

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 23.07.2018

CORAM
THE HONOURABLE MR. JUSTICE R.MAHADEVAN

W.P.No.14912 of 2010

Orietnal Hotels Limited,
37, Mahatma Gandhi Road,
Chennai-34, represented
by its General Manager (Finance).

.. Petitioner

Vs

- 1.Tamil Nadu Electricity Board,
represented by its Chairman,
Anna Salai,
Chennai-2.
- 2.The Superintending Engineer,
Tamil Nadu Electricity Board,
Madurai Electricity Distribution Circle,
K.Pudur, Madurai.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records connected with and pertaining to the impugned order dated 05.06.2010, Ref.No.SE/MEDC/Metro/MDU/DFC/AO (R)/HT/AS/F.Taj/ D.No.504/10, on the file of the 2nd respondent, The Superintending Engineer, Tamil Nadu Electricity Board, Madurai Electricity Distribution Circle, Madurai and quash the same and consequently direct the 1st respondent herein The Tamil Nadu Electricity Board, represented by its Chairman, to adjust the energy generated by the petitioner's windmills namely, WFSC Nos.132 and 189, on energy to energy basis with the petitioner's consumption at their HTSC No.98.

For Petitioner : Mr.Germiah
for Mr.P.Chandrasekar.

For Respondents : Mr.P.R.Dilip Kumar.

O R D E R

The Writ Petition has been filed to quash the notice dated 05.06.2010 passed by the second respondent, whereby, the petitioner was requested to show cause as to why the adjustment of wind energy generated through Wind Farm Nos.332 and 182 against the consumption in H.T.S.C.No.61 (Old No.98) (M/s.Taj Garden Retreat) should not be done by collecting the

differential tariff between HT Commercial and HT Industrial as per the orders passed by the Board, including the order issued in B.P.(FB) No.194 dated 10.07.2001.

2.On 13.07.2010, when the writ petition was taken up for admission, this Court granted an order of interim stay for a period of two weeks, which was subsequently, extended vide order dated 27.07.2010.

3.Upon notice, the respondents filed a detailed counter affidavit dated 03.08.2010, inter alia stating that the petitioner had entered into two separate agreements with the respondent Board dated 31.03.1995 and 30.09.1995 termed as Agreement for Private Windmill Generator, under which, the power generated by the petitioner from the windmills located at Tirunelveli District is to be adjusted with the petitioner's consumption at HT SC 61 (Old No.98) M/s.Taj Retreat, Madurai (Commercial Service Tariff III). It is further averred therein that as per Clause 23 of the said Agreement, the company agrees that the Board shall have the right to vary from time to time, the tariffs, general and miscellaneous charges and the terms and conditions of supply under the agreement by Special or General proceedings and the conditions relating to generation of electricity through windmill of the Company. It is also averred in the counter affidavit that as per the order of this Court, the impugned notice came to be issued to the petitioner and the petitioner, without replying to the same, has approached to this Court with the present writ petition and obtained an order of interim stay.

4.The learned counsel for the petitioner stoutly refuted the averments so made in the counter affidavit. According to him, without affording an opportunity of personal hearing to the petitioner to put forth their case, the respondents cannot pass any final order, giving effect to any of the orders passed earlier. However, the learned counsel submitted that it would suffice, if the petitioner is permitted to submit their objection to the notice impugned herein and on such submission, the respondents may be directed to consider the same and pass orders, for which, the learned counsel appearing for the respondents has no serious objection.

5.Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this Court permits the petitioner to submit their objection to the respondents, within a period of two weeks from the date of receipt of a copy of this order. On such submission, the respondents shall consider each and every objections raised by the petitioner and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner within a period of six weeks

thereafter. Till such time, the respondents shall not give effect to the earlier orders passed.

6.This Writ Petition stands disposed of in the above terms.
No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

- 1.Tamil Nadu Electricity Board,
represented by its Chairman,
Anna Salai,
Chennai-2.
- 2.The Superintending Engineer,
Tamil Nadu Electricity Board,
Madurai Electricity Distribution Circle,
K.Pudur, Madurai

+2cc to Mr.P.Chandrasekaran, Advocate, S.R.No.48857.
+1cc to Mr.P.R.Dhilip Kumar, Advocate, S.R.No.49125.

W.P.No.14912 of 2010

EV(CO)

rrs 09/10/2018

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