

**TAMIL NADU ELECTRICITY REGULATORY COMMISSION**  
**(Constituted under section 82 (1) of the Electricity Act, 2003)**  
**(Central Act 36 of 2003)**

**PRESENT:-**

**ThiruM.Chandrasekar**

.... Chairman

and

**ThiruK.Venkatasamy**

.... Member (Legal)

**M.P.No. 43 of 2021**

Union of India  
Represented through  
Chief Electrical Traction Engineer  
Office of Principal Chief Electrical Engineer  
Southern Railway,  
7<sup>th</sup> Floor, NGO Annex  
Park Town  
Chennai – 600 003.

....Petitioner  
(ThiruK.Muthamil Raja  
Advocate for the Petitioner)

**Vs**

1. Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO)  
Represented by  
The Chairman and Managing Director  
Tamil Nadu Electricity Board  
10<sup>th</sup> Floor, NPKRR Maligai  
No.144, Anna salai,  
Chennai – 600 002.
  
2. Tamil Nadu Transmission Corporation Limited (TANTRANSCO)  
Represented by  
Managing Director  
Tamil Nadu Electricity Board  
10<sup>th</sup> Floor, NPKRR Maligai  
No.144, Anna Salai,  
Chennai – 600 002.

3. Chief Engineer / NCES  
TANGEDCO  
2<sup>nd</sup> Floor, NPKRR Maligai  
No.144, Anna Salai,  
Chennai – 600 002.

....Respondents  
(ThiruM.Gopinathan,  
Standing Counsel for TANGEDCO)

(ThiruV.Anil Kumar  
Advocate for TANTRANSCO)

**Dates of hearing :** 26-10-2021; 09-11-2021; 23-11-2021;  
07-12-2021; 28-12-2021; 11-01-2022;  
and 01-02-2022

**Date of order:** 05-05-2022

The M.P. 43 of 2021 came up for final hearing on 01-02-2022. The Commission upon perusing the affidavit filed by the petitioner, counter affidavit filed by the respondent and all other connected records and after hearing both the parties passes the following:-

### **ORDER**

**1. Prayer of the Petitioner in M.P No.43 of 2021:-**

The prayer of the petitioner in this petition is to direct TANGEDCO to permit provision of net metering for all the locations listed in NOC application under 4MW dated 10.03.2021 within a timeline and to punish the Respondent for non-compliance of the order dated 25.02.20 passed in M.P.No.19 of 2018 under Section 142 of Electricity Act, 2003 by the Commission.

## 2. Facts of the Case:-

This petition has been filed for non-compliance of the order of the Commission dated 25-02-2020 "Extending the net metering facility for solar projects connected under HT IIA and HT III tariff category consumers in Tamil Nadu" as per the Commission's Order No.3 of 2013 dated 13-11-2013.

## 3. Contentions of the Petitioner:-

3.1. The petitioner filed M.P.No.19 of 2018 before the Commission to extend the net metering facility for solar project connected under HT II A and HT III Tariff category consumers in Tamil Nadu as per Commission's Order No.3 of 2013 dated 13.11.2013.

3.2. The notice was served to the respondent herein and the respondent filed counter on 29.03.2019 and contested the matter. After hearing both the parties, the Commission passed the following order on 25.02.2020:-

*"The prayer of the Petitioner is to direct the respondent to act in compliance of the Tamil Nadu Solar Energy Policy 2012 of the Government of Tamil Nadu and the Commission's Order No.3 of 2013 dated 13.11.2013 which was effectuated in the Respondent's Circular in Memo No.CE/Commercial/EE/R&C/AEE1/F Solar NM/D.023/14 dated 17.02.2014 and thereby "grant connectivity and net metering to the petitioner for the implementation of 4 MWp Rooftop Solar Project for Southern Railway' for service and solar capacities in Tamil Nadu given below in a time bound manner*

S. No.	Location	S.C.No.	Revised Capacity (KWp)
1	Chengalpattu Railway Station	28	50
2	Katpadi Railway Station	1008	50
3	Arakkonam Railway Station	1233	50
4	Tambaram Railway Station	77	50
5	Moore Market Complex	2191	1000
6	Chennai Central (BBQ SS)	2142	900
7	Royapuram Electric Loco Shed	1054	100
8	Chennai Egmore Railway Station	2148	250
9	Jolarpettai Railway Station	1	50

10	<i>Tiruchirapalli Station</i>	13	200
11	<i>DRM Office</i>		200
12	<i>Villupuam Railway Station</i>	2	50
13	<i>Madurai DRM Office</i>	52	200
14	<i>Madurai Railway Station</i>	71	100
15	<i>Virudhunagar Railway Station</i>	26	50
16	<i>Tirunelveli Railway Station</i>	45	50
17	<i>Salem Railway Station</i>	9	100
18	<i>Erode Junction Railway Station</i>		100
19	<i>Erode DSL Loco Shed</i>	1	100
20	<i>Erode Electric Loco Shed</i>		150
21	<i>Coimbatore Railway Station</i>	1	100
22	<i>Nagercoil Railway Station</i>	18	50

3.3. The Tamil Nadu Solar Policy was announced by Hon'ble Chief Minister of Tamil Nadu on 19.10.2012 vide G.O.No.121 dated 19.10.2012, Clause 14 of the solar policy envisaged establishment 3000 MW of solar PV power plants by 2015 as detailed below:-

	Utility Scale (MW)	Solar Roof Tops (MW)	REC (MW)	Total MW
	(a)	(b)	(c)	(d)
2013	750	100	150	1000
2014	550	125	325	1000
2015	200	125	675	1000
Total	1500	350	1150	3000

3.4. Based on the policy directives, the Commission has issued Order on "LT" connectivity and net metering" vide Order No.3 of 2013 dated 13.11.2013. As per the above said order of Commission, the following categories of consumers are eligible for availing net metering facility:-

1	HT Tariff II-A-Government, Educational Institution, Government Hospitals, Water Supply and places of Worship
2	HT III – Commercial
3	LT I-A Domestic
4	LT I-C Bulk Supply, Railway Colonies, Defence colonies.

5	LT II-A, Public Lighting, Water Supply
6	LT II-B (1) Government / Aided education institutions, Government hospitals etc.
7	LT V-Commercial

3.5. In order to study the impact of net feed in of solar energy in Distribution Licensee's network, the respondent, TANGEDCO has facilitated net metering facility only to eligible LT consumers although HT-Tariff II-A and HT -III consumers are also eligible for net metering connectivity as per the above orders. Meanwhile, TANGEDCO has also filed a petition in M.P.No.6 of 2017 with following prayers, namely:-

- (i) To cover HT-IIB and LT- I B(2) under the net metering scheme;
- (ii) To provide net metering to measure input from the grid and the excess solar generation fed into the grid;
- (iii) To calculate the value of grid consumption at appropriate tariff and to calculate the excess generation fed into the grid at 50% of the latest solar tender rate or 50% of solar preferential tariff whichever is less;
- (iv) To restrict the solar roof top capacity to 50% of the contracted demand and in case solar capacity exceeds 50% of the contracted demand then to consider only 50% of the contracted demand for billing
- (v) To relax 90% cap imposed during particular settlement period;
- (vi) To apply the revised scheme of the existing LT/HT networking scheme;
- (vii) To cover HT IIA and HT - III consumers availing parallel operation without net metering under the new accounting methodology;
- (viii) To cover HT IIB and LT IIB(2) consumers under the new accounting methodology;

(ix) To specify the control period and settlement period as one year (financial year);

(x) To install net meters to all net metering consumers and to levy appropriate tax.

3.6. However, the TANGEDCO had withdrawn the above petition and submitted revised petition only for LT service connections for solar net metering in M.P.No.9 of 2017. In the said M.P.No.9 of 2017, the petitioner TANGEDCO has prayed to consider the revisions in the existing net metering policy under revised accounting methodology as mentioned in para 18 of the said petition.

3.7. Meantime Government of Tamil Nadu, has announced the Tamil Nadu Solar Energy Policy, 2019, on 04.02.2019. In the above order, instead of unit to unit adjustment, generated energy I consumption will be adjusted on monetary basis.

3.8. As per the above said new policy, net feed-in of solar energy scheme will be available to all LT category of consumers. The surplus energy exported after consumption will be adjusted in terms of monetary value instead of unit to unit as followed in the existing system. There is no explanation in the new policy about the HT consumers under consumer category.

3.9. From the prayer of the petitioner it seems that the requirement of the solar roof top plant capacity varies from 50 kWp to 1000 kWp in various locations of Tamil Nadu which consists of both HT I LT service connections. Based on the above discussion and records available, it is observed that the CE/NCES/TANGEDCO has replied to M/s.Southern Railway vide letter dated 07.03.2018 that they can use

Commission's order on LT connection and Net metering vide Order No.3 dated 13.11.2013 and for HT service connections, M/s. Southern Railway can opt parallel operation with grid without net metering even though Order No.3 of 2013 dated 13.11.2013 of the Commission permitted them to go for HT net metering system. As they were not allowed to proceed with HT net metering system, M/s. Southern Railways has filed the petition in M.P.No.19 of 2018 in this Commission on 10.08.2018 when Tamil Nadu Solar Energy Policy, 2012 and Commission's Order No.3 of 2013 dated 13.11.2013 were in force. But Government of Tamil Nadu has announced the Tamil Nadu Solar Energy Policy 2019 on 04.02.2019 in which there is no explanation about the HT consumer category. The petition filed by the petitioner was listed for hearings held on 16.11.2018 and 31.01.2019 itself i.e., before issue of New Solar Policy 2012 by government of Tamil Nadu on 04.02.2019 and final hearing was held on 15.10.2019.

3.10. As M/s. Southern Railway has filed the petition before the Commission and hearings were also before the issue of New Tamil Nadu Government Policy 2019 the Commission directs TANGEDCO to provide LT and HT metering connectivity to M/s Southern Railway as per TNERC Order No.3 of 2013 dated 13.11.2013 for the above 4 MW only. All other future cases shall be as per the available orders of TNERC from time to time. If, LT/HT net meters are not available with TANGEDCO M/s Southern Railway may be permitted to procure LT /HT net meters as per TANGEDCO specifications.

3.11. Though the orders were passed on 25.02.2020, the respondent has failed to comply with the directions of the Commission for providing LT and HT metering

connectivity to M/s Southern Railway as per Commission's Order No. 3 of 2013 dated 13.11.2013 for the above 4 MW. On the other hand, the respondent herein filed review petition in R.P.No.2 of 2021 before the Commission, after a period of one year. The Commission passed an order on 13.07.2021 in the Review petition. The above petition was not allowed by the Commission. A letter addressed to CE/NCES/TANGEDCO dated 10.03.2021 along with necessary enclosures was also submitted for issue of 'No Objection Certificate' for all locations under said 4 MW project. CMD/TANGEDCO & TANTRANSCO was requested by Southern Railway to implement the Commission's order vide letters dated 01.03.2021, 24.06.2021, 13.07.2021,15.07.2021 but there is no response till date.

3.12. Even after dismissal of Review Petition on 13.07.2021, till date, the Respondent failed to comply with the direction of the Commission. It is nothing but willful disobedience. Hence the Respondent is liable for penalty to the extent of Rs.1.00 lakh as per Sec.142 of the Electricity Act,2003.

3.13. The following factor to be taken note of for imposing penalty on the Respondent herein. In order to get unfair advantage, the Respondent intentionally failed to comply with the direction of the Commission. Moreover, the Respondent herein did not prefer any appeal against the order of the Commission. Hence the order of the Commission is final and binding on the Respondent in all respect. The petitioner has no other alternative remedy except to file this petition punish the Respondent for non-compliance of order dated 25.02.2020 passed in M.P.No.19 of 2018.



#### 4. Contentions of the Respondent:-

4.1. The Commission has issued order directing TANGEDCO to provide LT and HT metering connectivity to M/s. Southern Railway as per TNERC Order No.3 of 2013 dated 13.11.2013 for the following 22 Nos HT/LT service connection for a combined capacity of 4 MW, on 25.02.2020 in MP.No.19 of 2018.

S. No.	Location	S.C.No.	Revised Capacity (KWp)
1	Chengalpattu Railway Station	28	50
2	Katpadi Railway Station	1008	50
3	Arakkonam Railway Station	1233	50
4	Tambaram Railway Station	77	50
5	Moore Market Complex	2191	1000
6	Chennai Central (BBQ SS)	2142	900
7	Royapuram Electric Loco Shed	1054	100
8	Chennai Egmore Railway Station	2148	250
9	Jolarpettai Railway Station	1	50
10	Tiruchirapalli Station	13	200
11	DRM Office		200
12	Villupuam Railway Station	2	50
13	Madurai DRM Office	52	200
14	Madurai Railway Station	71	100
15	Virudhunagar Railway Station	26	50
16	Tirunelveli Railway Station	45	50
17	Salem Railway Station	9	100
18	Erode Junction Railway Station		100
19	Erode DSL Loco Shed	1	100
20	Erode Electric Loco Shed		150
21	Coimbatore Railway Station	1	100
22	Nagercoil Railway Station	18	50

4.2. The Tamil Nadu State Solar Policy has been announced by the Hon'ble Chief Minister of Tamil Nadu on 19.10.2012 vide G.O.No.121 dated 19.10.2012.

4.3. Based on the policy directive, the Commission has issued order on LT connectivity and Net Metering" issued vide Order No.3 of 2013 dated 13.11.2013.As

per the above said order of the Commission, the following categories of consumers are eligible for availing net metering facility.

1	HT Tariff II-A-Government, Educational Institution, Government Hospitals, Water Supply and places of Worship
2	HT III – Commercial
3	LT I-A Domestic
4	LT I-C Bulk Supply, Railway Colonies, Defence colonies.
5	LT II-A, Public Lighting, Water Supply
6	LT II-B (1) Government / Aided education institutions, Government hospitals etc.
7	LT V-Commercial

4.4. In order to study the impact of net feed in of solar energy in Distribution Licensee's network, the respondent, TANGEDCO has facilitated net metering facility only to eligible LT consumers although HT-Tariff II-A and HT-III consumers are also eligible for net metering connectivity as per the above orders.

4.5. Meanwhile, TANGEDCO has filed a petition in M.P.No.6 of 2017 with the following's prayers, namely: -

- (i) To cover HT-IIB and LT- I B(2) under the net metering scheme;
- (ii) To provide net metering to measure input from the grid and the excess solar generation fed into the grid;
- (iii) To calculate the value of grid consumption at appropriate tariff and to calculate the excess generation fed into the grid at 50% of the latest solar tender rate or 50% of solar preferential tariff whichever is less;
- (iv) To restrict the solar roof top capacity to 50% of the contracted demand and in case solar capacity exceeds 50% of the contracted demand then to consider only 50% of the contracted demand for billing

- (v) To relax 90% cap imposed during particular settlement period;
- (vi) To apply the revised scheme of the existing LT/HT networking scheme;
- (vii) To cover HT IIA and HT - III consumers availing parallel operation without net metering under the new accounting methodology;
- (viii) To cover HT IIB and LT IIB(2) consumers under the new accounting methodology;
- (ix) To specify the control period and settlement period as one year (financial year);
- (x) To install net meters to all net metering consumers and to levy appropriate tax.

4.6. Subsequently the Government of Tamil Nadu has announced the Tamil Nadu Solar Energy Policy 2019 on 04-02-2019. As per the above order instead of unit-to-unit adjustment, generated energy/consumption will be adjusted on monetary basis and net feed-in of solar energy scheme will be available to all LT category of consumers. The surplus energy exported after consumption will be adjusted in terms of monetary value instead of unit to unit as followed in the existing system. There is no explanation in the new policy about the HT consumers under consumer category.

4.7. Since there exists a vacuum with respect to the HT roof top connectivity, in the TamilNadu Solar Energy Policy 2019 dated 04.02.2019, TANGEDCO started giving only parallel operation to the ROOF TOP solar in HT services and not extended Net Metering facility, so far. Further to get clarification in this regard

TANGEDCO filed M.P.No.14 of 2021 praying for the revised procedure for Solar Roof Top facility to L T &HT consumers.

4.8. The Commission vide in its order dated 29.06.2021 as follows:

*"Thiru.M.Gopinathan, Standing Counsel appeared for TANGEDCO and filed affidavit. Thiru.S.P.Parthasarathy, Advocate has submitted that despite the directions in the previous Daily Order, the TANGEDCO has not processed even a single application as per the existing provisions. The Commission in its Daily Order dated 23.03.2021 has specifically directed the petitioner to process the pending applications in a time bound manner as per the existing order / procedure in this regard. Thereafter in the hearing held on 15-06-2021, Thiru.S.P.Parthasarathy, Advocate has brought to the notice of the Commission about inaction of the officials of TANGEDCO in not complying the earlier orders of the Commission. Commission also directed the TANGEDCO to comply with the orders of the Commission within 2 weeks i.e., before 29.06.2021 and observed that in the event of non-compliance, Commission would be constrained to impose Rs.500j- as fine for each day of default to be recovered from the CE/NCES of TANGEDCO. The Commission further observed that it would recommend for recording of such lapses in the Service Register of the concerned officials with due information to Government of Tamil Nadu as well. In spite of the above clear and categorical orders of this Commission on 23.03.2021, nothing had been done by the petitioner to comply the above orders of the Commission and hence Commission observed that the inaction of the petitioner warranted imposition of penalty as ordered on 15.06.2021. Thereupon, Thiru.SivalingaRajan, Chief Engineer / NCE5, appeared before the Commission on 29.06.2021 through Video Conferencing and submitted that he had discussed the*

*matter with the management of TANGEDCO and it was preferred to await the final orders of the Commission. He also submitted that there was no deliberate intention to disobey the orders of the Commission and also the Commission to give a direction to the effect that the applicants seeking connection shall furnish an undertaking to TANGEDCO that the effecting of service connection is subject to the final orders passed by this Commission in M. P. No. 14 of 2021 and in case of any due is to be paid as per the said final order to be issued by this Commission, they shall pay the same immediately. The Commission is of the view that the attitude of the petitioner warrants a proceeding under section 142 of the Electricity Act, 2003. However, the Commission, as a regulator, taking the interest of both sides passed the following order:-*

*All the applicants whose applications for connections are pending as on date shall give an undertaking that they will abide by the final orders of the Commission to be passed in M.P.No.14 of 2021 and any amount is found to be due from them, they would pay the same immediately. On furnishing such undertaking, the petitioner shall process such applications and take action to energize their connections as per the existing procedure / provision. In case of any violation / non- compliance of this order, it will be viewed seriously and a fine of Rs.500/- will be imposed on the officials concerned for each day of delay from 29.06.2021 till compliance. Registry is also directed to mark a copy of this order to CMD/TANGEDCO for appropriate action. The case is adjourned to 20.07.2021 for further hearing. "*

4.9. Against the order dated 29.06.2021 of the Commission, TANGEDCO has filed a writ petition vide W.P.No.15532 of 2021 in the High Court of Judicature at

Madras, " pray that this Hon'ble Court may issue Order or direction or Writ of Certiorarified Mandamus calling for the records pertaining to the issuance of the daily Order dated 29/06/2021 passed in M.P.No.14 of 2021 on the file of respondent and quash the same and further direct the Respondent to pass Orders on M.P.No.14 of 2021 on merits within the time stipulated by this Hon'ble Court.

4.10. The Hon'ble High Court of Madras vide order dated 16.06.2021 has directed as follows:

*"In view of the same, there shall be a direction to the respondent Commission to pass final order in MP.No.14 of 2021 with in a period of four weeks, i.e., on or before 13.09.2021 immediately after the order are passed by the commission, the petitioner will have to process the applications and energize the solar power plants. To ensure that the pending applications are properly considered and the power plants are energized, this wants to post this matter under the caption, for the orders passed by the respondent commission, further direction, if required will be issued by this court".*

4.11. Based on the order of High Court of Madras, the Commission has issued Generic Tariff Order for Grid Interactive PV Solar Energy Generating System (GISS) Order No. 8 of 2021 dated 22-10-2021 and also the net meter facility has not been extended to all categories of LT & HT except only to Domestic category and by which the Commission is fully understanding the financial impact to TANGEDCO and not extended net metering facility to HT services in this order.

4.12. TANGEDCO has been finalizing the working procedure for implementation this Generic Tariff Order for Grid Interactive PV Solar Energy Generating System (GISS) and shortly it will be implemented within 2 weeks.

4.13. TANGEDCO as on 30.11.2021 has 248 Nos of pending application received from HT consumers seeking connectivity to their Roof Top solar plants.

4.13. All these application are to be considered only based on the latest Generic Tariff Order for Grid Interactive PV Solar Energy Generating System (GISS) order of the Commission No. 8 of 2021 dated 22-10-2021 with Net feed in (or) Gross metering facility only.

4.14. If the order of the Commission dated 25.02.2020 is implemented and net metering given to the petitioner, it will result in discrimination from HT consumer without Net Metering facility, and also the other HT consumer who have applied extension to this order may also seek net metering facility which will impact the TANGEDCO financially.

4.15. TANGEDCO is not willingly disobeying the order of the commission Hence in view of the submission above and prays for direction to consider the application of the petition under new Generic Tariff Order for Grid Interactive PV Solar Energy Generating System (GISS) Order No. 8 of 2021 dated 22-10-2021 on par with the batch of 248 Nos HT roof Top application pending with TANGEDCO, and prays to dismiss the petition.

4.16. The Commission vide in its order dated 15.06.2021 has specifically directed the TANGEDCO to process the pending applications in a time bound manner as per the existing order and also imposed penalty for not compliances.

4.17. Against the order dated 15.06.2021 of the Commission TANGEDCO filed a writ petition vide W.P.No.15532 of 2021 in the High Court of Judicature at Madras.

4.18. The Hon'ble High Court of Madras has directed the Commission to pass final order in M.P. No. 14 of 2021 within a period of four weeks, i.e. on or before 13-09-2021 in its order dated 16-08-2021.

4.19. Based on the order of High Court of Madras, the Commission has issued Generic Tariff Order for Grid Interactive PV Solar Energy Generating System (GISS) Order No.8 of 2021 dated 22-10-2021. Also, Net meter facility has not been extended to all categories of LT &HT except only to Domestic category. The Commission is fully understanding the financial impact to TANGEDCO.

4.20. TANGEDCO has been finalizing the working procedure for implementation this Generic Tariff Order for Grid Interactive PV Solar Energy Generating System (GISS) sharing will be implementation within 2 weeks.

4.21. TANGEDCO has 248 Nos of pending application received from HT consumers seeking connectivity to their Roof Top solar plants from 22.09,2021.



4.22. All these applications are to be considered only based on the latest Generic Tariff Order for Grid Interactive PV Solar Energy Generating System (GISS) order of the Commission with Net feed in (or) Gross metering facility only.

4.23. If the order of the Commission dated 25.02.2020 is implemented and net metering given to the petitioner, it will result in discrimination between HT consumer without Net Metering facility and also the other HT consumer who have applied extension to this order may also seek net metering facility which will impact the financial position of TANGEDCO.

4.24. Hence in view of the submission above, TANGEDCO is not willingly disobeying the order of the commission and is praying for order to consider this petitioner's application and also under the new Generic Tariff Order for Grid Interactive PV Solar Energy Generating System (GISS) Order No.8 of 2021 dated 22-10-2021 on part with the batch of 248 Nos HT roof Top application pending with TANGEDCO and pray to dismiss the petition.

## **5. Rejoinder filed on behalf of the Petitioner:-**

5.1. The respondents have diluted the prayer sought by us in the present petition and filed this counter affidavit dated 07.12.2021 by totally diverting the material facts and also by misrepresenting the facts and events which are much important for deciding the issue on hand. The respondent has no say at all in the prayers sought by us as per the directions issued by the Commission by its order dated 25.02.2020 on MP No.19/2018.

5.2. After going through all the facts and submission, the Commission vide para 8 of the findings had stated that "As M/s. Southern Railway has filed the petition before the Commission and hearings were also held before the issue of New Tamil Nadu Government Policy 2019 the Commission directs TANGEDCO to provide LT and HT metering connectivity to M/s. Southern Railway as per TNERC Order No.3 of 2013 dated 13.11.2013 for the above 4 MW only. All other future cases shall be as per the available orders of TNERC from time to time."

5.3. The respondent is desperate in finding new orders and policies to deny net-metering to Railways, which is nothing but a clear case of Non-compliance of the said order dated 25.02.2020. The respondent is fully aware and treated the case of Railways under MP 19 of 2018 as an isolated one from MP No. 14 of 2021 (which was under hearing on dates 23.03.2021,15.06.2021,29.06.2021, 20.07.2021,03.08.2021,17.08.2021 & 14.09.2021) by submitting a Revision Petition No.2 of 2021 before the Commission simultaneously, which was not admitted vide daily order dated 13.07.2021. As such, MP No. 14 of 2021 is not relevant to subject case as contended.

5.4. The counter affidavit is raising the financial implication arising out of prospective seekers of net-metering while the order had clearly spelt out that All other future cases shall be as per the available orders of TNERC from time to time. So, without any ground, the respondent is trying all sorts of alibi to substantiate its Non-compliance.

5.5. Therefore, viewed in any angle, the respondent is practicing willful disobedience of the Commission's order through Non-compliance. It is prayed that the Commission may pass an appropriate order with direction to respondents for implementation of Commission's Order on MP 19 of 2018 in letter and spirit in time bound manner and thereby extend net metering facility for all requested locations within Tamil Nadu vide NOC application dated 10.03.2021 under Solar Rooftop project for Four MWp project, which is being executed by Southern Railway and thus render justice, to avoid further loss, avoid taking precious time of the Commission just to deny Net-metering in a genuine isolated, concluded case. The Commission is also request to punish the respondent with appropriate penalty, as a deterrent, to desist the present and future incumbents in Non-compliance of the Commission's orders without ground.

**6. Written Arguments filed by the Petitioner:-**

6.1. The Petitioner humbly submits that M.P No. 43 of 2021 was filed under Section 142 of Electricity Act, 2003 for Non-compliance of the order of the Commission dated 25.02.2020 "Extending the net metering facility for solar projects connected under HT IIA and HT III tariff category consumers in Tamil Nadu" as per TNERC order No.3 of 2013 dated 13.11.13".

6.2. Though the orders were passed on 25.02.2020, the respondent has failed to comply with the directions of Court for providing LT and HT metering connectivity to M/s Southern Railway as per TNERC order no 3 of 2013 dated 13.11.2013 for the above 4 MW. On the otherhand, the respondent herein filed review petition in R.P.No.2 of 2021 before the Commission, after a period of 1 year. The

Hon'ble Commission was pleased to pass an order on 13.07.2021 in the Review petition. The above petition was not allowed by the Commission. A letter addressed to CE/NEES/TANGEDCO dated 10.03.2021 along with necessary enclosures was also submitted for issue of No Objection Certificate for all locations under said 4 MWp project. CMD/TANGEDCO & TANTRANSCO and CE/NCES was requested by Southern Railway to implement the Commission's order vide letters dated 01.03.2021, 24.06.2021, 13.07.2021, 15.07.2021 but no response till date.

6.3. Even after dismissal of Review Petition on 13.07.2021, till date, the Respondent failed to comply with the direction of the Commission. It is nothing but willful disobedience. Hence, the respondent is liable for penalty to the extent of Rs.1.00 lakh as per section 142 of the Electricity Act, 2003.

6.4. The following factors to be taken note of for imposing penalty on the Respondent herein. In order to get unfair advantage, the Respondent intentionally failed to comply with the direction of the Commission. Moreover, the Respondent herein did not prefer any appeal against the order of the Commission. Hence the order of the Commission is final and binding on the Respondent in all respect.

6.5. The Respondent filed their counter in the above M.P No. 43 of 2021 and raised flimsy defence relied on order passed by the Tribunal in GISS Order No.8 of 2021 dated 22.10.2021. The aforesaid order passed by the Tribunal is not at all applicable to the case in hand.

6.6. The order passed by the Tribunal in M.P No. 19 of 2018 dated 25.02.2020 is clear in respect of Tamil Nadu Solar Energy Policy, 2019 that the policy was not applicable to the Petitioner's case. The findings in this regard were specifically given in the operating portion of the order at Page.22 (Last paragraph). Even after the clear findings given by this Tribunal, the Respondent referred the Solar Energy Policy of Tamil Nadu 2019 once again in their counter as defence for non-compliance.

6.7. The operating portion of the order in M.P No. 19 of 2018 dated 25.02.2020 which read as follows:-

*"As M/s Southern Railway has filed the petition before the Commission and hearings were also before the issue of New Tamil Nadu Government Policy 2019 the Commission directs TANGEDCO to provide LT and HT metering connectivity to M/s. Southern Railway as per TNERC Order No.3 of 2013 dated 13.11.2013 for the above 4 MW only. All other future cases shall be as per the available orders of TNERC from time to time. If, LT/HT net meters are not available with TANGEDCO M/s Southern Railway may be permitted to procure LT IHT net meters as per TANGEDCO specifications."*

6.8. It is clear from the above order "All other future cases shall be as per the available orders of the TNERC from time to time". Hence the Respondent cannot rely on the order passed in GISS Order No 8 of 2021 dated 22.10.2021 which is not at all applicable to the Petitioner's case. The Respondent cannot take advantage of order passed in GISS Order No 8 of 2021 dated 22.10.2021. Moreover the said order is having prospective effect and the same was specifically stated at para 14.0.

6.9. The Respondent cannot rely on GISS Order No 8 of 2021 dated 22.10.2021 to their rescue for non-compliance of order dated 25.02.2020 passed in M.P No. 19 of 2018.

6.10. The Respondent has no valid defence. The counter filed by them deserve to be rejected as the averments are not maintainable and it is quite contrary to the order dated 25.02.2020 passed in M.P No. 19 of 2018. The Respondent simply reproduced the order of the Tribunal in M.P No. 14 of 2021 and W.P order and repeated the averments made in para 13 to 20 in para 21 to 26 also. It reflects that the Respondent has no defence on merits. The averments regarding financial impact on TANGEDCO is equally applicable to petitioner also, since the Respondent is one of the largest consumer paying crores of Rupees as electricity charges for consumption of millions of units from TANGEDCO every year. To put an end to the financial loss to the Petitioner it is essential to promote solar energy generation. The Respondent intentionally failed to comply with the order of the Tribunal with the malafide intention to cause financial loss to the Petitioner thereby they want to unjustly enrich themselves from the Petitioner.

## **7. Findings of the Commission:-**

We heard both parties and perused materials and documents.

7.1. The prayer of the petitioner Railways is to direct the TANGEDCO to permit provision of net metering for 22 locations of total capacity 4MW in aggregate as already ordered by this Commission on 25.02.2020 and to punish the respondent Licensee for non-compliance of the said Commission's order.

7.2. The respondent in their submission contend that the relevant application of the petitioner seeking net metering for 22 locations with the said capacity had to be considered along with the pending applications for roof top plants of other HT consumers of various categories in accordance with the latest Commission's Tariff Order No.8 dated 22.10.21 for Grid Interactive PV solar Energy Generating System (GISS) on the ground that if the order of the Commission dated 25.02.2020 implemented granting net metering facility to the petitioner, it would result in discrimination between HT consumers and thereby financial implications.

7.3. Before proceeding to deal with the merit of the case, it needs to be made clear at the outset that unless an order of the judicial forum is challenged before the appellate form in the manner as provided in law, the order remains final and binding on the parties concerned. The order passed by this Commission in the M.P.19 of 2018 granting net metering to petitioner for a total capacity of not exceeding 4 MWp Roof top solar projects of 22 locations has neither been implemented nor challenged till date. The Review Petition filed by the Respondent before this Commission was not admitted either.

That said, we proceed to analyze if the grounds and reasons relied by the respondents to have not implemented the Commission's order carry legal substance and merits.

7.4. The Government of Tamil Nadu had originally issued the solar policy vide G.O.121 dt 19.10.12 with a target of achieving 3000 MW by 2015. Based on the policy directive, the Commission issued order on "*LT Connectivity and net metering*" in Order no.3 of 2013 dated 13.11.13.

7.5. Subsequently the Government of Tamil Nadu announced the Tamil Nadu Solar Energy Policy 2019 on 04.02.19 with feed-in mechanism of metering and billing.

7.6. In the meanwhile, the petitioner filed M.P.No.19 of 2018 to this Commission when the aforesaid Tamil Nadu Solar Energy Policy 2012 and Commission's Order No.3 of 2013 dated 13.11.2013 were in force, praying to permit net metering to the Roof top solar plants for their 22 numbers Service Connections located at various parts of the State, the total capacity of which not exceeding 4MW.

During the course of hearing of this M.P.No. 19 of 2018, the new Solar Policy of the Government 2019 was notified. To be precise, before the Government of Tamil Nadu announced the New Solar Policy 2019 on 04.02.19, the petition filed by the Railways had been heard on 16.11.18 and 31.01.19 with the final hearing culminated on 15.10.19.

7.7 Taking in to consideration of all the above developments in every stage, the Commission passed the order in M.P.No.19 of 2018 with clear explanation of facts and circumstances in the order itself. The Petition having been filed by Railways in 2018 before the notification of new Solar Policy in 2019 and order passed by this Commission accordingly, the new Solar Policy of 2019 cannot be mixed retrospectively as an influencing factor of the defense of the Respondent Licensee for non-implementation of the said order.

7.8. Further the reason put forth by the respondent to have waited for the outcome of the M.P.14 of 2021 filed by them before this Commission, for not implementing the orders of the Commission in M.P.19 of 2018 lacks merit as the



subject petitions deal with two different perspectives. While M.P.19 of 2018 was a case of isolated consideration limited to particular set of locations of particular load dealt with Solar Policy of 2012, M.P 14 of 2021 filed by the Respondent Licensee was a case with broad consideration of applicability of net metering/Net feed-in/ Gross metering for entire categories of consumers of various levels of loads and voltages.

The above distinction was already made clear in Para 8 of this Commission order in M.P. No19 of 2018 as

*“As M/s. Southern Railway has filed the petition before the Commission and hearings were also held before the issue of New Tamil Nadu Government Policy 2019 the Commission directs TANGEDCO to provide LT and HT metering connectivity to M/s. Southern Railway as per TNERC Order No.3 of 2013 dated 13.11.2013 for the above 4 MW only. All other future cases shall be as per the available orders of TNERC from time to time “*

7.9. Consequent to the development of framing TNERC (Grid Interactive Solar PV Energy Generating Systems) Regulations, 2021 with policy directives and implementation guidelines and issue of Generic tariff order for Grid Interactive PV Solar Energy Generating System (GISS) – Order No. 8 of 2021 dated 22-10-2021, the Commission disposed the M.P.14 as follows:

*“Determination of generic tariff along with operational mechanism and billing methodology have been evolved by the Commission for net-metering, net-billing and gross metering of solar power and notified vide generic tariff order for Grid Interactive PV Solar Energy Generating System (GISS) – Order No. 8 of 2021 dated 22-10-2021.*

*7.2. TNERC (Grid Interactive Solar PV Energy Generating Systems) Regulations, 2021 have been framed by the Commission and notified in line with the Electricity (Rights of Consumers) Rules, 2020 as amended. It also entails various provisions of the Generic Order No. 8 of 2021 for implementation of tariff so fixed and all the procedures involved therein.*

*7.3. In view of the fact that the said tariff order and regulations collectively addresses all the issues raised by the petitioner Licensee, no adjudication in any manner, is required further thus rendering the petition as infructuous.*

*Accordingly the petition is disposed of as infructuous”*

7.10. The above disposal made no reference to M.P.No.19 of 2018. Neither this disposal has legal bearing nor cause operational impediments to implement the order passed in this M.P.No.19.

7.11. The apprehension of the Respondent that implementation of order in M.P.No.19 would impact the financial position of the TANGEDCO is already well answered in the Commission's Generic Tariff Order No.8 of 2021 in two ways of limiting the eligibility of net metering only to domestic category and entailing the network charges for the entire units generated in net metering and net billing mechanism.

7.12. The submissions of the respondents thus lack merits and deserve to be rejected and hence rejected. The respondent Licensee is directed to implement the order passed in M.P.18 of 2018 by extending the net metering facility to all the locations with respective loads within Tamil Nadu as mentioned in the order, within one month from the date of this order. However, the respondent railways shall be liable to pay the network charges mandatorily as stipulated in the Commission's Generic Tariff Order No.8 of 2021 as the statutory Network charges is made

applicable for all categories of the consumers covered under both solar energy policies of 2012 and 2019 as part of tariff determination

7.13 Coming to the prayer of taking action under section 142 of the Electricity Act 2003, the Commission refrain from doing so, in view of the various stages of policy changes and legal pronouncements that took place between the disposal of M.P.18 of 2018 and crucial Generic solar Order in 2021 in consonance with the allied enactment of GISS Regulations 2021 that comprises policy directive and enforcing mechanisms.

8.0. In effect, we order as follows:

8.1 The respondent Licensee is directed to implement the order passed in M.P.19 of 2018 by extending the net metering facility to all the locations with respective loads within Tamil Nadu as mentioned in the order, within one month from the date of this order.

8.2. The respondent railways shall be liable to pay the network charges mandatorily as stipulated in the Commission's Generic Tariff Order No.8 of 2021 as the statutory Network charges.

8.3. The Commission refrains from initiating action under section 142 of the Electricity Act 2003 for the reasons stated in Para 7.13. Ordered accordingly.

(Sd.....)  
(K.Venkatasamy)  
Member (Legal)

(Sd.....)  
(M.Chandrasekar)  
Chairman

/True Copy /

**Secretary  
Tamil Nadu Electricity  
Regulatory Commission**