

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 03-03-2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.7548 OF 2016

Siddhanatha Textiles (P) Ltd.,
rep.by its Managing Director
K.S.Nagarajan,
No.282, Easwaran Koil Street,
Erode-1.

...Petitioner

-vs-

1.Tamil Nadu Generation and Distribution Corporation Ltd.,
rep.by its Chairman,
No.800, Anna Salai,
Chennai-2.

2.The Superintending Engineer,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Erode Electricity Distribution Circle,
No.948, E.V.N.Road,
Erode-9.

...Respondents

Petition under Article 226 of the Constitution of India, praying for issuance of a writ of certiorari, to call for the entire records relating to the proceedings in Lr.No.SE/DFC/AO/HT/A2/No.5/2015, dated 01.12.2015, on the file of the second respondent, quash the same and consequently direct the respondents to realise the Bank Guarantee to the extent of Rs.98,98,076/- being 50% of the amount demanded towards differential tariff with interest and direct the respondents to restore power supply to the petitioner - H.T.S.C.No.128, EE DC.

For petitioner : Mr.V.R.Rajasekaran

For respondents : Mr.S.K.Rameshuwar

O R D E R

Petitioner is aggrieved by the proceedings of the second respondent, dated 16.07.2015, wherein, the petitioner was intimated that the bank guarantees furnished by the petitioner have not been encashed, as the same expired in the months of 2009 and 2010 itself. Therefore, the petitioner was informed

that the request either for release of date expired bank guarantee or for allowing interest for paper assurance is not feasible of compliance. Further, the petitioner was directed to pay the first instalment of 50% of the total demand of Rs.49,49,038/-, as directed by the Hon'ble Division Bench of this Court, failing which the service connection would be disconnected.

2. The petitioner had filed W.P.No.17699 of 2008 challenging the demand notice issued by the respondent and the said writ petition was disposed of, giving certain directions. Not being satisfied with the said directions, the petitioner preferred an appeal before the Hon'ble Division Bench in W.A.No.848 of 2015. The Hon'ble Division Bench, while entertaining the appeal, granted an order of interim stay, subject to the condition that the petitioner deposits 50% of the total demand i.e., Rs.1,97,96,152/- in two instalments. The first instalment was to be paid within four weeks from the date of the order and the second instalment within a period of four weeks thereafter. Further, it was stated that the order will be subject to the final outcome of the appeal and making it clear that there shall not be any disconnection of the electricity supply in the meantime.

3. It is an admitted fact that the petitioner has not complied with the conditions imposed by the Hon'ble Division Bench. What the petitioner now seeks for is to release the bank guarantee furnished by them so as to enable them to pay the instalments. The respondents, vide their written instructions, dated 02.03.2016, to the learned Standing Counsel, have rightly stated that the question of cancelling bank guarantees which have already expired does not arise, but the predicament of the petitioner is that the money is still lying with their bankers and since the bank guarantees are issued in 2009-2010, the bank would require the consent of the Board to terminate the same.

4. In my view, to permit the petitioner to furnish bank guarantee for the amount to be paid as directed by the Hon'ble Division Bench cannot be done unless and until the petitioner seeks for appropriate modification of the interim order granted by the Hon'ble Division Bench in the Writ Appeal. However, in respect of release of the expired bank guarantees, there cannot be any impediment for the petitioner to do so, but, however, it should be done with the knowledge and consent of the respondent Board. This observation is made, in the light of the fact that the petitioner concedes to the compliance of the direction and deposit of money. In this regard, there will be a direction to the petitioner to submit a request to the second respondent within one week from the date of receipt of a copy of this order, to permit them to terminate the expired bank guarantees with an undertaking that they will remit the amount in

compliance of the directions passed by the Hon'ble Division Bench. However, it appears that the time limit fixed by the Hon'ble Division Bench has already expired. Therefore, the petitioner has to necessarily approach the Hon'ble Division Bench for appropriate further orders or directions. If the petitioner submits a request, the second respondent, as directed supra, shall consider the same, in the light of the undertaking given by the petitioner and proceed to pass appropriate orders, so that the petitioner will be able to realise the money from the bankers to comply with the conditional order of deposit. It is open for the petitioner to seek for appropriate directions from the Hon'ble Division Bench.

5. With the above directions and observations, this Writ Petition stands disposed of. No costs. Consequently, the connected W.M.P.Nos.6776 and 6777 of 2016 are closed.

6. At this stage, learned counsel for the petitioner submitted that though electricity supply has been disconnected for non-compliance of the conditional order passed by the Hon'ble Division Bench, the respondents shall not terminate the agreement in the meantime.

7. The request made by the petitioner appears to be reasonable. Therefore, till further orders are passed by the Hon'ble Division Bench, the agreement shall not be terminated. However, if the petitioner fails to comply with the direction issued by this Court, in which, this Court has directed the petitioner to approach the second respondent within a time frame, then, it is open for the respondents to proceed in accordance with the relevant regulations.

Sd/-

Assistant Registrar(CS III)

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सत्यमेव जयते

Sub Assistant Registrar

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To

- 1.The Chairman,
Tamil Nadu Generation and Distribution Corporation Ltd.,
No.800, Anna Salai,
Chennai-2.

2.The Superintending Engineer,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Erode Electricity Distribution Circle,
No.948, E.V.N.Road,
Erode-9.

+1cc to Mr.V.R.RajaSekaran, Advocate, S.R.No.13630
+1cc to Mr.S.K.Raameshuwar, Advocate, S.R.No.13695

W.P.No.7548 OF 2016

ca (CO)
srg (08/03/2016)



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