shall be refunded back to the respective respondents/consumers.*
- iv) *The respective respondents/consumers shall be liable to pay the charges towards the supply of electrical line from the DT to the premises of the respective consumers upon payment of the requisite charges for the electrical line provided in the Distribution Code.*
- v) *The petitioners are directed to refund the amount collected from the respective respondents/consumers with regard to the charges collected towards the*



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*installation of DT within a period of twelve weeks from
the date of receipt of a copy of this order.*

*vi) Consequently, connected miscellaneous petitions are
closed. However, there shall be no order as to costs.*

07.11.2024

Index : Yes / No

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W.P. Nos.27115/2021, etc. Batch

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To

1. The Chairman & Managing Director
TANGEDCO, NPKRR Maligai
144, Anna Salai, Chennai 600 002.
2. The Superintending Engineer
Chennai Electricity Distribution Circle/South-II
TANGEDCO, 110 KV SS Complex
K.K. Nagar, Chennai 600 078.
3. The Chief Engineer/Distribution
Chennai Region
TANGEDCO, 110 KV SS Complex
144, Anna Salai, Chennai 600 002.
4. The Chief Engineer/Commercial
TANGEDCO, NPKRR Maaligai
TANGEDCO, 110 KV SS Complex
144, Anna Salai, Chennai 600 002.
5. Tamil Nadu Electricity Ombudsman
4th Floor, SIDCO Corporate Office Building
Thiru-Vi-Ka Industrial Estate
Guindy, Chennai 600 032.



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W.P. Nos.27115/2021, etc. Batch

M.DHANDAPANI, J.

GLN

**PRE-DELIVERY ORDER IN
W.P. NOS.27115 OF 2021,
ETC., BATCH**

**Pronounced on
07.11.2024**



W.P. Nos.27115/2021, etc. Batch

W.P. NOS.27115, 27131, 27120, 27122, 27124, 27117,
27126 & 27130 OF 2021
W.P. NO. 28186 OF 2022
W.P. NOS. 34600, 34604, 34605, 34610, 34021, 34614,
34618 & 34625 OF 2023

M.DHANDAPANI, J.

This matter is listed today under the caption “For Being Mentioned” at the instance of the learned counsel for the petitioner.

2. Learned counsel for the petitioner brought to the notice of the Court that in the preamble portion, in the appearance portion and in para Nos.49, 50 and 51 of the order dated 7.11.2024, where the writ petition numbers are shown, though W.P. No.27117/2021 was listed on the said date, however, a typographical error has crept in, wherein, instead of ‘27117’, the number has been wrongly shown as ‘27177’. There it is prayed that necessary correction may be made to the said portions of the order and fresh order copy may be directed to be issued.

3. Learned counsel appearing for the respondents has no serious objection.



W.P. Nos.27115/2021, etc. Batch

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4. This Court perused the order dated 7.11.2024 and also verified the cause list of the said date and finds that in the preamble portion, in the appearance portion as also in para Nos.49, 50 and 51, where the writ petition numbers are shown, instead of '27117' it has been inadvertently typed as '27177'. Accordingly, the number '27177' appearing in the preamble portion, in the appearance portion and also in para Nos.49, 50 and 51 of the order dated 7.11.2024 shall stand replaced with the number '27117'.

5. Registry is directed to carry out the aforesaid correction in the order dated 7.11.2024 and issue fresh order copy to the parties.

08.04.2026

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W.P. Nos.27115/2021, etc. Batch

M.DHANDAPANI, J.

GLN

W.P. NO.27115 OF 2021, etc.

08.04.2026