

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.06.2019

Coram::

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P.Nos.14548 & 14550 of 2019
& W.M.P.Nos.14536 to 14538 of 2019

M/s.Corolla Green Power Private Limited,
Having its registered office at
Fourth Floor, Caledon Square, Avinashi Road,
Peelamedu, Coimbatore - 641 004.
Rep. by its Authorised Signatory,
Mr.B.Rajeswaran.

... Petitioner
in both cases

/versus/

The Director/Generation,
TANGEDCO (Tamil Nadu Generation and Distribution Corporation
Limited)
No.144, Anna Salai,
Chennai - 600 002.

... Respondents
in both cases

Prayer in W.P.No.14548 of 2019:- Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Certiorari, to call for the records pertaining to Lr.No.:Dir/Gen/CE/NCES/SE/Solar/EE /WPP/AEE2/F.M/s.Corolla Green Power Pvt. Ltd, D.30/19, dated.09.01.2019 issued to the petitioner by the Director/Generation of the Respondent issued without any jurisdiction.

Prayer in W.P.No.14550 of 2019:- Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of declaration, declaring the commissioning date of the 250 MW Project under the Energy Purchase Agreement dated 16.10.2017 between the Petitioner and the respondent is extended for the period of delay caused by the Respondent in providing the bays at the 400/230-110 KV Rasipalayam Sub Station to the Petitioner until allocation.

For Petitioner : Mr.AR.L.Sundaresan, Senior Counsel
in both cases for Mr.P.T.Kannan

For Respondent : Mr.P.H.Aravindh Pandian,
in both cases Additional Advocate General
Asst. by Mr.S.K.Rameshwar

O R D E R

Heard the learned counsel for the petitioner and the learned Additional Advocate General for the respondent.

2. The learned Senior Counsel for the petitioners and the learned Additional Advocate General appearing for the respondent would intimate the Court that the dispute between the M/s. Corolla Green Power Private Limited and Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO), who are the petitioner and the respondent respectively, has to be agitated before the Tamil Nadu Electricity Regulatory Commission (TNERC), since it is with regard to breach of contract and consequential attempt to invoke bank guarantee. Since the commission is not functioning at present writ petition was filed.

3. In such circumstances, this Court is of the opinion that when the statutory body to look upon the technical aspects is likely to be constituted soon it is better the said body hear the dispute and arrive at a conclusion.

4. From the records, this Court finds that the bank guarantee furnished by the petitioner herein is valid up to 20.10.2019. By virtue of the interim order passed by this Court on 16.05.2019, the respondent was restrained from encashing the performance bank guarantee till 19.06.2019.

5. In the light of the subsequent developments, these Writ Petitions are disposed of, with the following directions.

(i). The respondent herein shall not exercise the right of encashing the performance bank guarantee given by the petitioner herein, for a period of three weeks from the date of constitution of TNERC. By that time the petitioner shall approach the TNERC and seek redressal for its grievance.

(ii). The respondent herein is restrained from taking any coercive action for three weeks from the date of Tamil Nadu Electricity Regulatory Commission constituted. The restrained order will be only for the period of three weeks, from the date of TNERC constitution. Thereafter, it is opened for the respondent to proceed, in accordance with law.

6. With the above observations, the Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

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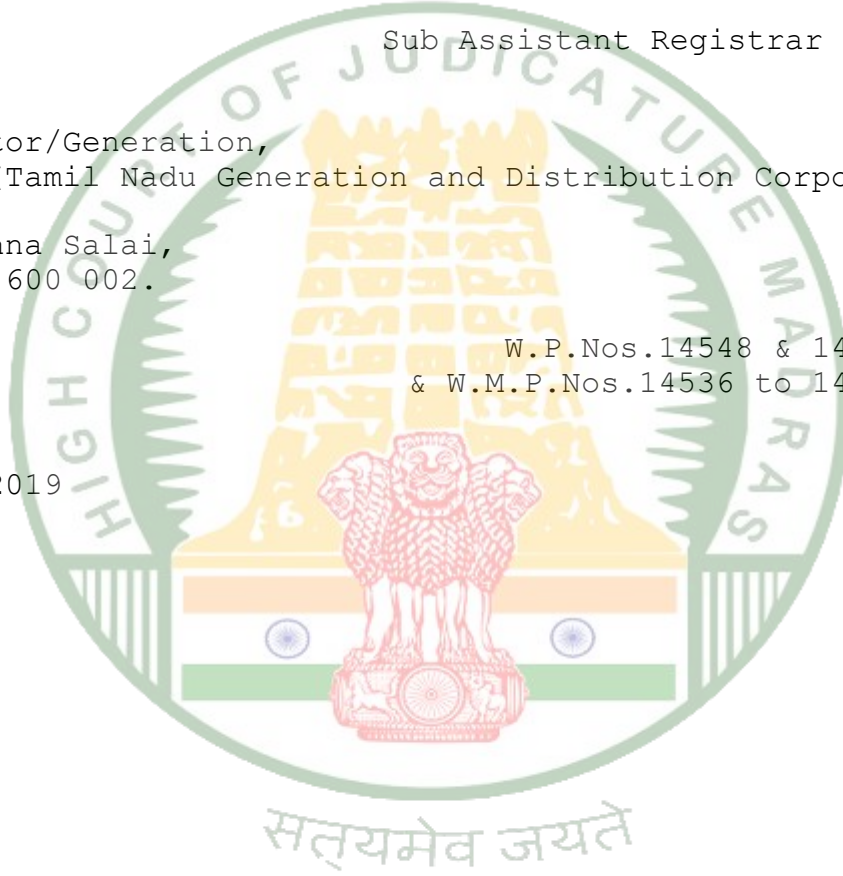
Sub Assistant Registrar

bsm

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