

IN THE HIGH COURT OF JUDICATURE AT MADRAS

( Special Original Jurisdiction )

Thursday, the Thirtieth day of July Two Thousand Twenty

PRESENT

THE HON`BLE MR.JUSTICE N.ANAND VENKATESH

WMP Nos.11446 & 11449 of 2020

in WP No.9361 of 2020

SPR CONSTRUCTION PRIVATE LIMITED [ PETITIONER IN BOTH the  
REP. BY ITS DIRECTOR, MR. CHETAN BOHRA, PETITIONS ]  
NO.57, NARAYAN MUDALI STREET, SOWCARPET,  
CHENNAI 600079.

ALSO AT. NO.1 COOKS ROAD,  
SPR CITY, PERAMBUR,CHENNAI 600 012.

Vs

1 TAMIL NADU GENERATION AND [ RESPONDENTS IN BOTH the  
DISTRIBUTION CORPORATION LTD., (TANGEDCO), PETITIONS ]  
REP. BY ITS CHAIRMAN CUM MANAGING DIRECTOR,  
NPKRR MAALIGAI NO.144, ANNASALAI  
CHENNAI 600002.

2 THE CHIEF ENGINEER/  
DISTRIBUTION, TANGEDCO,  
NORTH REGION, NPKRR MAALIGAI,  
NO.144, ANNASALAI, CHENNAI 600002.

3 THE SUPERINTENDING ENGINEER,  
CHENNAI E.D.C/ CENTRAL  
NO.110 K.V.VALLUVARKOTTAM SS COMPLEX,  
CHENNAI 600034.

4 THE TAMIL NADU ELECTRICITY  
REGULATORY COMMISSION, NO,19-A, RUKMINI  
LAKSHMIPATHY SALAI (MARSHALLS ROAD),  
EGMORE, CHENNAI 600008.

Petitions praying that in these circumstances stated therein and in the respective affidavits filed therewith the High Court will be pleased to

(1) to stay all further proceedings of the impugned order in Lr.No.SE/ CEDC / C /EE/ GL/ AEE/ Dev/ AE/ F.H.T. New . TY. Sy/ D.239/20 dated 02/07/2020 passed by the 4th respondent (in WMP.11446/2020) and

(2) To direct the respondents to provide a temporary High Tension Electricity Connection with the load of 400 KVA for the Construction of multistoried project of the Petitioner at No.1, Cooks Road, Perambur, Chennai 600012 as expeditiously as possible within the time stipulation as prescribed by this Honourable Court (in WMP.11449/2020) respectively pending WP.Nos.9361 & 9311 of 2020.

Order : These petitions coming on for orders upon perusing the petitions and the respective affidavits filed in support thereof and upon hearing the arguments of MR.N.L.RAJAH SENIOR COUNSEL for MR.E.SATHISHKUMAR, Advocate for the petitioner in both the petitions and of MR.DHILIP KUMAR STANDING COUNSEL on behalf of the Respondents in both the petitions the court made the following order:-

COMMON ORDER

The petitioner entered into a joint venture agreement with Binny Limited and also obtained a General Power of Attorney and commenced the project in the year 2018. The petitioner filed an application before the TANGEDCO, seeking for a temporary high tension electricity supply for a load of 250 KVA, through letter dated 25.07.2018. The request made by the petitioner was rejected by the third respondent by letter dated 09.10.2018, on the ground that there was an arrears of Rs.14,42,971/- that is due and payable. This demand is not seriously contested by the petitioner and an appeal filed against the said demand was also dismissed. Therefore, when the matter came up for hearing on 20.07.2020, this Court passed the following order.

"2. Mr.N.L.Rajah, learned Senior Counsel appearing on behalf of the petitioner submitted that the arrears payable by the petitioner works out to a sum of Rs.14,42,971/- and the appeal filed against the same was also dismissed. Therefore, the learned Senior Counsel submitted that he will advise his client to make this payment of Rs.14,42,971/- and based on the payment, the respondents can be directed to provide temporary connection. The learned Senior Counsel further submitted that the said connection can be subject to the final decision in the connected W.P.No.9311 of 2020.

3. The learned Standing Counsel appearing on behalf of the respondents is directed to get instructions on the same."

2. Mr.Dhilip Kumar, learned Standing Counsel appearing on behalf of TANGEDCO submitted that the then Superintending Engineer while intimating the petitioner through letter dated 09.10.2018, ought to have brought to the notice of the petitioner the total arrears that was payable by Binny Limited. The learned counsel further submitted that the petitioner had applied to the present Superintending Engineer seeking for a new HT temporary supply for a maximum demand of 400KVA. When this request was made, the entire file was scrutinized and it was found that a total sum of Rs.2,80,75,935/- was payable towards BPSC and it was agreed to be paid in five installments by the petitioner. Out of the same, two installments were also paid amounting to a sum of Rs.1,12,30,374/- and the balance three installments alone remained to be paid. Those three installments against BPSC was calculated and the 3rd respondent has demanded a sum of Rs.2,19,66,162/-, for providing the temporary HT connection of 400 KVA. The learned counsel submitted that unless this amount is paid, there is no question of granting any temporary connection as requested by the petitioner.

3.In reply to this submission, Mr.NL.Rajah, learned Senior Counsel appearing on behalf of the petitioner brought to the notice of this Court, the memo dated 27.12.2016, by the Chief Finance Controller-Revenue. By pointing out to the said letter, the learned Senior Counsel submitted that there is no amount due payable by Binny Limited. The learned Senior Counsel submitted that the petitioner was not aware about this memo dated 27.12.2016. Therefore, the petitioner had proceeded to pay two installments amounting to a sum of Rs.1,12,30,374/-. On coming to know of this communication, the petitioner did not proceed to pay the remaining installments since according to the petitioner there is no amount due and payable to the respondents. That apart, the learned Senior Counsel submitted that a sum of Rs.1,68,45,561/-, which was to be paid for the remaining three installments was towards BPSC and for this amount, a further BPSC had been imposed to the tune of Rs.51,21,051/-. This is one of the important issue that has been put to challenge by the Binny Limited in W.P.No.9311 of 2020. The learned Senior Counsel therefore submitted that the admitted arrears of Rs.14,42,971/- will be deposited with the respondents and they can consider providing temporary connection and it can also be made subject to the final result in W.P.No.9311 of 2020.

4.This Court has carefully considered the submissions made on either side and the materials available on record. For the present, it is enough if this Court takes into consideration the prima facie materials, in order to decide whether any interim orders can be passed in these petitions.

5.In this case surprisingly, there are two letters that has been issued by the Superintending Engineer. In one letter dated 09.10.2018, the arrears is mentioned as Rs.14,42,971/-. Whereas, the impugned letter that was issued by the present Superintending Engineer indicates a completely different amount that is due and

payable. The issue as to why two different letters were given at two different points of time is a matter to be gone into in the main writ petition. The demand that has been made in the impugned letter dated 02.07.2020, must again be tested with the earlier memo of the Chief Financial Controller, dated 27.12.2016 and it has to be seen whether all the amounts that have been paid under this memo was taken into consideration at the time of issuing the impugned letter. This is an issue which will be resolved in the other writ petition filed in W.P.No.9311 of 2020.

6. Admittedly, the entire amount of Rs.2,80,75,935/- is under the head of BPSC. Out of this amount, the petitioner has also paid the first two installments of Rs.1,12,30,374/-. If ultimately there is no amount due and payable as per the memo dated 27.12.2016, then the very demand made towards BPSC will be under question. That is the reason why the refund of the amount paid towards BPSC is sought for in W.P.No.9311 of 2020.

7. The petitioner wants to proceed further with the project for which he is seeking for a temporary HT connection for a maximum demand of 400KVA. Whatever current is consumed will have to be paid by the petitioner to the TANGEDCO and to that extent TANGEDCO will be earning income if it provides for a temporary connection. This temporary connection can be made subject to the result of this writ petition and W.P.No.9311 of 2020. Even taking the extreme case where the petitioner fails and they are directed to make the payments, the electricity board is not going to give electricity connection for the flats even after the completion of the project, unless the amount claimed by the respondents is paid. In other words there is no escape from the payment of the dues if ultimately this Court sustains the demand made by TANGEDCO.

8. In view of the above, these Miscellaneous Petitions are disposed of with the following directions:

(a) The petitioner is directed to pay a sum of Rs.25,00,000/- [Rupees Twenty Five Lakhs only] to the third respondent, without prejudice to their rights in the writ petition.

(b) The third respondent immediately on receipt of the deposit shall process the application submitted by the petitioner dated 02.06.2020 and provide a temporary HT electricity connection for a maximum demand of 400KVA.

(c) The temporary connection provided by the third respondent shall be subject to the final result in W.P.Nos.9311 & 9361 of 2020.

(d) The petitioner shall pay the consumption charges as and when the demand is raised by the TANGEDCO, failing which, it is open to the 3rd respondent to withdraw the temporary connection.

-sd/-  
30/07/2020

/ TRUE COPY /

Sub Assistant Registrar ( Statistics / C.S. )  
High Court, Madras - 600 104.

TO

1 THE CHAIRMAN AND MANAGING  
DIRECTOR, TAMIL NADU GENERATION AND  
DISTRIBUTION CORPORATION LTD., (TANGEDCO),  
NPKRR MAALIGAI NO.144, ANNASALAI CHENNAI  
600002.

2 THE CHIEF ENGINEER,  
DISTRIBUTION, TANGEDCO, NORTH REGION, NPKRR  
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CHENNAI E.D.C. CENTRAL NO.110 K.V.  
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REGULATORY COMMISSION, NO,19-A, RUKMINI  
LAKSHMIPATHY SALAI (MARSHALLS ROAD), EGMORE,  
CHENNAI 600008.

C.C. to E.SATHISHKUMAR Advocate SR.NO. 4347

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Order

in

WMP.11446& 11449/2020

in

WP.9361/2020

Date :30/07/2020

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VS 06.08.2020

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