TAMIL NADU ELECTRICITY OMBUDSMAN

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BEFORE THE TAMIL NADU ELECTRICITY OMBUDSMAN, CHENNAI

Present: Thiru. A. Dharmaraj, Electricity Ombudsman Appeal Petition No.1 of 2017

M/s. Pandian Chemicals Ltd. 17A, Vallabhai Road, Chokkikulam Madurai – 625 002

..... Appellant (Rep by Thiru Sivakumar, Assistant Accounts Manager)

Vs

The Superintending Engineer, Sivaganga Electricity Distribution Circle, TANGEDCO, Sivaganga Collectorate Complex, Sivaganga,

......... Respondent (Rep by Tmy Thenmozhi, AEE/D/Thirupuvanam, Thiru Shanmugasundaram, AEE/MRT & Tmy Kayalvizhi, DFC)

Date of hearing : 21-3-2017

Date of order: 13-4-2017

The Appeal petition dated 29.12.2016 filed by M/s. Pandian Chemicals Ltd., Madurai was registered as Appeal petition 1 of 2017. The above appeal came up before the Electricity Ombudsman for hearing on 21.3.2017. Upon perusing the Appeal petition, counter affidavit and after hearing both sides the Electricity Ombudsman passes the following order.

Order

1. <u>Prayer of the Appellant</u>: The Appellant prayed to direct the Superintending Engineer /TANGEDCO Ltd. Sivaganga to refund or adjust excess amount collected against their future bills since excess amount collected towards May 2016 Bill is contrary to clause 11(2) and clause 7(9) of the Tamil Nadu Electricity Supply Code.

2. Brief History of the case :

- 2.1 The Appellant is having a HT Service connections bearing number 44 which comes under the jurisdiction of the Respondent.
- 2.2 As per the downloaded data, there was intermittent voltage failure of R phase voltage in the meter of the said service connection and the Respondent has levied a sum of Rs.27,565/- towards the short fall amount for such period.
- 2.3 The Appellant disputed the claim and filed a petition before the Superintending Engineer / Sivaganga Electricity Distribution Circle to charge the consumption charges based on the previous 4 months as stipulated in the Supply Code and requested for refund of the excess amount collected.
- 2.4 As the Superintending Engineer / Sivaganga Electricity Distribution Circle has not accepted the contention of the Appellant. The Appellant filed its petition before the CGRF of Sivaganga Electricity Distribution Circle and the Forum has also dismissed the petition.
- 2.5 Aggrieved by the order of the Forum, the Appellant filed this appeal petition before the Electricity Ombudsman.

3. Order of the Forum:

The CGRF of Sivaganga Electricity Distribution Circle has issued the order on 23.12.2016. The relevant paras of the said order is extracted below:-

"Conclusion of the CGRF:

On a careful reading of the regulation 11(2), it is noticed that the regulation is applicable when the meter becomes defective in the service connection and average

consumption shall be adopted. But in this case, the regulation 11(2) is not applicable since there is no possibility to select a set of 4 months consumption to arrive at the average consumption.

In this case the consumption has to be added in assessment period, when the intermittent voltage missing period only calculated on the basis of load and hours of usage of electricity for which provision of clause 11(6). This is scientifically proved the CMRI data it is seen that the voltage recoded in all the phases were not same and also varied.

Hence, the CGRF agreed to the respondents view that regulation 11(6) is applicable in this case. So based on the hearing and the available documents the CGRF disallows the request of the petitioner. Hence, the petition is closed with No Cost."

4. Contention of the Appellant furnished in the petition:

- 4.1 We are HT consumer bearing HT Service Connection No. 44 in Sivaganga Electricity Distribution Circle of TANGEDCO.
- 4.2 We had received letter dated 29.7.2016 [Annexure-A] form Superintending Engineer, Sivaganga intimating defect in the Meter reading during May, 2016 which was detected and set-right in same month. But we were asked to pay an amount of Rs.27,565/towards additional consumption charges when the Meter reading was found wrong during May, 2016.
- 4.3 Clause 11(2) of Tamil nadu Supply Code states, "When a Meter is found defective, the average of previous 4 months consumption only should be charged". Hence, based on the above Regulation, the previous 4 months consumption of our factory is given below:

Month	:	Units consumed
January,2016	:	1,43,228
February, 2016	:	1,45,544
March, 2016	:	58,592
April, 2016	:	1,22,816
TOTAL	:	4,70,180
Average monthly consumption of previous 4 months	:	1,17,545

But, in May, 2016 bill, we were charged for 1,42,424 units as against 1,17,545 units only to be charged. Late fresh demand was made for another 3965 units. Hence, we had requested Superintending Engineer / Sivaganga Electricity Distribution Circle / TANGEDCO vide our letter dated 13.8.2016 [Annexure-B] to refund amount excessively collected for 24,879 units (1,42,424 -1,17,545 units) in May, 2016 bill which is more than earlier 4 months average consumption contrary to Clause 11(2) of Tamilnadu Electricity Supply Code.

- 4.4 We received reply dated 31.8.2016 [Annexure-C] from Superintending Engineer / Sivaganga Electricity Distribution Circle / TANGEDCO stating the Electricity Supply Code Clause 11(6) states, when it is not possible to select a set of 4 months, the quantity of Electricity supply shall be assessed in the case of HT service connection by the next higher level officer on the basis of connected load / hours of usage of electricity.
- 4.5 It is submitted that Clause 11(6) of Tamilnadu Electricity Supply Code is not applicable for us because during the previous 4 months i.e. Jan 2016 to April 2016 the average monthly maximum demand was 265.3 KVA while during the disputed period May 2016 moth maximum demand was 270.80 KVA indicating no significant change in consumption pattern during May 2016. Hence the contention of Chairperson of Consumer Grievance Redressal Forum (CGRF) who is Superintending Engineer /

Sivaganga Electricity Distribution Circle is apparent violation of Clause 11(2) and Clause 7(9) of Tamil Nadu Electricity Supply Code approved by TNERC.

4.6 Clause 7(8) of Tamil Nadu Electricity Supply Code states "if the meter is found defective / incorrect, the adjustments in bills shall be made for error beyond permissible limits as laid down in the relevant Rules made under Act".

5. Contentions of the Respondent furnished in the Counter:

- 5.1 The Petitioner is a consumer of electricity bearing HT service connection No.44, M/s. Pandiyan Chemicals (P) Ltd., Manamadurai Sivaganga Electricity Distribution Circle, Sivaganga.
- 5.2 The Petitioner had received letter dated 29.07.2016 from Superintending Engineer/Sivaganga intimating, since there was defect in Meter which was detected during May, 2016 and the defect set-right in same month, they were asked to pay an amount of Rs.27,565/- towards additional consumption charges when the Meter was found to be defective during May, 2016.
- 5.3 The Electricity Supply Code Clause 11(6) states, it is applicable only when it is not possible to select a set of 4 months. In the Complainant's case, during the previous 4 months i.e, January 2016 to April 2016 the average maximum demand was 265.3 KVA while during the disputed defective meter month of May 2016 maximum demand was 270.80 KVA. Hence the above regulation Clause 11(2) of Tamil Nadu Electricity Supply Code has not adopted for average calculation.
- 5.4 During May 2016 the energy consumption was recorded as 1,42,242. By taking average of previous 4 months (lesser units) could not be billed by omitting the actual utilised energy during the month. Intermittent voltage is only missing for the 43 hours during the days from 06.05.2016 to 10.05.2016 in certain time intervals.

- 5.5 The quantity of supply will be assessed by the next level Officer on the basis of load and the hours of usage of electricity for which a provision is available in clause 11(6). Based on the clause 11 (6) above the previous bill revised and calculated 3965 missing units for which a demand notice was sent. The CC charges collected for 1,42,424 units only for the recorded assessed consumption of energy during intermittent voltage missing period. And also it is informed that the demand of Rs.27565/- has been included in 10/2016 CC Bill and collected vide PR No.15030/02.11.2016 as per this office letter dt.20.10.2016.
- 5.6 Further it can be ascertained through CMRI data (scientifically proved mode) and it is seen that the voltage recorded in all the phases were not same and also varied. So the clause 7(9) is also applied by the board officials. Hence the question of excess amount collected during 05/2016 does not arise and the billing collected from the HT consumer is genuine one. Further the consumer has accepted voltage missing and has also not at all requested the NABL Lab test at any occasion.
- 5.7 In this case, the consumption has to be added in assessment period, for the intermittent voltage missing period only calculated on the basis of recorded energy of balance two phase and hours of usage of electricity for which provision of clause 11(6). Further the Petitioner has not discussed about the clause of 7(8) of supply code during the CGRF meeting held on 30.11.16. But they mentioned it in the appeal petition filed before the Tamil Nadu Electricity Ombudsman. From the scientifically proved CMRI data, it is noticed that the voltage recorded in all the phases and missing of voltage.
- 5.8 The intermittent voltage absent is only a absent of one parameter of energy meter and not a defect of meter. Hence the consumer's request for refund of CC charges paid on revision of intermittent voltage period for a sum of Rs.27565/- is not agreeable.

6. Hearing held by Electricity Ombudsman:

- 6.1 To enable the Appellant and the Respondents to putforth their arguments in person, a hearing was held before the Electricity Ombudsman on 21.3.2017.
- 6.2 Thiru S. Sivakumar, Assistant Accounts Manager has attended the hearing on behalf of the Appellant and putforth his arguments.
- 6.3 Thirumathi T. Thenmozhi, Asst. Executive Engineer / Thrupuvanam, Thiru R. Shamugasundaram, Asst, Executive Engineer / MRT and Thirumathi N. Kayalvizhi DFC have represented the Respondent and putforth their side arguments.

7. Arguments putforth by the Appellant:

- 7.1 Thiru S. Sivakumar, Asst. Accounts Manager, Pandian Chemicals Ltd. has reiterated the contents of the Appeal petition.
- 7.2 He argued that the average consumption for the defective period has to be assessed based on regulation 11.2 of the supply code and the excess amount collected from them may be refunded.
- 7.3 He argued that there is no provision in the code to arrive at shortfall as calculated by the Respondent.
- 7.4 He argued that the SE / Sivaganga Electricity Distribution Circle has not referred the meter for testing at NABL Lab or by the Chief Electrical Inspector which is violation of Regulation 7.9 of the Supply Code.
- 7.5 He argued that if the meter is found incorrect the adjustment in bills shall be made as laid in relevant rules as per regulation 7(8) of supply code. Therefore he argued that regulation 11.2 has to be adopted for calculating the consumption for the month of May 2016.

- 7.6 The Appellant's representative has also filed a written submission on the hearing date. As same arguments which are already given in the Appeal petitions were given, the same was not repeated.
- 7.7 The Appellant's representative informed that the Meter is working alright after the disputed period May 2016 and they have no complaint about it.

8. Arguments putforth by the Appellants Representative

- 8.1 The Assistant Engineer / O & M, Thirupuvanam reiterated the contents of the counter.
- 8.2 She informed that as the consumer has informed that the R phase voltage is lower than the normal value, she inspected the service and found that the R phase voltage is 62.12, Y phase is 62.25 & B Phase is 62.29. However the MRT wing was also informed to check the meter.
- 8.3 The Assistant Executive Engineer / MRT informed that during their inspection also the voltage, are found to be normal. However, on downloading the data, it was observed that the 'R' phase voltage missing was occurred intermittently from 6-5-2016 to 10-5-2016. Accordingly, they have advised the O&M to revise the bill for the R phase voltage missing period.
- 8.4 The Assistant Executive Engineer / MRT argued that during the R phase voltage missing period, the consumption recorded will be the consumption of other two phases only. Therefore, the actual consumption will be more than the recorded consumption. However, as the R phase missing was occurred only in certain interval of time. Consumption that was not recorded due to 'R' phase failure alone was arrived based on the respective days consumption and claimed in the bill.
- 8.5 The Assistant Executive Engineer / O & M, cited the regulation 11.6 of the supply code, and argued that as per the above regulation, the Engineer incharge may assess

the consumption if it is not possible to select a four months. Therefore, the assessment made by the Engineer in this case is also conforming to the above regulation only.

8.6 The DFC argued that the CFC / Revenue has instructed in memo dated 7-12-2010 to arrive the unit consumed in 'Y' phase based on the consumption of R & B phase stating that the value so arrived is more reasonable and near the exact consumption in another case and therefore argued that the calculation done in the case on hand is also more reasonable.

9. Findings of the Electricity Ombudsman:

On a careful consideration of the rival submissions the issue to be considered are

- (i) Whether the argument of the Respondent that the 'R' phase voltage was missing intermittently from 6-5-2016 to 10-5-2016 is correct?
- (ii) Whether the short fall claimed for the voltage missing period is correct?
- (iii) Whether any relief could be given to the Appellant.

10. Findings on the first issue:

- 10.1 The Respondent argued that as per the downloaded details the 'R' phase voltage was missing intermittently from 6-5-2016 to 10-5-2016.
- 10.2 In order to confirm the above, I would like to examine the letter dated 31-5-2016 of the Assistant Executive Engineer / MRT, Sivagangai. The relevant para of the said letter is extracted below:-

"Based on the message from AEE/T/TPVM about the R phase voltage missing in the Meter display as represented by the consumer, the service was inspected on 13.5.2016. All the Security seals are found intact power check was conducted and found ok. All the three voltage are equal (R-N=60.45 : Y-N=59.85:B-N=60.11) The CMRI data was downloaded and after analysing the report further necessary action will be taken in this regard. And further R-Phase PT fuses tightness checked and found ok. There is no change in M.F. (i.e) M.F \rightarrow MD * 400, Energy x 400

The downloaded data analysed and found that the voltage missing (R phase) occurred intermittently timings noted, Bill revision recommended for the following periods.

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6.5.2016
             18.00 to 24.00 hrs 6.00 Hrs
7.5.2016
            00.00 to 1.30 hrs 1.30 Hrs
8.5.2016
            20.00 to 24.00 hrs 4.00 Hrs
9.5.2016
            00.00 to 10.00 hrs 10.00 Hrs
9.5.2016
            17.00 to 24.00 hrs 7.00 Hrs
10.5.2016
            00.00 to 11.00 hrs 11.00 Hrs
            12.00 to 12.30 hrs 0.30 Hrs
10.5.2016
10.5.2016
            13.00 to 16.00 hrs 3.00 Hrs
XXXX XXXX XXXX
XXXX XXX XXX XXX
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10.3 On a careful reading of the above letter it is noted that the service was inspected by the MRT on 13-5.2016. Power check was conducted and found OK. All the three phase voltage are also equal. The MRT has analysed the downloaded details and found that 'R' phase voltage missing occurred as below:-

6.5.16	18.00 hrs to 24.00 hrs	-	6 hrs
7.5.16	00.00 hrs to 1.30 hrs	-	1.30 hrs
8.5.16	20.00 hrs to 24.00 hrs	-	4 hrs
9.5.16	00.0 hrs to 20 hrs	-	10 hrs
9.5.16	17.00 hrs to 24 hrs	-	7 hrs
10.5.16	00.00 hrs to 11 hrs	-	11 hrs
10.5.16	12.00 hrs to 12.30 hrs	-	0.30 hrs
10.5.16	13.00 hrs to 16.00 hrs	-	3 hrs

The Respondent have also furnished downloaded details recorded during 15 minutes interval periods from 5.5.16 to 11.5.16. On a detailed examination of the said data, it is found that the voltage recorded in 'R' phase is mostly varying between 0.24 & 0.43 and recorded as 3.62 & 13.33 in one occasion each. There was also recording of

- 45.69, 45.53, 43.51 in one occasion each. During the recording of voltage of 45.69, 45.53 & 43.51, the consumption recorded in that period shall be atleast 80% of the actual consumption.
- Further, it is also noted that the voltage recording in all the phases are zero on 8.5.16 from 20.45 hrs to 21.30 hrs (i.e) for 45 min, there was no supply to the industry. Therefore, for the above 45 min on 8.5.2016, there cannot be any shortfall in consumption. Consequently, the time of voltage missing recorded in 8.5.2016 has to be considered as 3 hrs and 15 min only instead of 4 hrs claimed by the Respondent.
- 10.6 The Appellant has also agreed that there was 'R' phase voltage missing intermittently found in the meter. In fact based on his representation only the intermittent voltage missing was found out by down loading the data.
- 10.7 As the downloaded data are the data stored in the memory of the meter, I am of the view that the voltage missing period, arrived based on the downloaded data could be taken as the voltage missing period.
- 10.8 The Respondent has also furnished the tamper details in respect of the voltage missing period. On a careful analysis of the tamper details the voltage failure on L₁ phase (R phase) is recorded as details below:
- L₁ Voltage failure starts on 6.5.16 at 18 : 15 : 50 Voltage ends on 7.5.16 at 01: 07:13 Hrs
- Voltage failure starts on 8.5.16 at 20:11:06 Hrs
 Voltage ends on 9.5.16 at 09:48:40 Hrs
- L₁ Voltage failure starts on 9.5.16 at 17:14:00 Hrs Voltage failure ends on 10.5.16 at 10:41:48 Hrs
- Voltage failure starts on 10.5.16 at 11:59:14 Hrs
 Voltage failure ends on 10.5.16 at 12:26:19 Hrs

10.6 Based on the above it is held that the 'R' phase voltage missing found in the said service for the hours as detailed below:-

6.5.16	5 Hrs	44 min &	10 sec
7.5.16	1 Hr	7 min &	13 sec
8.5.16	3 Hrs	48 min &	54 sec
9.5.16	16 Hrs	34 min &	40 sec
10.5.16 Total Hours	13 Hrs 41	52 min & 07	04 sec 01
Less 45 minutes during which there was no supply in all phases on 8.5.16	}	(-) 45	
% Total Hours	40 Hrs	22min &	01 sec

10.7 In view of the above, it is held that the 'R' phase voltage was intermittently missing and the total time during which such missing was noted is 40 Hrs, 22 minutes and 01 seconds or say 40 Hrs & 22 minutes.

11. Findings on the Second & Third issue:

11.1 As the Appellant argued that if the meter is found to be incorrect, the adjustment in levies shall be made as per regulation 7(8) of the Supply Code, the Regulation 7(8) of the Supply Code is extracted below:

7. Installation of Meter

XXX XXX XXX

XXXX XXX XX

(8) At periodical intervals, the meters shall be recalibrated and standardized by means of standard instruments by the Licensee. In respect of High Tension service connections, however, such recalibration will be done in the presence of the Consumer's Electrical Engineer or his representative if the consumer so desires. If the meter is found defective/incorrect, the adjustments in bills shall be made for error beyond permissible limits as laid down in the relevant rules made under the Act. The instrument transformers shall be

tested for accuracy periodically as specified in the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006 and its amendment regulations.

XXX XX XXX XXX

- 11.2 The above regulation is applicable in case of recalibration of meter. But, the case on hand is intermittent voltage failure and not adjustment of bill due to error beyond the limits specified. Therefore, the above regulation is not applicable for these case.
- 11.3 The Appellant agreed that as per the down loaded data there was 'R' phase voltage missing found during the billing period of 5/2016. Therefore the Appellant argued that the meter is defective and as the meter is defective, the assessment for the meter defective period has to be made as per regulation 11(2) of the supply code only. As per the above regulation, only the previous four months average consumption has to be taken for arriving the consumption for the 5/2016 assessment period and it works out to 1,17,545 units. But the bill was raised for 1,42,424 units for 5/16. Hence the appellant argued that the excess amount collected has to be refunded.
- 11.4 The Respondent argued that the meter was not defective. As per power check conducted on 13.5.2016, the meter is ok. But as per the downloaded details, there was 'R' phase voltage missing found intermittently during 5/16. During the 'R' phase voltage missing period, the current was recorded in 'R' phase also. But due to 'R' phase voltage missing, the consumption recorded in these periods will be only equal to Y & B phase consumption. Therefore, the consumption recorded for 5/2016 assessment period is less than the actual consumption of the consumer. Therefore, the Respondent argued that a sum of Rs.27,565 has been collected for the above voltage missing period.
- 11.5 The Respondent also argued that they have only added proportionate units that was missing based on the respective voltage missing days consumption. Hence, argued

that it is more reasonable. The Respondent also argued that when the consumption recorded in the meter is 1,42,424 units for 5/2015, excluding the consumption for the voltage missing period, the Appellant's request to consider the average consumption of 1,17,545 units for 5/2016 assessment period is not reasonable. The Respondent has also pointed out that the M(D) recorded for 5/2016 is 270.80 KVA whereas the MD recorded for the period from Jan to April'16 is 263.5 KVA only.

- 11.6 In this issue, the Appellant is not disputing the fact of voltage missing in 'R' phase. He is agreeable for the above fact. The Appellant only disputing the bill for 5/16. The Appellant also agreed that the same meter is now in service and it is working alright.
- 11.7 As the voltage missing period has been identified based on the downloaded data, I am of the view that the consumption recorded is less than actual consumption proportionate to the 'R' phase voltage missing period. Therefore, the units equal to the consumption that was not recorded due to 'R' phase missing has to be arrived and added to the recorded consumption of 5/2016.
- 11.8 The licensee has arrived the missing consumption for each day based on the respective days consumption and then arrive the consumption per hour and then calculated the consumption per hour due to R phase missing as 50 % of the consumption per hour so calculated.
- In Regulation 11, method of assessment to calculate the quantity of electricity during the period when the meter installed is defective has been given. But, the procedure for calculating the electricity supplied for the duration in which one phase alone not recorded the correct consumption has not been given.
- 11.10 As the 'R' phase voltage was missing noted for certain period, it could be considered that during the said period, the consumption recorded is not correct. To

arrive at the consumption for 5/2016 assessment period one has to go for proportionate calculations only for the 'R' phase voltage missing period.

11.11 As per the Regulation 11of the Supply Code, the average consumption for a month could be calculated. As the average consumption is required for selective hours only in the present case, I am of the view that from the monthly average arrived based on regulation 11 of the supply code, the average consumption per hour could be calculated and the average consumption per hour thus calculated shall be used for arriving the consumption for the 'R' phase voltage missing hours. The average consumption per hour worked out above is the average consumption per hour for all the three phases.

11.12 For the 'R' phase missing period, the consumption recorded in the meter is not the actual consumption but less due to non recording of R phase consumption. The consumption recorded in the meter during 'R' phase voltage missing could be calculated by using the Tamper details wherein the Kwh reading at the time of start of voltage missing and at the time of ends of voltage missing are available for each case of voltage missing. By adding the consumption of each period of voltage missing the total consumption recorded in the meter during the R phase voltage missing period could be arrived. By subtracting the above consumption from the recorded 5/2016 consumption the total consumption for the month excluding the R voltage missing period could be arrived. By utilising the average consumption per hour for the R phase voltage missing period arrived as per para 11.11 the average consumption for 40 hours & 20 minutes may be calculated and added to the consumption of 5/2016 recorded excluding the consumption of R phase voltage missing period arrived. The consumption so arrived is the consumption for 5/2016. The CC charges may be calculated for the above consumption. If the CC charges collected for 5/2016 including the sum of Rs.27,505/-

is less than the amount so arrived, the balance may be collected from the Appellant. If the amount collected already is more than the amount so arrived, the excess amount shall be refunded or adjusted in future bills.

12. Conclusion:

12.1 In view of my findings on first, second & third issue, the Respondent is directed to arrive at the consumption for 5/2016 assessment period as directed in para 11.12, above and refund the excess amount if any collected or adjust the excess amount collected in the future bills. In case if the amount collected is less, the balance shall be collected from the Appellant by issuing suitable notice as per regulation. The above calculation shall be done within 30 days from the date of receipt of the order.

12.2 A compliance report shall also be furnished within 45 days from the date of receipt of the order.

12.3 With the above findings, the AP No. 1 of 2017 to finally disposed of by the Electricity Ombudsman. No Cost.

(A. Dharmaraj) Electricity Ombudsman

To
1) M/s. Pandian Chemicals Ltd.
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2) The Superintending Engineer, Sivaganga Electricity Distribution Circle, TANGEDCO, Sivaganga Collectorate Complex, Sivaganga. 3) The Chairman, (Superintending Engineer), Consumer Grievance Redressal Forum, Sivaganga Electricity Distribution Circle, TANGEDCO, Sivaganga Collectorate Complex, Sivaganga.

4) The Chairman & Managing Director, TANGEDCO, NPKRR Maaligai, 144, Anna Salai, Chennai -600 002.

5) The Secretary, Tamil Nadu Electricity Regulatory Commission, 19-A, Rukmini Lakshmipathy Salai, Egmore, Chennai – 600 008.

6) The Assistant Director (Computer) – For Hosting in the TNEO Website.
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