

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 01.03.2016

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.7560 of 2016
and
W.M.P.No.6790 of 2016

JVS Exports,
No.32, Sarojini Street,
Chinna Chokkikulam,
Madurai - 625 002.
represented by its Manager,
S.Joe Rathinam .. Petitioner

vs.

1.Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
represented by its
Chairman and Managing Director,
144, Anna Salai, Chennai - 600 002.

2.The Chief Engineer,
Non conventional Energy Sources,
TANGEDCO,
II Floor, Eastern Wing, 144,
Anna Salai,
Chennai - 600 002.

3.The Director/Generation,
Xth Floor, Eastern Wing,
144, Anna Salai,
Chennai - 600 002.

4.The Superintending Engineer,
Virudhunagar Electricity Distribution Circle,
TANGEDCO, Virudhunagar.

5.M/s.Ranergy Solutions (P) Ltd.,
23, Jagannathan Nagar,
II Main Road, Arumbakkam,
Chennai - 600 106.

6.Tamil Nadu Electricity Regulatory
Commission,
Through its Secretary,
No.19A, Rukmini Lakshmipathy Salai,
Egmore, Chennai - 600 008.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus forbearing the respondents 2 and 3, their men, officers, representatives from in any manner connecting the 5th respondent to the petitioner's dedicated 33Kv transmission line connected to 110/33-22JV Muthuramalingapuram Sub-station until the fifth respondent fulfills the condition mentioned in the 2nd proceedings dated 23.01.2016.

For Petitioner : Mr.Vijayanarayan, senior counsel
for Mr.R.S.Pandiyaraj
For Respondents : Mr.S.K.Raameshwar [R1 to R4]
Mr.M.Subburaj,
Assistant Executive Engineer,
appeared in Court.

O R D E R

Heard Mr.Vijayanarayan, the learned senior counsel for the petitioner, Mr.S.K.Raameshwar, the learned counsel for the respondents 1 to 4, who is assisted by Mr.M.Subburaj, Assistant Executive Engineer, Non conventional Energy Sources, TANGEDCO, Chennai - 2 representing the second respondent. In the light of the orders to be passed by this Court, notice to respondents 5 and 6 is dispensed with.

2. The petitioner company is engaged in generation of solar power and has established a power plant. For the purpose of evacuating the power generated, the petitioner company entered into an agreement with TANGEDCO. At the time when the petitioner set up the plant, it was only the solar power plant in that area. Therefore, the entire cost of the power evacuation had to be borne by the petitioner. In this regard, an undertaking was obtained by the second respondent from the petitioner on 09.07.2013 in and by which the petitioner undertook that TANGEDCO reserves the right to allow the other developers to connect their solar power plant in the power evacuation line erected by the petitioner until the permitted capacity of the power evacuation line is achieved, as there may no provision for

further bay extension at the existing substation. With regard to the cost of the line which shall be borne by the petitioner in its entirety, it was stated that the same should be shared among the developers who are permitted to use the line. The cost sharing may be mutually decided by such developers who use the evacuation line and in case of no agreement among the users, the following procedure has to be adopted:

- "1. The total cost of the line will be decided by considering the actual cost certified to have been incurred by the original developer and the cost of the line worked out based on the cost data available whichever is least.
2. The cost sharing will be proportional to the common usage of the line by the proposed developer."

3. The petitioner has been operating its solar power plant and evacuating the power generated through the line in question. The fifth respondent has entered into a Energy Purchase Agreement with TANGEDCO on 06.04.2015 in and by which the fifth respondent has agreed to supply power to TANGEDCO at the rate of Rs.7.01 per unit under preferential tariff scheme. The power to be generated by the fifth respondent has to be evacuated through the power evacuation line erected by the petitioner at their cost. As pointed out in the preceding paragraphs that in the undertaking given by the petitioner, TANGEDCO reserves the right to allow the other developers to connect their solar power plant in the power evacuation line erected by the petitioner until the permitted capacity of the power evacuation line is achieved. However, this undertaking was given with a condition that in case, another developer is permitted to utilize the same line, the cost of the line should be shared among the developers. The undertaking provides that the cost sharing has to be done mutually failing mutual agreement by adopting the two contingencies mentioned above. Thus, the TANGEDCO has to ensure that the new developer complies with the condition. The petitioner is a third party to the agreement between TANGEDCO and fifth respondent. The fifth respondent has been granted permission vide proceedings dated 23.01.2016 of the second respondent to connect their power plant in the petitioner's power evacuation line. In the said proceedings, the conditions mentioned supra which form part of the undertaking given by the petitioner has been mentioned and there is also a further condition imposed on the fifth respondent that TANGEDCO reserves a right to allow other developers to connect their solar power plant in the existing power evacuation line until the permitted capacity of the power evacuation line is achieved. Therefore, there is a duty cast upon TANGEDCO to ensure that before the

line is used for evacuation of power to be generated by the fifth respondent the conditions imposed in their communication dated 23.01.2016 are complied with.

4. Mr.M.Subburaj, Assistant Executive Engineer, representing the second respondent, who is present in Court, submits that the Board will ensure that the cost sharing is done between the petitioner and the fifth respondent and in case of no agreement between the parties the procedure mentioned in clauses 1 and 2 stated supra shall be adopted.

5. In the light of the stand taken by the second respondent through the official, who is present in Court, the interest of the petitioner is sufficiently protected.

This Writ Petition is disposed of directing the second respondent and its officials to ensure that the condition imposed in their communication dated 23.01.2016 addressed to the fifth respondent is complied with before the power line is used for evacuation of power by the fifth respondent. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

1.The Chairman and Managing Director,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
144, Anna Salai, Chennai - 600 002.

2.The Chief Engineer,
Non conventional Energy Sources,
TANGEDCO,
II Floor, Eastern Wing, 144,
Anna Salai,
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3.The Director/Generation,
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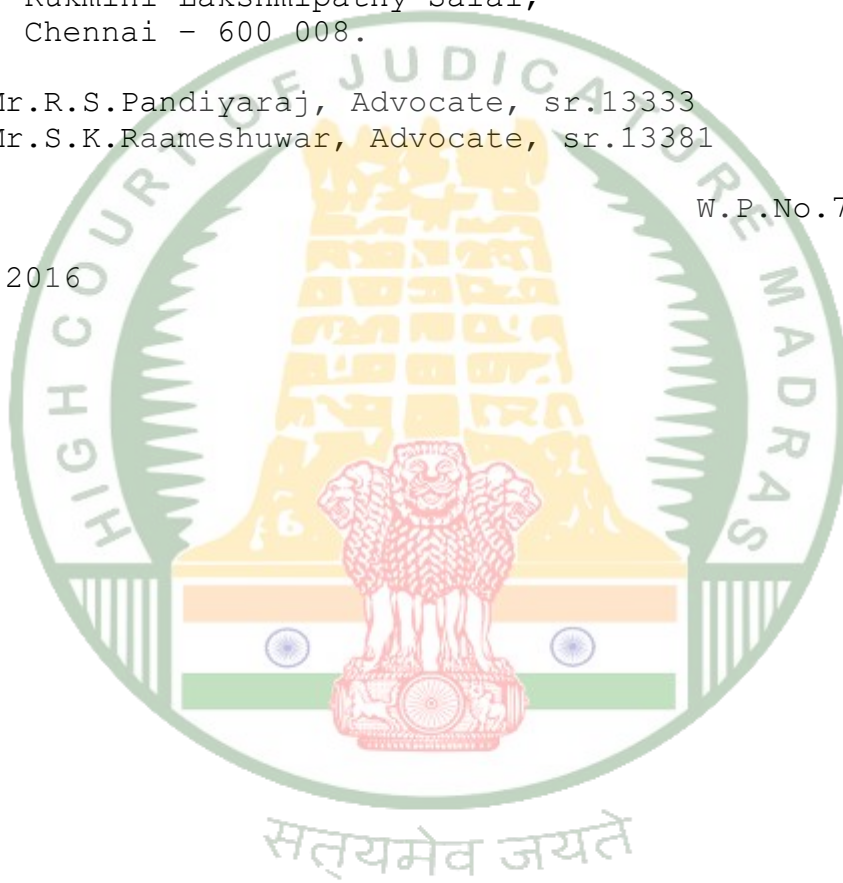
4.The Superintending Engineer,
Virudhunagar Electricity Distribution Circle,
TANGEDCO, Virudhunagar.

5.The Secretary,
Tamil Nadu Electricity Regulatory Commission,
No.19A, Rukmini Lakshmipathy Salai,
Egmore, Chennai - 600 008.

+1 cc to Mr.R.S.Pandiyaraj, Advocate, sr.13333
+1 cc to Mr.S.K.Raameshuwar, Advocate, sr.13381

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