



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:17.11.2021

WEB COPY

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.24409 of 2021

M/s. Maharishi Builders,
WEG No.3453,
5/115, Paramathi Road,
Namakkal-637 001,
Rep by its Managing Partner
E.Asokan

...Petitioner

Vs

1. Tamilnadu Generation and Distribution Corporation Ltd, (TANGEDCO),
10th Floor, 144, Anna Salai,
Chennai-600 002,
Representation by its Chairman
Cum Managing Director
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
19-A, Rukunilakshmi Salai,
Egmore, Chennai-600 008.
Rep by its Secretary

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 1st, 2nd and 3rd Respondents to allow the Utility Change to the Petitioner by terminating the existing Energy Purchase Agreement dated 11.09.2018 for their WEG No.3453 and execute fresh Energy Wheeling Agreement under 3rd party sale scheme as per the Common



Order of the Hon'ble High Court of Judicature at Madras dated 30.08.2019 which was upheld by the Hon'ble Division Bench dated 18.02.2020 and also by the Hon'ble Supreme Court of India dated 24.09.2020 and make the outstanding payments due to the petitioner towards the wind energy sold by the petitioner's WEG No.3453 as per their respective invoices till the utility change is effected along with interest at 1% per month for any delay in payments.

For Petitioner : Mr. R. S. Pandiaraj
For Respondents : Mr. M. Abulkalam
Standing Counsel

ORDER

The petitioner has filed this Writ petition seeking issuance of a Writ of Mandamus, directing the 1st, 2nd and 3rd Respondents to allow the Utility Change to the Petitioner by terminating the existing Energy Purchase Agreement dated 11.09.2018 for their WEG No.3453 and execute fresh Energy Wheeling Agreement under 3rd party sale scheme as per the Common Order of the Hon'ble High Court of Judicature at Madras dated 30.08.2019 which was upheld by the Hon'ble Division Bench dated 18.02.2020 and also by the Hon'ble Supreme Court of India dated 24.09.2020 and make the outstanding payments due to the petitioner towards the wind energy sold by the petitioner's WEG No.3453 as per their respective invoices till the utility change is effected along with interest at 1% per month for any delay in payments.

2. Heard Mr.R.S.Pandiyaraj, learned Counsel appearing for the petitioner and Mr.M.Abdul Kalam, learned Standing Counsel appearing on behalf of the respondents.

3. The issue involved that has been raised in the present Writ Petition is covered by the earlier order passed by this Court in a batch of Writ Petitions in W.P.Nos.5196, 11725, 8459 & 8463 of 2019 and 6694 & 1275 of 2018 dated 30.08.2019. This Order was subsequently confirmed by the First Bench of this Court in W.A.Nos.4189,4194,4197, 4201, 4204 and 4205 of 2019 dated 18.02.2020.

4. 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.



5. In view of the above, this Writ Petition is allowed with the following directions:

(a) The respondents/TANGEDCO are directed to permit to 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.

(b) 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 four months from the date of receipt of a copy of this order.

6. Consequently, in view of permitting the petitioner to migrate from EPA to EWA, the proceedings dated 20.05.2017 of the first respondent deciding not to concede any request for migration is set aside.

7. The Writ Petition is allowed accordingly. No costs.

s/d-
Assistant Registrar

//True Copy//

Sub-Assistant Registrar

NHS

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, Rukunilakshmi Pathy Salai,
Egmore, Chennai-600 008.

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AJS (CO)
SP(03/12/2021)