IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.04.2025

CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

W.P.No.13260 of 2025
and
W.M.P.Nos.14835, 14836 & 14837 of 2025

TAMILNADU PODNY PLASTICE ASSOCIATION,
(REGN.NO.197/2012),
NEW NO.83, SAMI PILLAI STREET,
CHOOLAI-600 112.
CHENNAI,
REPRESENTED BY ITS PRESIDENT
G.SANKARAN. ... Petitioner

Vs

1. TAMILNADU POWER DISTRIBUTION CORPORATION LTD (TNPDCL), REPRESENTED BY ITS CHAIRMAN AND MANAGING DIRECTOR, 144, ANNA SALAI, CHENNAI-600 002.

2. THE CHIEF FINANCIAL CONTROLLER-REVENUE, TNPDCL, 144, ANNA SALAI, CHENNAI-600 002. ... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, calling for the records of the second respondent comprised in Lr.No.CFC/REV/FC/REV/AO/ REV/F.Network charges /D.294/22 dated 04.04.2022 towards the levy of network charges insofar as the matter of levy of network charges for the members of the petitioner's Association are concerned and quash the same as being unfair arbitrary, unreasonable and violative of provisions of the Electricity Act 2003, Electricity (Rights of consumers) Rules 2021 and consequently direct the respondents not to levy the network charges on the member industries of the petitioner's Association and further direct the respondents to refund/adjust the network charges illegally collected from the member industries of the petitioner's Association.

For Petitioner : Mr.S.P.Parthasarathy
For R1 & R2 : Mr.D.R.Arunkumar (TNPDCL)

ORDER

This writ petition is filed with a prayer to call for the records on the file of the second respondent, comprised in Lr.No.CFC/REV/FC/REV/AO/REV/F.Network charges /D.294/22 dated 04.04.2022, towards the levy of network charges, insofar as the matter of the levy of network charges for the members of the petitioner's Association is concerned, as violative of the provisions of the Electricity Act, 2003 and the Rules thereunder.

2. When the matter came up for hearing, the learned counsel appearing for the petitioner would submit that this matter is no longer res integra. A batch of similar matters has already been considered by this Court in W.P. No. 22000 of 2022, etc., and by judgment dated 22.12.2024, the circular that was

issued by the respondent authorities stood quashed, on account of which, the impugned order has to go automatically.

3. The learned counsel appearing for the respondents would submit that they have received the order only recently and they are aggrieved by this order and are preferring a writ appeal against the said order.

4. Be that as it may, the same can be followed in this case also. When this Court had considered the very same issue and passed an order in favor of the petitioner, I am inclined to follow the said order. As a matter of fact, it is relevant to extract the following portion of the order dated 22.12.2024:-

> "*47. As the respondents point out, there is, undoubtedly, a connection to the grid through the Discom, as may be seen from the diagram provided. In my understanding, the Discom is an indispensable feature in the mechanism forgeneration of electricity as, without that feature, or its equivalent, it would be possible to use the power generated, captively. The feature essentially provides the facility of converting raw power to power in a form that is usable by the consumer and is a facility necessary for any captive generator to possess in order to use/deploy the power captively generated. However, this would not, in my view, lead to the conclusion that there is an enabling facility provided by the respondents to*

warrant an unanticipated charge, that too, one already passed on.

48. The argument advanced by the State is that such a feature, a Discom or equivalent thereof, could well have been obtained by the generator themselves, and having not done so, would expose them to the charges. The cost of a Discom is stated to be prohibitively high and the petitioners submit that this would beyond their means.

49. This issue also be seen in the context of the object and reason why the State had promoted solar power in the first place. It is the vagaries of conventional sources of power that had prompted the State to encourage persons/industries to explore alternate sources of power. Thus, having encouraged them to explore alternate power sources the State cannot impose an unfair burden on them for so complying.

50. The Respondents have taken pains to illustrate the substantial expenditure incurred by them to put in place the infrastructure for transmission of power as well as various additional responsibilities and costs. This may well be so. While the budgeting of expenditure is certainly a matter of importance and the State/Respondents cannot be faceted at a policy level, to expect the consumers to share the same, this is a case where the Tariff Order and

Regulations referred to above would conclusively establish that such expenditure has, in fact, been factored into the determination of tariff as a hidden cost. The respondents have failed in their attempt to seek modification of the Tariff Order, and the order in the Miscellaneous Petition as well as subsequent proposals (in draft form) clearly establish this position.

51. Hence, there is no sanctity in the impugned demands. If at all the respondents believed that there should have been an additional component of cost, then the proposal should have been made and finalized in a transparent manner enablishing the petitioners to take an informed decision as to whether they are interested in exploring the solar policy at all. This was never done.

52. Moreover Section 86(1)€ of the Electricity Act, 2003 states that 'The State Commission shall promote cogeneration and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licensee.'

53. Notwithstanding the statutory responsibility *casts on the respondents, I believe that they have already enriched themselves to the extent of costs that have been passed on to the petitioners as part of the tariff. To do so, once more by way of the impugned additional demands would thus contrary to not just the spirit of the State Policy and vision but the Regulations and the statutory directives as well.*

54. In such circumstances I have no hesitation in setting aside the impugned demands and allowing these writ petitions and I do so. Connected Miscellaneous Petitions are closed. No costs."

5. In view thereof, this writ petition is also disposed of on the same terms. Consequently, connected miscellaneous petitions are closed. No costs.

09.04.2025

Neutral Citation: Yes/No
nsl

To

1. THE CHAIRMAN AND MANAGING DIRECTOR,
TAMILNADU POWER DISTRIBUTION
CORPORATION LTD (TNPDCL),
144, ANNA SALAI,
CHENNAI-600 002.

2. THE CHIEF FINANCIAL CONTROLLER-REVENUE,
TNPDCL,
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D.BHARATHA CHAKRAVARTHY, J.

nsl

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