

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2019

CORAM

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.4079 of 2019 and
WMP.Nos.4549 and 4553/2019

Sri Saipranav Wind Power Private Limited
rep. by its Managing Director,
41, Majid Street,
Kangayam 638 701,
Tirupur District.

...Petitioner

Versus

1. The Tamil Nadu Generation and Distribution Corporation (TANGEDCO) Limited
rep. by its Chairman and Managing Director,
10th Floor, E.W., N.P.K.R.R. Maligai,
Anna Salai, Chennai-600 002.
2. The Chief Engineer (NCES),
TANGEDCO,
2nd Floor, Eastern Wing, Anna Salai,
Chennai-600 002.
3. The Executive Engineer/WPP,
Office of Chief Engineer/NCES,
2nd Floor, Eastern Wing, Anna Salai,
Chennai-600 002.
4. The Superintending Engineer i/c.,
Tirunelveli Electricity Distribution Circle,
TANGEDCO, Maharaja Nagar,
Tirunelveli-627 001.
5. RRB Energy Limited,
182/2 Bypass Road,
Poonamallee,
Chennai-600 056.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 to 4 to forthwith execute necessary documents in respect of WF HT SC Nos.138 and 139 dated 16.06.2015 for effecting name transfer from the name of the 5th respondent to that of the petitioner and also for a direction that such name transfer shall have effect from 01.11.2018 in

order that generation of power from 01.11.2018 shall be accounted for and adjusted against the list of captive consumers details which have already been provided by the petitioner in its Communication dated 16.10.2018.

For Petitioner : Mr.R.Parthasarathy
For Respondents : Mr.S.K.Raameshuwar,
1 to 4 Standing Counsel

O R D E R

Sri Saipranav Wind Power Private Limited represented by its Managing Director, 41, Majid Street, Kangayam 638 701, Tirupur District, has come to this Court with a prayer for issuance of a Writ of Mandamus under Article 226 of the Constitution of India, directing the respondents 1 to 4 to forthwith execute necessary documents in respect of WF HT SC Nos.138 and 139 dated 16.06.2015 for effecting name transfer, from the name of the 5th respondent, namely, RRB Energy Limited, 182/2 Bypass Road, Poonamallee, Chennai-56 to the name of the petitioner and also to grant a direction that such transfer shall have effect from 01.11.2018 so that the generation of power from 01.11.2018 shall be accounted for and adjusted against the list of captive consumers details which have already been provided by the petitioner in its Communication dated 16.10.2018 to the 2nd respondent.

2. Learned Counsel appearing for the petitioner would submit that the petitioner is a Company incorporated under the provisions of the Companies Act, 1956 for the purpose of generating captive consumption of wind power. The petitioner company has purchased the Wind Energy Generators (hereinafter called as 'WEGs'), located at Pazhavor and Perungudi Villages, Tirunelveli District, belonging to the 5th respondent, after making payment of advance of Rs.5,00,000/- only, at the time of entering into the Memorandum of Agreement dated 01.09.2018 under which the petitioner was required to pay Rs.69,52,444/- to the Tamil Nadu Generation and Distribution Corporation Limited (hereinafter referred to as, 'TANGEDCO'). The petitioner effected the said payment directly to TANGEDCO by way of Demand Drafts and further, a sum of Rs.1,35,36,191/- was directly paid to the 5th respondent and the balance of Rs.11,365/- by way of cash. A Tax Invoice for the total value was also raised and a total sum of Rs.2,10,00,000/- was effected towards purchase of the two wind mills including the land. The 5th respondent has also issued a Consent Letter dated 27.09.2018 accepting the sale of the aforementioned two WEGs.

3. The learned Counsel for the petitioner would further submit that thereafter, the petitioner has made an application for name transfer to the 2nd respondent on 16.10.2018. On

30.10.2018, a Certificate for the purpose of Name Transfer with Utility Change was issued by the 4th respondent, namely, Superintending Engineer i/c. Tirunelveli Electricity Distribution Circle, TANGEDCO, Maharaja Nagar, Tirunelveli 627 001. In the said Certificate, the Superintending Engineer, TANGEDCO, has made it clear that there is no arrears pending for effecting transfer and he also certified that there is no court case pending. With this, the Superintending Engineer has also made a specific recommendation for effecting name transfer in favour of the petitioner. This apart, the petitioner has also made a payment of Rs.2,95,000/-, namely, a sum of Rs.2,36,000/- towards name transfer fee on 01.11.2018 and one more sum of Rs.59,000/- towards long term open access fee on the same date. Therefore, the payment of Rs.2,95,000/- as called for by the Executive Engineer has been complied with. This apart, when a 'No Objection Certificate' has also been issued by the 4th respondent to effect name change, a direction may be given as prayed for by the petitioner, it is pleaded.

4. A Common Counter Affidavit has been filed by the respondents 1 to 4.

5. Mr.S.K.Raameshuwar, learned Standing Counsel appearing for the respondents 1 to 4 would submit that since the petitioner has made the payment on the basis of the recommendation issued by the 4th respondent, namely, Superintending Engineer i/c., Tirunelveli Electricity Distribution Circle TANGEDCO, Maharaja Nagar, Tirunelveli-627 001 thereby certifying that there is no arrears and that no case is pending, the request of the petitioner would be considered by effecting transfer from the name of the 5th respondent to the name of the petitioner.

6. As I am able to see from the records that when there has been certificate issued by the 4th respondent, namely, Superintending Engineer i/c., Tirunelveli Electricity Distribution Circle TANGEDCO, Maharaja Nagar, Tirunelveli-627 001 dated 30.10.2018 stating that there is no arrears of amount to be paid by the petitioner and also that there is no court case pending and that the petitioner has also complied with the payment request made by the Chief Executive Engineer, TANGEDCO in his letter dated 31.10.2018 for payment of Rs.2,95,000/- towards the name transfer fee in respect of two WEG HTSC from RRB Energy Limited, 182/2 Bypass Road, Poonamallee, Chennai, the 5th respondent herein to Sri Saipranav Wind Power Private Limited, 41 Majid Steet, Kangayam 638 701, Tirupur District, the petitioner herein, this Court has no hesitation to issue Mandamus as prayed for by the petitioner.

7. In view of all the above, the respondents 1 to 4 are directed to effect name transfer in respect of two WEG HTSC on

the basis of the Certificate dated 30.10.2018 issued by the 4th respondent, namely, Superintending Engineer i/c., Tirunelveli Electricity Distribution Circle TANGEDCO, Maharaja Nagar, Tirunelveli-627 001, from the name of the 5th respondent to the name of the petitioner. The entire exercise shall be done within a period of two weeks from the date of receipt of a copy of this Order. It is made clear that the effect of name transfer would take effect from 01.11.2018 since the payment has been made by the petitioner on 01.11.2018, as demanded.

8. With the above observation and direction, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

tsi

To

1. The Chairman and Managing Director,
Tamil Nadu Generation and Distribution
Corporation (TANGEDCO) Limited,
10th Floor, E.W., N.P.K.R.R. Maligai,
Anna Salai, Chennai-600 002.
2. The Chief Engineer (NCES),
TANGEDCO,
2nd Floor, Eastern Wing, Anna Salai,
Chennai-600 002.
3. The Executive Engineer/WPP,
Office of Chief Engineer/NCES,
2nd Floor, Eastern Wing, Anna Salai,
Chennai-600 002.
4. The Superintending Engineer i/c.,
Tirunelveli Electricity Distribution Circle,
TANGEDCO, Maharaja Nagar,
Tirunelveli-627 001.

+1 CC to Mr.R.Parthasarathy, Advocate sr 23622.

+1 CC to Mr.S.K.Raameshuwar, Advocate sr 25538.

W.P.No.4079 of 2019

SP(22/04/2019)