



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.23433 of 2021

P.Kavitha
WEG No.3906, Thamirabarani
No.25, Vazhudavur Road
Pettayanchatram
Pondicherry-605 009.

...Petitioner

-Vs-

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

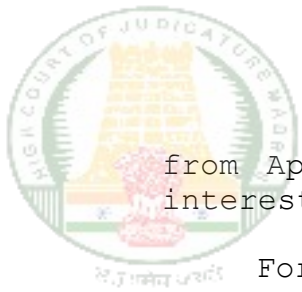
2.The Chief Engineer, NCES
TANGEDCO
2nd Floor, 144 Anna Salai,
Chennai-600002.

3.The Superintending Engineer
Tirunelveli Electricity Distribution circle
Tirunelveli

4.Tamil Nadu Electricity Regulatory Commission
19-A Rukumini Lakshmipathy Salai, Egmore
Chennai-600008.
Rep by its secretary

...Respondents

Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the 1st and 2nd and 3rd respondent to allow utility change by terminating the existing Energy Purchase Agreements all dated 28.09.2011 for their WEG Nos.3906 and execute fresh Energy Wheeling Agreement for third party sale of the energy Generated as per the common order of the Honourble High court of Judicature at Madras dated 30.8.2019 which was upheld by the Honourable Division bench dated 18.2.2020 and also by the Honourable Supreme court of India dated 24.9.2020 and consequently make payment of Rs.26,89,456/- to the petitioner towards the wind energy sold by the petitioner for the period



from April 2020 as per their respectively invoices along with interest at 1 Percentage per month for any delay in payments.

For Petitioner : Mr.R.S.Pandiyaraj

For Respondents : Mr.M.Abul Kalam, Standing Counsel

O R D E R

Heard Mr.R.S.Pandiyaraj, learned Counsel appearing for the petitioner and Mr.L.Jai Venkatesh, 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 28.09.2011 executed for the arrangement of Sale of Board, into an EWA for the arrangement of the third party sale of the wind energy of the windmill having WEG Nos.3906.

3. 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 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/group captive consumption/third party sale, as the case may be, as per the request made by the petitioner.
- 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.



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iii. Consequently, in view of permitting the petitioners to migrate from EPA to EWA, the proceedings dated 20.05.2017 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.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

KST

To

1. The Chairman and Managing Director
Tamil Nadu Generation and Distribution
Corporation Ltd (TANGEDCO),
10th floor, 144 Anna Salai, Xhennai-600 002.
2. The Chief Engineer/NCES
TANGEDCO
2nd Floor, 144 Anna Salai,
Chennai-600002
3. The Superintending Engineer
Tirunelveli Electricity Distribution Circle
Tirunelveli
4. The Secretary,
Tamil Nadu Electricity Regulatory Commission
19-A Rukmini Lakshmipathy salai Egmore
Chennai-600008.

+1cc to Mr.R.S.Pandiaraj, Advocate, S.R.No.55974

W.P.No.23433 of 2021

KST (CO)
RVM(23/11/2021)