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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.7.2021

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THE HONOURABLE Mr.JUSTICE D.KRISHNAKUMAR

W.P.No.15357 of 2021
and W.M.P.No.16239 of 2021

Vethasari Wind Mills Pvt. Ltd.
Rep. by its Director S.Murugesan

... Petitioner

Vs.

1 Tamilnadu Generation and Distribution
Corporation Ltd. (TANGEDCO)
Rep. by its Chairman Cum Managing Director,
10th Floor, 144 Anna Salai Chennai- 600 002

2 The Chief Engineer/NCES
TANGEDCO 2nd Floor, 144 Anna Salai,
Chennai- 600 002.

3 The Superintending Engineer,
TANGEDCO Tirunelveli Electricity,
Distribution Circle, Tirunelveli.

4 Tamilnadu Electricity Regulatory Commission
Rep by its Secretary,
19-A RukminiLakshmipathy salai,
Egmore Chennai- 600 008.

... Respondents

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, directing the 1st 2nd and 3rd Respondents to allow Utility change by terminating the existing Energy Purchase Agreement dated 27.03.2020 and execute fresh energy wheeling Agreement for own Captive Consumption of the energy generated in petitioners WF HTSC No.079224723299 as per the common order of the Honble High Court of Judicature at Madras dated 30.08.2019 which was upheld by the Honble Division Bench, dated 18.02.2020 and also by the Honble Supreme Court of India, dated 24.09.2020 and consequently make payment of Rs.6,17,924/- towards the wind Energy sold from the petitioner's WEG for the period from 09/2020 to till date as per their respective invoices along with interest at 1% per month for any delay in payments.



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For Petitioner : Mr.S.P.Parthasarathy
For Respondents : Mr.M.Abdul Kalam,
Standing Counsel for T.N.E.B.

O R D E R

Heard Mr.S.P.Parthasarathy, learned Counsel appearing for the petitioner and Mr.M.Abdul Kalam, learned Standing Counsel appearing for the respondents and perused the documents available on record.

2. The issue involved in the present writ petition is for a direction against the respondent nos.1, 2 & 3, to convert the existing EPA dated 27.03.2020 executed for the arrangement of Sale of Board, into an EWA for the arrangement of Group Captive Consumption of the wind energy of the windmill having WEG HTSC Nos.079224723299 at Tirunelveli.

3. The learned counsel appearing 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 2021. 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.

4. 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 Group captive consumption.

(ii) The respondent/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.

(iii) Consequently, in view of permitting the petitioner to migrate from EPA to EWA, the proceedings dated 17.10.2019 issued by the 1st respondent deciding not to concede any request for migration is set aside.



5. In fine, with the above directions, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

- 1 The Chairman Cum Managing Director,
Tamilnadu Generation and Distribution Corporation Ltd.
(TANGEDCO) 10th Floor,
144 Anna Salai,
Chennai- 600 002
- 2 The Chief Engineer/NCES
TANGEDCO 2nd Floor,
144, Anna Salai,
Chennai- 600 002.
- 3 The Superintending Engineer,
TANGEDCO Tirunelveli Electricity,
Distribution Circle,
Tirunelveli.
- 4 The Secretary,
Tamilnadu Electricity Regulatory Commission
19-A RukminiLakshmipathy salai,
Egmore, Chennai- 600 008.

+1cc to Mr.R.S.Pandiyaraj, Advocate, S.R.No.35673

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GP(CO)
HS(19/08/2021)