

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:17.03.2015

CORAM

THE HONOURABLE MR. JUSTICE M.DURAISWAMY

W.P.No.12617 of 2013

and

M.P.No.1 of 2013

PIONEER JELLICE INDIA (P) LTD
HT SC NO. 77 SEMMANKUPPAM
CUDDALORE-CHIDAMBARAM MAIN ROAD
CUDDALORE 607 005
REP BY ITS MANAGER
R. VELAYUTHAM

[PETITIONER]

Vs

- 1 TAMILNADU ELECTRICITY
REGULATORY COMMISSION
REP BY ITS SECRETARY
19-A RUKMINI LAKSHMIPATHY SALAI
(MARSHALLS ROAD) EGMORE CHENNAI 8
- 2 THE CHAIRMAN
TAMILNADU GENERATION AND DISTRIBUTION
CORPORATION LIMITED
144 ANNA SALAI, CHENNAI 2
- 3 THE CHIEF ENGINEER, COMMERCIAL
TAMILNADU GENERATION AND
DISTRIBUTION CORPORATION LIMITED
144 ANNA SALAI, CHENNAI 2
- 4 THE SUPERINTENDING ENGINEER
TAMILNADU GENERATION AND DISTRIBUTION
CORPORATION LIMITED
CUDDALORE ELECTRICITY
DISTRIBUTION CIRCLE,
CUDDALORE

[RESPONDENTS]

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus

to call for the records of the 4th respondent in his letter Lr. No. SE/ CEDC/ CUD/ AEE/ GL/ AE.2/ F.DCW Estimate / D.688/2012 dated 14.8.2012, quash the same as unsustainable in law, discriminatory against the principles of natural justice and consequently direct the 4th respondents to grant dedicated feeders vide application dt 28.1.2011 on payment of necessary charges.

For Petitioner : Mr.AR.L.Sunderasan,
Senior Counsel
for Mr.R.S.Pandiyaraj

For Respondents : Mr.M.Varun Kumar,
Standing Counsel
for TNEB (R2-4)

NA-R1

ORDER

With the consent of both the parties, the main writ petition is taken up for final hearing.

2. The petitioner has filed the above writ petition to issue a writ of certiorarified mandamus to call for the records of the 4th respondent dated 14.8.2012 and to quash the same and consequently direct the 4th respondent to grant dedicated feeders vide application dated 28.01.2011, on payment of necessary charges.

3. Heard Mr.AR.L.Sunderasan, learned Senior counsel for the petitioner and Mr.M.Varun Kumar, learned Standing Counsel for the respondents 2 to 4.

4.1. It is the case of the petitioner that the petitioner Company is having a HT electricity supply in their mills bearing HT SC No.77 coming under the 4th respondent and they are having a connected demand of 2200 KVA in their industry. It is the further case of the petitioner that the Board is unable to supply sufficient quantity of power as early from April 2007 onwards and has been imposing currently power cut at 40% besides to peak hour restrictions, unscheduled tripping and load shedding to the extent of 15 hours a day and that the petitioner Industry was facing frequent fluctuations in supply and interruption in power. In these circumstances, the petitioner wanted to install dedicated feeders, since no looping of the injected energy is possible by other categories of consumers of the vicinity as the whole line of transmission is through dedicated lines only.

4.2 On 28.01.2011, the petitioner made an application to the 3rd respondent to provide a separate 22KV dedicated feeder to its industries, which was duly acknowledged by the 4th respondent. On 06.06.2011, the Assistant Engineer, coming under the 3rd respondent issued a detailed estimate for installing the dedicated feeder under DCW for the petitioner industry for an amount of Rs.15,93,455/-, after going into the technical feasibility of extending 22KV Pioneer Feeder. The petitioner, in their application dated 28.01.2011 has shown their willingness to comply with all the formalities for getting the dedicated feeders. On 21.03.2012, the respondent requested the petitioner to give certain undertakings to further process its application. On 21.05.2012, the petitioner gave an undertaking as sought for by the respondent. On 24.05.2012, the respondent once again issued a fresh estimate for a sum of Rs.24,11,605/- and the petitioner, by their representation dated 14.08.2012, accepted the same and shown their willingness to bear all the expenses to be incurred by the respondent in providing the dedicated feeder and also willing to pay the entire charges for effecting the dedicated feeders.

4.3 On 14.08.2012, the 4th respondent rejected the petitioner's application on the ground that the petitioner Company is not eligible for dedicated feeder since the total demand of the petitioner Company should be at least 50% or more of the capacity of the feeder line. The order of the 4th respondent dated 14.08.2012 is extracted below:-

"Referring to the above it is informed that the request for dedicated feeder could not be considered as per TANGEDCO instruction since the total demand of the HT consumer seeking a dedicated feeder should be atleast 50% or more of the capacity of the feeder line".

Challenging the said impugned order, the petitioner has filed the above writ petition.

5. The 4th respondent has filed his counter, wherein it has been stated that due to technical feasibility, the petitioner's application was rejected. But, with regard to technical feasibility averred in the counter affidavit of the 4th respondent, he has not elaborated on the alleged technical feasibility. That apart, the impugned order was passed rejecting the petitioner's application stating that the total demand of the petitioner should be at least 50% or more of the capacity of the feeder line. But, in the counter, as already stated, the 4th respondent has stated that since it was not technically feasible, the petitioner's application was rejected. Since the authorities are experts in the said field, I am of the view that this Court cannot now say that it

is technically feasible and give direction to the 4th respondent. That apart, with regard to the technical feasibility contended by the 4th respondent in his counter affidavit, in the impugned order, he has not stated anything about the alleged technical feasibility. In these circumstances, I am of the considered view that the impugned order dated 14.08.2012 passed by the 4th respondent is liable to be set aside and the matter should be remanded to the 4th respondent for fresh consideration with regard to the technical feasibility.

6. Accordingly, the impugned order dated 14.08.2012 passed by the 4th respondent is set aside and the matter is remanded to the 4th respondent for fresh consideration of all the aspects including the technical feasibility, which is stated in the counter affidavit with the assistance of an expert and after giving an opportunity to the petitioner's representative to submit a memo with regard to their case, pass orders on the petitioner's application dated 28.01.2011, on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

With the above directions, the writ petition is disposed of. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

rg

To

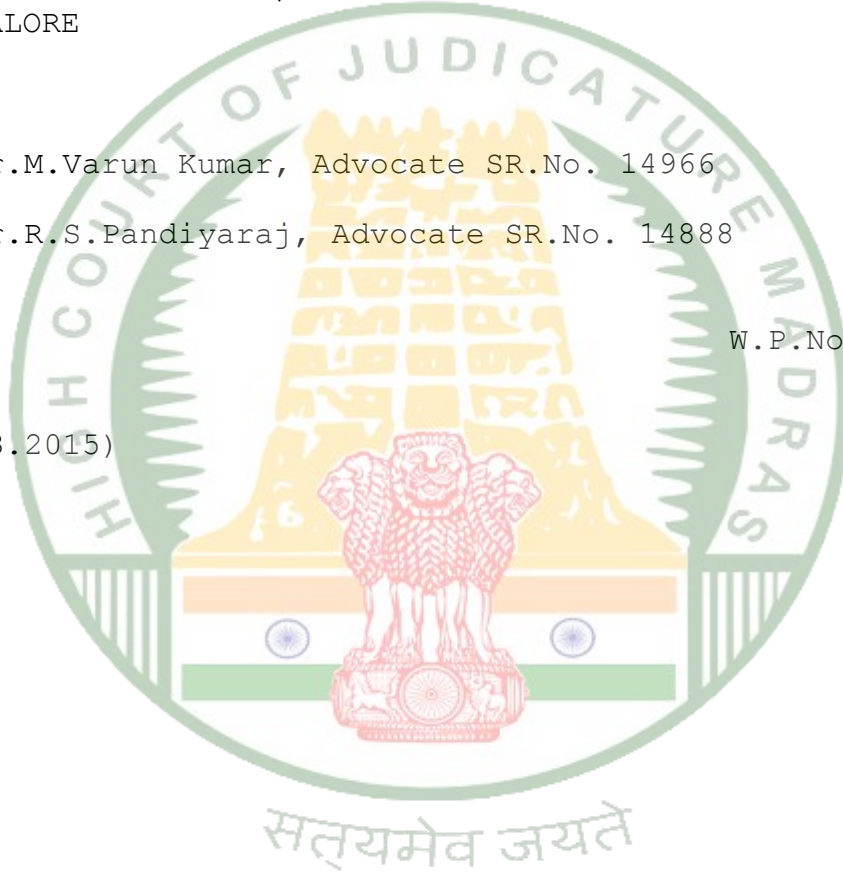
- 1 THE SECRETARY
TAMILNADU ELECTRICITY
REGULATORY COMMISSION
19-A RUKMINI LAKSHMIPATHY SALAI
(MARSHALLS ROAD) EGMORE CHENNAI 8
- 2 THE CHAIRMAN
TAMILNADU GENERATION AND DISTRIBUTION
CORPORATION LIMITED
144 ANNA SALAI, CHENNAI 2

- 3 THE CHIEF ENGINEER, COMMERCIAL
TAMILNADU GENERATION AND
DISTRIBUTION CORPORATION LIMITED
144 ANNA SALAI, CHENNAI 2
- 4 THE SUPERINTENDING ENGINEER
TAMILNADU GENERATION AND DISTRIBUTION
CORPORATION LIMITED
CUDDALORE ELECTRICITY
DISTRIBUTION CIRCLE,
CUDDALORE

- 1 CC to Mr.M.Varun Kumar, Advocate SR.No. 14966
- 1 CC to Mr.R.S.Pandiyaraj, Advocate SR.No. 14888

W.P.No.12617 of 2013

ssi (CO)
PSI (23.03.2015)



WEB COPY