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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17 .12.2021

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.NO.15994 OF 2018

AND

W.M.P.NOS.19025 TO 19027 OF 2018

M/s.Shiva Cargo Movers Pvt. Ltd.,
Rep. by its Authorized Signatory,
P.Vidyasagar,
Having its registered office at
1212, Trichy Road,
Coimbatore - 641 018.

... Petitioner

.Vs.

1. The Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO)
Rep. by its Chairman and Managing Director,
144, Anna Salai,
Chennai - 600 002.
2. The Chief Engineer/NCES,
2nd Floor, Eastern Wing
No.144, Anna Salai,
Chennai - 600 002.
3. The Tamil Nadu Electricity
Regulatory Commission,
19-A, Rukmini Lakshmipathy Road,
Egmore, Chennai - 600 008.

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records of the impugned communication, bearing Letter No.CE/NCES/SE/Solar/EE/WPP/AEE3/F.517/18, dated 18.04.2018, issued by the second respondent and to quash the same, and consequently, to direct the respondents to effect the name change for the petitioner's Company, bearing WFHTSC Nos.304 and D143, without insisting upon payment of name transfer fees.



For Petitioner : Mr.Rahul Balaji
For Respondents 1 & 2 : Mr.L.Jai Venkatesh
Standing Counsel (TNEB)

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O R D E R

The challenge in this Writ Petition is to the order passed by the second respondent, dated 18.04.2018 and to quash the same, and consequently, to direct the respondents to effect the name change for the petitioner-Company, bearing WFHTSC Nos.304 and D143, without insisting upon payment of name transfer fees.

2. The case of the petitioner, as stated in the affidavit, filed in support of this Writ Petition is that, the petitioner-Company, viz., 'M/s. Shiva Cargo Movers Ltd.,' was originally incorporated under the provisions of the Companies Act, 1956 and is engaged in the production of wind power by operating wind mills. Pursuant to Section 18 of the Companies Act, 2013, the petitioner-Company has been converted into a Private Limited Company. In this regard, the Ministry of Corporate Affairs also issued a fresh certificate of incorporation, dated 11.03.2016.

2.1 The petitioner, in order to effect such name change in the records of the first respondent-TANGEDCO, sent a letter, dated 09.04.2018, requesting the second respondent to change the name of the Company, by incorporating a word 'Private' in the already existing name of the Company and to record such name change in the records of the first respondent-TANGEDCO. However, the second respondent, by virtue of the order impugned herein, dated 18.04.2018, demanded a sum of Rs.1,00,000/- +18 GST per WEG for effecting such name change. Challenging the said demand, the present Writ Petition is filed.

3. The learned counsel appearing for the petitioner contended that, the charges with respect to the name change can only be demanded in case of legal succession or sale of the property/Company, and in the present case, what the petitioner has sought for, is only name change, whereas, the second respondent has misconstrued that, such name change amounts to succession or sale of the property and raised the impugned demand.

3.1 Further, the learned counsel produced a copy of the order passed by the third respondent-TNERC, in Petition in M.P.No.41 of 2003, dated 31.08.2004, wherein, it is stated that, in case of name transfer for Wind Mill and solar generation services, in the records of the TANGEDCO, the applicant has to pay a sum of Rs.7,500/-, but, that was only a proposal for the



year 2019, and the said proposal was accepted by the third respondent-TNERC, by virtue of its order, dated 03.10.2019, made in Petition in M.P.No.7 of 2018, which took effect from 05.10.2019, which according to the learned counsel appearing for the petitioner will not apply to the petitioner, as the petitioner has made application seeking for name change on 09.04.2018 itself, which is much prior to the order passed by the TNERC, dated 03.10.2019. Therefore, the petitioner, having left with no other option, has approached this Court seeking to quash the impugned order and consequently, to issue appropriate direction to the respondent. However, the learned counsel fairly admitted that, the second respondent, in the impugned order, sought for production of eight documents, except, the demand raised vide Item No.8, viz., the payment of Rs.1,00,000/- + 18 gst per WEG, the petitioner is ready to produce all other documents, sought for vide Item Nos.1 to 7. Hence, the learned counsel prayed for appropriate direction.

4. In reply, the learned Standing Counsel for the first respondent-TANGEDCO fairly admitted that, in terms of the order passed by the third respondent-TNERC, in M.P.No.7 of 2018. dated 03.10.2019, they are liable to collect fee for effecting name change w.e.f. 03.10.2019, but, in case of an application made for name change, prior to the said order, they have locus standi to collect fee. Therefore, he submitted that, appropriate orders would be passed to register the name change of the petitioner-Company, provided, the petitioner-Company produces all other seven documents, as sought for, in the impugned order, vide Item Nos.1 to 7.

5. Heard the learned counsel for both sides and perused the materials available on record.

6. On a perusal of the order passed by the third respondent-TNERC, dated 03.10.2019, in M.P.No.7 of 2018, this Court is of the view that, the petitioner is not liable to pay any fee towards name change, since the petitioner has made application much prior to the order, dated 03.10.2019, and what the petitioner sought for, is neither a succession nor sale of the property, but, merely a name change. However, the TNERC stated that fee of a sum of Rs.7,500/- was proposed and the same approved by them (TNERC) only w.e.f. 03.10.2019. Therefore, it is clear that, charges towards name transfer can be raised in case of applications made subsequent to the order passed by TNERC, dated 03.10.2019. Hence, this Court is inclined to quash the impugned notice, insofar it relates to item No.8 is concerned, wherein, a demand for Rs.1,00,000/- +18 GST per WEG is made.



7. Accordingly, this Writ Petition is allowed, and the impugned order, demanding a sum Rs.1,00,000/- +18 GST per WEG, vide Item No.8 alone stands quashed and the petitioner-Company is directed to furnish all other documents as sought for in the impugned order, viz., Item Nos.1 to 7 in support on their application for name change, dated 09.04.2018, including fresh Certificate of Incorporation, dated 11.03.2016, to prove that they are seeking only for change of name of the Company, based on which, the second respondent is directed to register the name change in the records of the first respondent-TANGEDCO. The aforesaid exercise shall be completed by the second respondent within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

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W.P.NO.15994 OF 2018

SRA (CO)
PBS/12/01/2022