

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2019

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.6212 of 2011

And

M.P.Nos.1 and 2 of 2011

M/s.Precot Meridian Limited
Represented by its Company Secretary ... Petitioner

Vs.

- 1.Tamil Nadu Electricity
Regulatory Commission
Rep. by its Secretary,
19-A, Rukmini Lakshmipathy Salai (Marshall's Road),
Egmore, Chennai - 600 008.
- 2.Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Represented by its Director,
144, Anna Salai, Chennai - 600 002.
- 3.The Superintending Engineer,
Erode Electricity Distribution Circle,
TANGEDCO (formerly TNEB),
948, E.V.N.Road, Erode. ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the 3rd respondent culminating in his impugned Lr.No.A.Cs.Br./HT/A4/F.R&C/D.75/10 dated 22.02.2011, quash the same and direct the 2nd and 3rd respondents to strictly follow its Technical Branch Memi CE/Comml./EE/DSM/PMM/F.Powercut/ D.28/2008 dated 17.11.2008 in respect of calculation of wind energy quota and the Order dated 28.10.2009 passed in Suo Moto Proceedings No.1 of 2009 and to calculate wind energy on the basis of units injected into the grid by the wind energy generators and not on the basis of units consumed by the Petitioner for its HT SC No.162.

For Petitioner : Mr.N.L.Rajah SC for Mr.Arun Anbumani

For Respondents: Mr.Aravind Pandian, AAG
Assisted by
Mr.S.K.Rameshwar

O R D E R

The issue raised in the present writ petition has already been settled before the Appellate Tribunal for Electricity (APTEL). The writ petition challenges the excess charges levied for exceeding quota by the 3rd respondent. In this regard, the Tamil Nadu Electricity Regulatory Commission has passed an order on 04.05.2010, relevant portion of which reads as follows:

"Para 11.7 para 3.9 of the order of the commission in RPNO.2 of 2008 explicitly states as follows,

It must be borne in mind that excess demand charges and excess energy charges are liable in addition to the penalty of drastic reduction of electricity supply to 5% (or 10%) during the following 48 hrs as the case may be for violation of restriction and control measures."

2. Against which, the aggrieved similarly placed persons filed appeal before the Appellate Tribunal for Electricity (APTEL) and obtained final order on 11.01.2011.

3. In this regard, the Tamil Nadu Electricity Board approached the Hon'ble Supreme Court by filing Civil Appeal Nos.1090 - 1099 of 2011 and the Hon'ble Supreme Court vide order dated 04.02.2011 entertained the Civil Appeals against the judgment of the Appellate Tribunal. On a perusal of the interim order dated 04.02.2011, there is a direction to the appellant therein/Tamil Nadu Electricity Board to furnish Bank Guarantee of a Nationalized Bank in favour of the Registrar (Judicial) of the Hon'ble Supreme Court.

4. Since the issue involved in the present writ petition is pending before the Hon'ble Supreme Court at the instigation of the respondent herein/ Tamil Nadu Electricity Board, the writ petition is disposed of directing the respondent to maintain status-quo as on date. Subject to the outcome of the Supreme Court order, the parties may seek remedy in the manner known to law.

5. Accordingly, the writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary,
Tamil Nadu Electricity
Regulatory Commission
19-A, Rukmini Lakshmipathy Salai (Marshall's Road),
Egmore, Chennai - 600 008.
2. The Director,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
144, Anna Salai, Chennai - 600 002.
3. The Superintending Engineer,
Erode Electricity Distribution Circle,
TANGEDCO (formerly TNEB),
948, E.V.N. Road, Erode.

+1cc to Mr. Arun Anbumani, Advocate Sr.73222

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srg 04/10/2019

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