

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 30.04.2015

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.13131 of 2015

and

M.P.No.1 of 2015

Sri Muhuntha Paper Boards,
HTSC No.271
rep. by its Manager, C.Selvaraj .. Petitioner

Versus

- 1 Tamil Nadu Electricity
Regulatory Commission rep. by its Secretary
19-A Rukmini Lakshmipathy Salai (Marshalls
Road) Egmore Chennai 600 008.
- 2 Tamil Nadu Generation and
Distribution Corporation Ltd (TANGEDCO) Rep.
by its Chairman and Managing Director 144
Anna Salai Chennai 600 002.
- 3 The Superintending Engineer
TANGEDCO Namakkal Elec. Distribution Circle
Namakkal.
- 4 The Superintending Engineer
TANGEDCO Udumalpet Elec. Distribution
Circle Udumalpet. .. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a writ of Certiorarified Mandamus, calling for the records of the 3rd Respondent in his impugned demand notice Lr.No. SE / NEDC / NKL / DFC/ HT / AS / Asst / F:HT 271 / D.271 / 2015 dated 22.04.2015 quash the same as illegal arbitrary without the authority of law and against Electricity Act 2003 and consequently direct the 3rd Respondent to make payment of Rs.23,90,647/- towards the unutilized bank energy as on 31.03.2014 payable to the petitioner along with 1% interest from the due date to the actual date of payment and give refund / adjustment of Rs. 2,93,815/- illegally collected from the petitioner for period 2012-2013.

For Petitioner : Mr.R.S.Pandiyaraj.

For Respondent : Mr.S.K.Rameshuwar
Standing Counsel for TANGEDCO

O R D E R

By consent, the main writ petition is taken up for final disposal.

2. The petitioner claims that it is a continuous process industry having High Tension Electricity Supply in H.T.Sc.No.271, coming under the 3rd respondent Namakkal EDC and according to them, the industry is providing employment to about 100 persons. The petitioner would state among other things that there is unscheduled load shedding for 10 hours in rotation among the Distribution Circles and in order to meet their industrial consumption, the petitioner is utilizing the power available through their own windmills as they have installed windmills for captive construction and it owns a Wind Mill bearing WF HT SC No.1421 & 1422, which comes under the jurisdiction of the 4th respondent.

3. The petitioner would further state that according to the tariff orders issued by the 1st respondent, if wind energy is not utilized fully during a month, the balance of it will be transferred to a banking account and during the lean seasons of wind energy, such banked energy is allowed for adjustment from the banking account by paying the notified banking charges to the respondent by the WEG owners.

4. According to the petitioner, to his shock and surprise, without processing the payment of unutilized banked energy, the 4th respondent has issued a demand notice dated 05.07.2013, directing the petitioner to pay Rs.2,93,815/- towards cross subsidy and he would further state that only after making payment of cross subsidy, the 4th respondent has made payment of Rs.19,80,216/- towards the unutilized banked units as on 31st March 2013 and such action of the respondents amounts to arm twisting and collecting the alleged cross subsidy, is arbitrary and is against the principles of natural justice.

5. In Ground (h) of the affidavit, the petitioner would state that the 3rd respondent has resorted to unscheduled load shedding or tripping upto 2,267 hours during the year 2012-2013, 682 hours during the year 2013-2014 and 282 hours during the year 2014-2015 and thereby prevented the petitioner from consuming the entire energy available at their credit and in the light of the above submissions, prays for intervention.

6. The Court heard the submissions of the learned counsel appearing for the petitioner, who has drawn the attention to the affidavit as well as to the typed set of documents and would submit that the impugned notice is per se illegal and prays for appropriate orders.

7. Per contra, Mr.S.K.Rameshuwar, learned standing counsel, who accepts notice for the respondents would submit that taking note of the over all facts and circumstances, the impugned order came to be passed and in the absence of any infirmity, it cannot be likely interfered with.

8. This Court after hearing the rival submissions and on perusal of the materials placed before it, is of the view that the petitioner has to be permitted to submit a representation pointing out the infirmities in the impugned proceedings and on receipt of such representation, direct the respondents to consider and pass orders in accordance with law and till then further proceedings has to be deferred.

9. In the result, this writ petition is disposed of and the petitioner is permitted to submit his representation as to the objections to the impugned proceedings dated 22.04.2015 issued by the 3rd respondent within a period of two weeks from the date of receipt of a copy of this order and the 3rd respondent, on receipt of the same, is directed to consider the representation/objections, on merits and in accordance with law and pass orders, within a period of four weeks, thereafter and till then defer further proceedings in pursuance to the above said impugned proceedings.

10. The writ petition is disposed of, accordingly. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Asst.Registrar (CS IV)

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Sub Asst. Registrar

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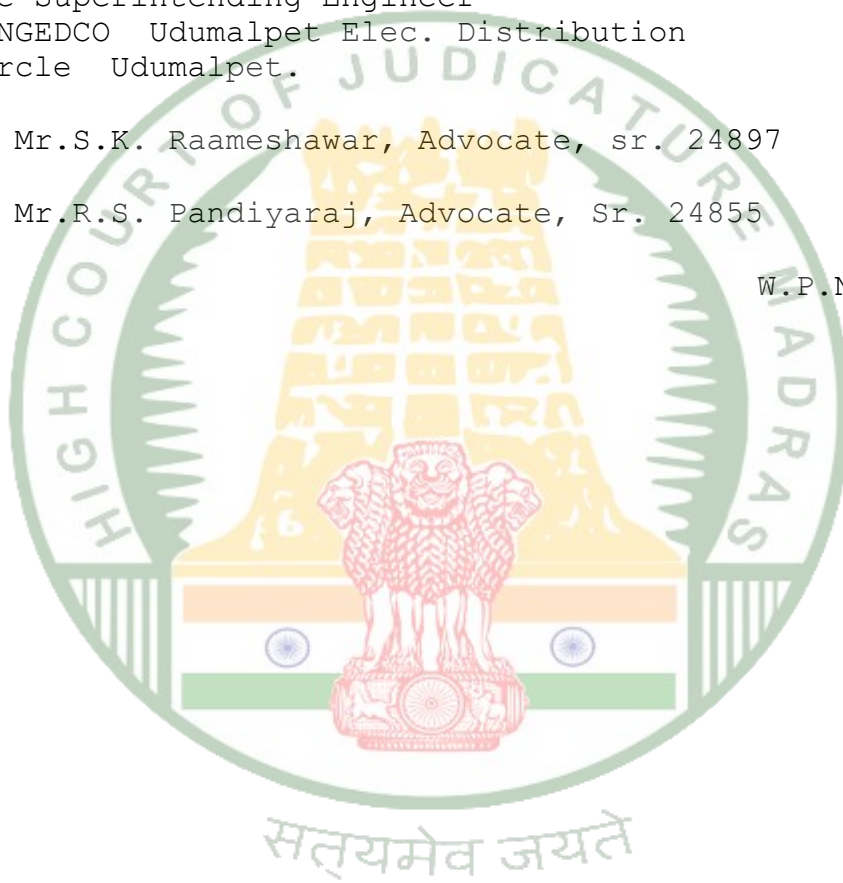
To

1 The Secretary
Tamil Nadu Electricity
Regulatory Commission
19-A Rukmini Lakshmiipathy Salai (Marshalls
Road) Egmore Chennai 600 008.

- 2 The Chairman and Managing Director
Tamil Nadu Generation and
Distribution Corporation Ltd (TANGEDCO)
144 Anna Salai Chennai 600 002.
- 3 The Superintending Engineer
TANGEDCO Namakkal Elec. Distribution Circle
Namakkal.
- 4 The Superintending Engineer
TANGEDCO Udumalpet Elec. Distribution
Circle Udumalpet.
- 1 cc to Mr.S.K. Raameshwar, Advocate, sr. 24897
- 1 cc to Mr.R.S. Pandiyaraj, Advocate, Sr. 24855

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