

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.NO.2731 OF 2021

AND

W.M.P.NO.3064 OF 2021

Raasi Green Earth Energy Private Limited,
Rep. By its Director BC.Sandeep,
No.817, 2nd Floor, 80 Feet Road,
8th Block, Koramangala,
Bangalore - 560.

...Petitioner

Vs.

1. Tamil Nadu Generation and Distribution
Corporation Limited,
No.144, Anna Salai, Chennai - 600 002.

2. The Chief Engineer,
NCES - TANGEDCO,
No.144, Anna Salai,
Chennai - 600 002.

3. The Chief Manager,
Punjab National Bank,
Koramangala Branch,
Bangalore - 560095.

...Respondents

Prayer:

Writ petition filed under Article 226 of the Constitution of India seeking issuance of writ of mandamus, forbearing the respondents from in anyway encashing or requesting to encash the Bank Guarantees for a value of Rs.10 Crores (No.3971ILG 002317 dated 29.12.2017 with validity upto 31.12.2021) and Rs.5 Crores (No.3971ILG 001718 dated 29.10.2018 with validity upto 31.12.2021) executed by the petitioner with Punjab National Bank, Koramangala Branch till the hearing of the statutory appeal against the order dated 02.02.2021 passed in DRP No.8 of 2020 by the Tamil Nadu Electricity Regulatory Commission.

For Petitioner : Mr.P.Wilson, Senior Counsel

For Respondents : Mr.S.R.Rajagopal
Additional Advocate General for
Mr.Vijay Hemanth
Standing Counsel for R1 & R2

O R D E R

This writ petition is filed for a mandamus forbearing the respondents from in anyway encashing or requesting to encash the Bank Guarantee for a value of Rs.10 Crores and for Rs.5 Crores executed by the petitioner with Punjab National Bank, Koramangala Branch till the hearing of the statutory appeal against the order dated 02.02.2021 passed in DRP No. 8 of 2020 by the Tamil Nadu Electricity Regulatory Commission.

2. The Tamil Nadu Electricity Regulation Commission by its order dated 02.02.2021 has dismissed the petition filed by the petitioner for extention of time for furnishing the bank guarantee as per the terms of the agreement. The petitioner had entered into a Power Purchase Agreement (PPA) with the TANGEDCO by participating in a tender floated by the TANGEDCO in the year 2017-18. The petitioner was also selected as the successful bidder and the parties have also entered into an agreement on 26.09.2017. As per the terms and conditions of the agreement, the petitioner has to execute a Bank Guarantee to the tune of Rs.20 Crores. On scrutinize of the Bank Guarantee, the Bank Guarantee for Rs.5,00,00,000/- appears to be bogus and therefore, a show cause notice was issued. The petitioner has also made a request for some time for replacing the bank guarantee for Rs.5,00,00,000/- found to be bogus.

3. In the mean time, the petitioner has also approached the Regulatory Commission for extension of further time for execution of this bank guarantee, which has been rejected by the Regulatory Commissioner. As against the order of the Regulatory Commission, the petitioner is entitled to file an appeal before the APTEL under Section 111 of the Electricity Act.

4. Mr.P.Wilson, learned Senior Counsel appearing for the petitioner would submit that this order dated 02.02.2021 has not been uploaded so far and the statutory appeal as per Section 111 of the Electricity Act, 2003 has to be filed within 45 days.

5. Mr.S.R.Rajagopal, Additional Advocate General would submit that this writ petition itself is not maintainable and

the petitioner has confined only with regard to the Bank Guarantee of Rs.10,00,00,000/- dated 29.12.2017 and another Rs.5,00,00,000/- dated 29.10.2018 and he is not having any reply for the bogus guarantee for the remaining amount. The contract is a separate one and knowing the terms and condition, the petitioner has participated in the tender and also entered into a Power Purchase Agreement (PPA) with the respondent and therefore, the petitioner is not entitled for any relief.

6. The petitioner is having a remedy of statutory appeal under Section 111 of the Electricity Act before the APTEL therefore, it is open to the petitioner to file an appeal before the Appellate Authority for the relief sought for. Accordingly, this writ petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To:

1. Tamil Nadu Generation and Distribution Corporation Limited,
No.144, Anna Salai, Chennai - 600 002.
2. The Chief Engineer,
NCES - TANGEDCO,
No.144, Anna Salai,
Chennai - 600 002.
3. The Chief Manager,
Punjab National Bank,
Koramangala Branch,
Bangalore - 560095.

+1cc to Mr.Richardson Wilson, Advocate, S.R.No.7053

W.P.No.2731 of 2021
and
W.M.P.No.3064 of 2021

MG (CO)
CS/22/03/2021