

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.10.2017

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THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition Nos.26228 & 26229 of 2017
and
WMP Nos.27882 & 27883 of 2017

Al Ameen Green Energy Private Limited
Rep. by its Chairman - M.Basheer Ahamed
Green Palace Complex
No.67, Ramaswamy Street,
Mannady, Chennai-600 001. ... Petitioner
(in WP.Nos.26228 & 26229 of 2017)

Vs.

1. The State of Tamil Nadu
Rep. by its Secretary to Government
Energy Department
Secretariat, Fort St.George
Chennai-600 009.
2. The Tamil Nadu Generation & Distribution Corporation Limited
(TANGEDCO)
Rep. by its Managing Director
2nd Floor, Eastern Wing
No.144, Anna Salai,
Chennai-600 002.
3. The Chairman
Tamil Nadu Electricity Board (TNEB)
No.800, Anna Salai
Chennai-600 002.
4. The Tamil Nadu Electricity Regulatory Commission (TNERC)
Rep. by its Chairman
2nd Floor, Eastern Wing
No.144, Anna Salai,
Chennai-600 002.
5. The Chief Engineer / Non Conventional Energy Sources (NCES)
2nd Floor, Eastern Wing
NPKRR Maligai
No.144, Anna Salai
Chennai-600 002. ... Respondents
(in WP.Nos.26228 & 26229 of 2017)

Prayer:

Writ petition No.26228 of 2017 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records on the file of the 2nd respondent made in Lr.No.CE/NCES/SE/SOL/EE/SCB/A1/F.A1 Ameen/D 861/17 dated 18.09.2017, and to quash the same.

Writ petition No.26229 of 2017 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records on the file of the 2nd respondent made in Lr.No.CE/NCES/SE/SOL/EE/SCB/A1/F.A1 Ameen/D 859/17 dated 18.09.2017, and to quash the same.

For Petitioner : Mr.Haja Mohideen Gisthi
(in WP.Nos.26228 & 26229 of 2017)

For Respondents : Mr.R.Govindasamy
Special Government Pleader for R1
Mr.S.K.Rameshuwar
Standing counsel for R2 to R5
(in WP.Nos.26228 & 26229 of 2017)

C O M M O N O R D E R

Mr.R.Govindasamy, learned Special Government Pleader, takes notice for the first respondent and Mr.S.K.Rameshuwar, learned standing counsel takes notice for the respondents 2 to 5. By consent of the parties, the main writ petitions themselves are taken up for final disposal at the admission stage itself.

2. Both these writ petitions are filed challenging the order of the second respondent dated 18.09.2017.

3. Heard Mr.Haja Mohideen Gisthi, learned counsel appearing for the petitioner.

4. Indisputably, the dispute between the parties which culminated into passing of the present impugned order has arisen resulting out of an agreement entered between them wherein a Clause for settlement of dispute has been incorporated viz., Clause 11, which reads as follows:

"11. Settlement of Disputes:

If any dispute or difference of any kind whatsoever arises between the parties relating to this agreement, it shall, in the first instance, be settled amicably, by the parties, failing which either party may

approach the Commission for the adjudication of such disputes under Section 86(1)(f) of the Electricity Act, 2003 in accordance with the Conduct of Business Regulations 2004 and Fees and Fines Regulations 2004 of the Commission. This agreement shall be governed by the laws of India and the Courts at Chennai alone shall have jurisdiction."

5. Needless to say that when the parties to the agreement have agreed to resolve their dispute by way of resorting to the provisions before the concerned Adjudicating Authority under the relevant Clause viz., Clause 11 as stated supra, I am of the view that the petitioner is not justified in invoking the discretionary jurisdiction of this Court under Article 226 of the Constitution of India by filing the present writ petitions. Therefore, without expressing any view on the merits of the matter, these writ petitions are disposed of, with liberty to the petitioner to resolve the dispute as contained under Clause 11 of the said agreement. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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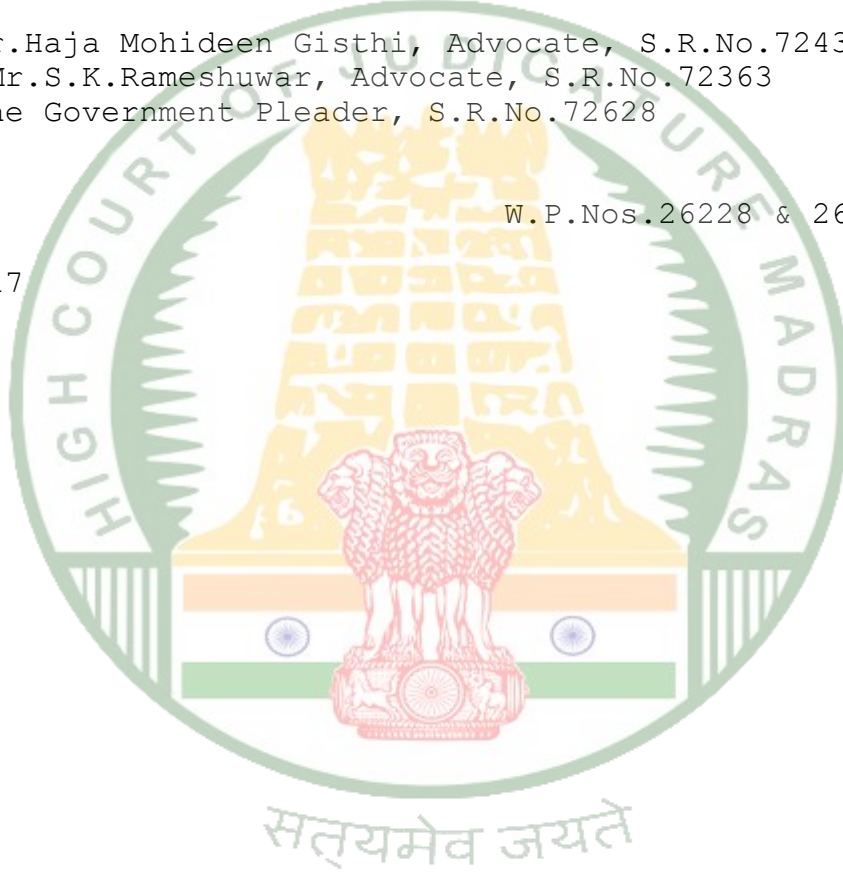
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+1cc to Mr.Haja Mohideen Gisthi, Advocate, S.R.No.72431
+1cc to Mr.S.K.Rameshuwar, Advocate, S.R.No.72363
+1cc to the Government Pleader, S.R.No.72628

W.P.Nos.26228 & 26229 of 2017

CS/01/11/17



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