

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.31881 of 2019

M/s.Vijayalakshmi Marketing
rep.by its Partner
N.Rajan Babu
No.90, V.K.Road,
Peelamedu,
Coimbatore 641 004.

... Petitioner

Vs.

1.The Chairman and Managing Director,
Tamil Nadu Generation and Distribution Corporation Ltd.,
No.144, Anna Salai, Chennai 600 002.

2.The Chief Engineer,
Tamil Nadu Generation and Distribution Corporation Ltd.,
No.144, Anna Salai, Chennai 600 002.

3.The Superintending Engineer,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Udumalpet Energy Distribution Circle,
Udumalpet.

... Respondents

Prayer:Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the Respondents to release the payment of Rs. 4,14,31,913/- along with the interest at the rate of 18 percentage per month for the Wind Energy Generated and supplied by the Petitioner to the 3rd Respondent for the period from June 2013 to till dated.

For Petitioner : Mr.L.Chandrakumar for Mr.N.Naganathan

For Respondents : Mr.L.Jaivenkatesh
Standing Counsel (TNEB)

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Mandamus directing the Respondents to release the payment of Rs.4,14,31,913/- along with the interest at the rate of 18 percentage per month for the Wind Energy

Generated and supplied by the Petitioner to the 3rd Respondent for the period from June 2013 to till dated.

2. The case of the petitioner is that the petitioner is a generator for electricity through its wind mill and is having one 1500 KW Suzlon make Windmill bearing WF HTSC No.2195 at Suriyanallur Village, Dharapuram Taluk, Tirupur District under the jurisdiction of the 3rd respondent and in that regard entered into an agreement with a validity of 20 years. As the petitioner could not meet their financial commitments on time due to the poor trading of wind generated units under the REC Scheme, the petitioner by letter dated 27.05.2013 requested the 3rd respondent for utility change from sale to board to Wheeling Category and the 3rd respondent also accorded approval for the change of utility from Sale to Board and also entered with an agreement in that regard. The petitioner has started generating invoices from the month of June 2013, based on the new preferential tariff scheme. But the 3rd respondent was not prompt in releasing the payments for the monthly bills as per the terms and conditions of the agreement. While being so, to the shock and surprise, the 2nd respondent has issued showcause notice as to why the approval granted by the 3rd respondent should not be withdrawn. Aggrieved by the same, the petitioner has sent series of representation to continue the present arrangement of preferential tariff of wheeling. However on 04.12.2014, the 3rd respondent vide letter dated 02.12.2014 intimated the cancellation of preferential tariff and revocation of sale board under REC scheme and requested the petitioner to submit fresh invoices for the period from June 2013 for generation of units. The petitioner also sent representations to the 3rd respondent requesting him to furnish the Power Generation Statement so as to prepare and submit the invoices for the sale of energy for the said periods and also requested the respondent to release the payment at the earliest with interest for the wind energy generated and supplied to the respondents. However the respondents continuously defaulted in the payment of agreement amount and violated the conditions imposed in the said agreement. Therefore, the petitioner left with no other option, approached this Court by filing this Writ Petition.

3. The learned counsel appearing for the petitioner submitted that this Court vide order dated 19.03.2020, issued direction to the petitioner to produce all the relevant invoices before the 3rd respondent on 24.03.2020 and further that if the 3rd respondent requires any clarification, the same shall be clarified as and when the representative of the petitioner appears before the authority and also issued direction to release 50% of the total claim made by the petitioner.

4. It is the submission of the learned counsel for the petitioner that though the said direction was passed by this

Court, some portion of the amount was only paid to the petitioner and the amount was not fully settled in favour of the petitioner and prays for appropriate order of this Court.

5. At this juncture, the learned Standing Counsel appearing for the respondents submitted that the entire principal amount as per the invoices will be paid to the petitioner within a period of five months.

6. This Court has carefully considered the rival submissions and also perused the materials placed before it.

7. In view of the fair submission made by the learned Standing Counsel appearing for the respondents, this Court issues direction to the respondents to disburse the entire principal amount to the petitioner within a period of five months from the date of receipt of a copy of this order.

8. This writ petition is accordingly disposed of. No costs.

Sd/-
Assistant Registrar (CS-II)

//True copy//

Sub Assistant Registrar

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To

1. The Chairman and Managing Director,
Tamil Nadu Generation and Distribution Corporation Ltd.,
No.144, Anna Salai, Chennai 600 002.
2. The Chief Engineer,
Tamil Nadu Generation and Distribution Corporation Ltd.,
No.144, Anna Salai, Chennai 600 002.
3. The Superintending Engineer,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Udumalpet Energy Distribution Circle,
Udumalpet.

+1cc to Mr.N.Naganathan, Advocate SR.No.65363

+1cc to Mr.M.Abulkalam, Advocate SR.No.65552

W.P.No.31881 of 2019

AD(CO)
GMY(10/01/2022)