



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2021

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THE HON'BLE MR.JUSTICE D. KRISHNAKUMAR

W.P.No. 15167, 15171 of 2021
and WMP.No. 16059 and 16064 of 2021

JVS Export,
WF HTSC No.39224320291/59224500264
32, Sarojini Street, Chinnachokkikulam
Madurai 625 002.
rep. by its partner Britto

.... Petitioner in both writ petitions

Vs

1. Tamilnadu Generation and Distribution
Corporation Ltd., (TANGEDCO),
10th floor, 144, Anna Salai, Chennai-600002.
rep. by its Chairman cum Managing Director

2. The Chief Engineer, NCES,
TANGEDCO, 2nd Floor, 144, Anna Salai,
Chennai -600002

... R1, R2 in both writ petitions

3. The Superintending Engineer,
TANGEDCO, Coimbatore South Electricity
Distribution Circle, Coimbatore.

... R3 in W.P.No.15167 / 2021

The Superintending Engineer,
TANGEDCO, Dindigul Electricity Distribution Circle,
Dindigul

... R3 in W.P.No.15171/2021

4. Tamil Nadu Electricity Regulatory Commission,
19-A, Rukumini Lakshmipathy Salai,
Egmore, Chennai 600 008
rep. by its Secretary

.... R4 in both writ petitions

Prayer in W.P.No.15167 of 2021: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the first, second and third respondents to allow Utility Change by terminating existing Energy Purchase



Agreement dated 28.09.2011 and execute fresh Energy Wheeling Agreement for own Captive Consumption of the energy generated in petitioner's WF HTSC No.39224320291 as per the Common order of the Hon'ble High Court of Judicature at Madras dated 30.08.2019, which was upheld by the Division Bench dated 18.02.2020 and also by the Hon'ble Supreme Court of India dated 24.09.2020 and consequently make payment of Rs.49,85,495/- towards the wind energy sold from the petitioner's WEG for the period from 07/2020 to till date as per their respectively invoices along with interest at 1% per month for any delay in payments.

Prayer in W.P.No.15171 of 2021: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the first, second and third respondents to allow Utility Change by terminating the existing Energy Purchase Agreement dated 31.03.2012 and execute fresh Energy Wheeling Agreement for own Captive Consumption of the energy generated in petitioner's WF HTSC No.59224500264 as per the Common order of the Hon'ble High Court of Judicature at Madras dated 30.08.2019, which was upheld by the Division Bench dated 18.02.2020 and also by the Hon'ble Supreme Court of India dated 24.09.2020 and consequently make payment of Rs.27,07,417/- towards the wind energy sold from the petitioner's WEG for the period from 07/2020 to till date as per their respectively invoices along with interest at 1% per month for any delay in payments.

In both writ petitions

For Petitioner : Mr.S.P.Parthasarathy

For Respondents : Mr.Abdul Kalam (TNEB)

COMMON ORDER

The petitioner company has installed two Windmills of each 1250KW capacity bearing WF HTSC Nos.39224320291 at Coimbatore District and WF HTSC No.39224320264 at Dindigul District and aggrieved over the non payment made by the respondents for the energy sold to them, these writ petitions have been filed.

2. Heard Mr. T.Chezhiyan, learned Counsel appearing for the petitioner and Mr.A.M.Kalam, learned Standing Counsel appearing for the respondents and perused the documents available on record.

3. The issue involved in the present writ petitions is for direction to the respondents for the execution of energy wheeling Agreement for captive consumption under the preferential tariff scheme on the application dated 30.11.2020



submitted by the petitioner.

4. The learned counsel for the writ petitioner submitted that earlier, for the similar prayer, a batch of writ petitions have been filed before this Court in W.P.Nos. 5196, 11725, 8459 & 8463 of 2019 and 6694 & 1275 of 2018. This Court by common order dated 30.08.2019 allowed the writ petitions and granted relief to the petitioners. Challenging the same, the respondent/TANGEDCO preferred an appeal before this Court in W.A.Nos. 4189 of 2019 etc batch and the same was dismissed by the First Bench of this Court by judgment dated 18.02.2020, confirming the order passed in the writ petitions. It was further confirmed by the Hon'ble Supreme Court by order dated 24.09.2020, wherein the Special Leave Petition filed by TANGEDCO was dismissed, confirming the order passed by this Court in Writ Petitions and Writ Appeal.

5. Following the aforesaid decision, this High Court has also passed a recent order in W.P.No. 4989 of 2018 dated 20.04.2021. The learned counsel for the petitioner requested that the present writ petition may be decided on the same line.

6. In view of the above, the present writ petition deserves to be allowed with the following directions;

- i. the respondent/TANGEDCO are directed to permit the petitioner to switch over to captive consumption, so as to use the same for their own industry subject to the verification by the respondent Board. The said exercise shall be completed within a period of six weeks from the date of receipt of a copy of this Order.
- ii. the respondents/TANGEDCO are directed to settle the respective dues to the petitioner as per their respective invoices raised by them, along with interest as per Clause 6(b), within a period of two months from the date of receipt of a copy of this order.

7. In fine, with the above directions, the writ petitions in W.P.No.15167/2021 and 15171/2021 are stands allowed. No costs. Consequently, connected writ miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-VIII)

// True Copy//

Sub Assistant Registrar

mst



To

1. The Chairman cum Managing Director,
Tamilnadu Generation and Distribution
Corporation Ltd., (TANGEDCO),
10th floor, 144, Anna Salai, Chennai-600002.
2. The Chief Engineer, NCES,
TANGEDCO, 2nd Floor, 144, Anna Salai,
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3. The Superintending Engineer,
TANGEDCO, Coimbatore South Electricity
Distribution Circle, Coimbatore.
4. The Superintending Engineer,
TANGEDCO, Dindigul Electricity Distribution Circle,
Dindigul.
5. The Secretary,
Tamil Nadu Electricity Regulatory Commission,
19-A, Rukumini Lakshmipathy Salai,
Egmore, Chennai 600 008

+2ccs to Mr.R.S.Pandiyaraj, Advocate, S.R.No.35201,35202
+1cc to Mr.M.S.Kalam, Advocate, S.R.No.35358

W.P.No. 15167, 15171 of 2021
and
WMP.No. 16059, 16064 of 2021

AK-II (CO)
SU(17/08/2021)