IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2025

CORAM:

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

W.P.No.13727 of 2025
and
W.M.P.Nos.15415 & 15416 of 2025

THE SOUTHERN INDIA MILLS ASSOCIATION,
41, RACE COURSE ROAD,
COIMBATORE-641 018,
REP. BY ITS SECRETARY GENERAL K.SELVARAJU.

... Petitioner

Vs

1. THE CHAIRMAN CUM MANAGING DIRECTOR,
TAMIL NADU GENERATION AND DISTRIBUTION
CORPORATION LIMITED (TNPDCL),
NPKRR MAALIGAI, 144, ANNA SALAI,
CHENNAI-600 002.

2. THE CHIEF FINANCIAL CONTROLLER -REVENUE,
TAMIL NADU GENERATION AND DISTRIBUTION
CORPORATION LIMITED (TNPDCL),
NPKRR MAALIGAI, 144, ANNA SALAI,
CHENNAI-600 002.

3. TAMIL NADU ELECTRICITY REGULATORY COMMISSION,
REP. BY ITS SECRETARY,
SIDCO CORPORATE OFFICE BUILDING,
4TH FLOOR, THIRU.VI.KA. INDUSTRIAL ESTATE,
GUINDY, CHENNAI-32.

4. THE GOVERNEMNT OF TAMIL NADU,
REP. BY ITS SECRETARY TO GOVERNMENT,
ENERGY DEPARTMENT,
FORT ST. GEORGE, CHENNAI-600 009.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, to quash the letter of second respondent Lr.No.CFC/REV/FC/REV/AO/REV/F.Network charges/ D.294/22, dated 04.04.2022 and forbear the respondents 1 and 2 or their subordinates from levying and collecting network charge to the members of the petitioner Association with effect from 22.10.2021 retrospectively by on the basis of the in pursuance of the order No.8 of 2021 dated 22.10.2021 passed by the third respondent.

For Petitioner	:	Mr.M.Kamalanthan
For R1 to R4	:	Mr.D.R.Arunkumar (TANGEDCO)

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 and to forbear the respondents 1 and 2 or their subordinates from levying and collecting network charge to the members of the petitioner's Association with effect from 22.10.2021 retrospectively in pursuance of the order No.8 of 2021 dated 22.10.2021 passed by the third respondent.

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 respondent TANGEDCO 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.

16.04.2025

Neutral Citation: Yes/No
nsl

To

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D.BHARATHA CHAKRAVARTHY, J.

nsl

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