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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:06.12.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.25853 of 2021

M/s. Premier Wind Farms WEG No.3254,
284/1B, Old Mahabalipuram Road,
Kottivakkam, Chennai-600096
Rep by its Manager
N. Manickam.

... 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
5. Director Finance,
Tamil Nadu Generation and Distribution Corporation Ltd,
144, Anna Salai,
Chennai 600 002.

... 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



15.04.2017 for their WEG No.3254 and execute fresh Energy Wheeling Agreement under Group Captive 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 payment of the outstanding dues payable to the petitioner towards the wind energy sold by the petitioner till the date of the termination of the EPA dated 15.04.2017 as per their respective invoices along with interest at 1% per month for any delay in payments.

For petitioner : Mr. R. S. Pandiaraj

For Respondents : Mr. L. Jaivenkatesh
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 30.09.2011 for their WEG No.039304320296 and execute fresh Energy Wheeling Agreement under third party sale 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 payment of Rs.48,25,293/- to the petitioner towards the wind energy sold by the petitioner for a period from June/2020 to July/2021 as per their respective invoices 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. L. Jaivenkatesh, 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.



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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.

(c) 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.

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

Sd/-
Assistant Registrar (CS-III)

//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.

5. Director Finance,
Tamil Nadu Generation and Distribution Corporation Ltd,
144, Anna Salai,
Chennai 600 002.

+1cc to M/s.R.S.Pandiyaraj, Advocate, S.R.No.25853

W.P.No.25853 of 2021

KSM(CO)
SU(11/01/2022)