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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2021

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P.No.29545 of 2013
and
M.P.Nos.1 & 2 of 2013

Chemplast Sanmar Limited
Rep. by its Assistant General Manager (Legal)
No.9, Cathedral Road,
Chennai - 600 086

... Petitioner

Vs.

1. Union of India
Represented by the Secretary, Ministry of Power,
Shram Shakti Bhavan,
Ministry of Power,
New Delhi - 1
 2. State of Tamil Nadu
Through its Secretary
Department of Energy Fort St. George,
Chennai - 600 009
 3. Central Electricity Regulatory Commission
3 rd & 4 th Floor, Chanderlok Building,
36, Janpath, New Delhi - 110 001
 4. Tamil Nadu Electricity Regulatory Commission
Through its Secretary
No. 19A, Rukmini Lakshmipathy Salai,
Egmore, Chennai - 600 008
 5. Tamil Nadu Generation and Distribution Ltd. I
Rep by its Chairman and Managing Director,
144, Anna Salai, Chennai - 600 002
- ...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of certiorari calling for the records 2nd respondent comprised in G.O (Ms) No.



121/Energy (C2)/ dated 19.10.2012 of the Government of Tamil Nadu in so far as it requires imposition of and compliance with Solar Purchase Obligation and the consequential suo-motu order entitled "Issues relating to Tamil Nadu Energy Policy 2012" being Order No.1 of 2013 dated 07.03.2013 issued by the 4th Respondent as being illegal, unconstitutional, and ultra vires Section 86 (1) (e) of the Electricity Act, 2003 and quash the same.

For Petitioner : Mr.Srinath Sridevan

For Respondent 1 : Mr.D.Ramesh Kumar
Central Government
Standing counsel

For Respondent 2 : Mrs.N.Senthil Selvi
Government Advocate

For Respondent 3 : Mr.T.Mohan

For Respondent 4 : No Appearance

For Respondent 5 : Mr.L.Jai Venkatesh
For TANGEDCO

O R D E R

The issues raised in the present Writ Petition had considered elaborately by the Appellate Tribunal for Electricity in Appeal No.92 of 2013 & I.A.No.151 of 2013 and Appeal No.109 of 2013 dated 21.01.2014.

2.The findings of the Tribunal reads as follows:

"35. Summary of our findings:

i) The State Commission in discharge of its functions under the Electricity Act, 2003 has to be guided by the directions of the State Government u/s 108 of the 2003 Act but the same are not mandatory and binding. The State Commission being an independent statutory authority is not bound by any policy directions which hampers its statutory functions.

ii) The State Commission has to be guided by



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the directions of the State Government u/s 108 of the Act only in discharge of the functions assigned to it under the 2003 Act. Such directions have to be implemented only under the functions and powers assigned to the State Commission under the 2003 Act. The Act only provides for specifying the purchase obligation from the renewable energy sources under Section 86(1)(e). Thus, the directions of the State Government for SPO can only be considered by the State Commission in exercise of its powers under Section 86(1)(e) of the Act.

iii) The contention of the State Commission that SPO and RPO are two different obligations and the RPO has been fixed under RPO Regulations 2010 under Section 86(1)(e) and SPO as per implementation of Policy directions of the State Government under Section 108 is not legally valid. The State Commission has to consider the directions of the State Government under section 108 in the matter of discharge of its functions under the Act and not in a general way outside the functional scope of the Act. The State Commission had no power to issue an SPO order as per the directions of the State Government u/s 108 in addition and contrary to RPO obligations specified in the RPO Regulations 2010.

iv) The State Commission can specify the RPO/SPO on the total consumption of the distribution licensee and not selectively and directly on some categories of consumers of the distribution licensee. The SPO obligation as provided in the impugned order is contrary to the State Commission's Renewable Energy Regulations 2010 and is beyond the powers of the State Commissions. The impugned order is also discriminatory to some categories of consumers of the distribution licensee.

v) The State Commission has simply tried to implement the directions of the State Government by passing the impugned order without considering its own functions and powers under the 2003 Act and its own Renewable Energy Regulations notified under the Act and even without considering the other important issues raised by the objectors."

3. In view of the order passed by the Appellate Tribunal for Electricity, no further consideration needs to be undertaken in respect of the grounds raised and the Writ Petition stands



closed. Consequently, connected Miscellaneous Petitions are
closed. No costs.

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Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary, Ministry of Power,
Union of India
Shram Shakti Bhavan,
Ministry of Power,
New Delhi - 1
2. The Secretary,
State of Tamil Nadu
Department of Energy Fort St. George,
Chennai - 600 009
3. Central Electricity Regulatory Commission
3 rd & 4 th Floor, Chanderlok Building,
36, Janpath, New Delhi - 110 001
4. The Secretary,
Tamil Nadu Electricity Regulatory Commission
No. 19A, Rukmini Lakshmipathy Salai,
Egmore, Chennai - 600 008
5. The Chairman and Managing Director,
Tamil Nadu Generation and Distribution Ltd. I
144 Anna Salai, Chennai - 600 002

+1cc to Mr.K.Harishankar, Advocate, S.R.No.65062

+1cc to Mr.L.Jai Venkatesh, Advocate, S.R.No.64444

W.P.No.29545 of 2013

PA (CO)
SU (27/12/2021)