



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.03.2022

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CORAM:

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.Nos.5459, 5463 & 5465 of 2022

Hi-Tech Arai Private Limited

Rep. by its Senior Manager-Admin./HR./Pr.

Mr.V.Shanmuga Sundaram,

No.33, Sarojini Street,

Chinna Chokkikulam,

Madurai-625 002.

...Petitioner in all W.P.'s

Vs

1. TANGEDCO,

Rep. by its Chairman and Managing Director,

10th Floor, 144, Anna Salai,

Chennai-600 002.

2. The Chief Engineer /

Non-Conventional Energy Sources (NCES)

TANGEDCO,

2nd Floor, 144, Anna Salai,

Chennai-600 002.

4. Tamil Nadu Electricity Regulatory Commission,

Rep. by its Secretary,

19-A, Rukmini Lakshmipathi Salai,

Egmore, Chennai - 600 008.

... Respondents 1, 2, 4 in all W.P.'s

3. The Superintending Engineer,

TANGEDCO,

Tirunelveli Electricity Distribution Circle,

Tirunelveli.

... Respondents in W.P.No.5459 of 2022

3. The Superintending Engineer,

TANGEDCO,

Palladam Electricity Distribution Circle,

Palladam.

... Respondent in W.P.No.5463 of 2022

3. The Superintending Engineer,

TANGEDCO,

Dindigul Electricity Distribution Circle,

Dindigul.

... Respondent in W.P.No.5465 of 2022



PRAYER in W.P.No.5459 of 2022:- Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus directing the respondents No.1 to 3 to allow the petitioner to migrate the utility change from "Sale to Board" to "Group Captive Scheme", by terminating the existing 'Wind Energy Purchase Agreement' dated 30.09.2010 for their Wind Mill bearing present HTSC No.079224723429 and old WEG HTSC No.3429 and to execute fresh 'Energy Wheeling Agreement' under Group Captive Scheme by considering the petitioner's representation dated 21.01.2022 and reminder representation dated 16.02.2022 in consonance with Common Order dated 30.08.2019 passed by this Hon'ble Court, which was upheld by the Hon'ble Division Bench of this Hon'ble Court, by its order dated 18.02.2020 and also by the Hon'ble Supreme Court of India by its order dated 24.09.2020 with consequent direction directing the respondents No.1 to 3 to make outstanding payment of Rs.40,70,894/- to the petitioner towards the wind energy sold by them to the respondent/TANGEDCO for a period from 01.07.2020 to 30.11.2021 along with interest at 1% per month for delay in payments.

PRAYER in W.P.No.5463 of 2022:- Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus directing the respondents No.1 to 3 to allow the petitioner to migrate the utility change from "Sale to Board" to "Group Captive Scheme", by terminating the existing 'Wind Energy Purchase Agreement' dated 27.07.2015 for their Wind Mill bearing present HTSC No.039224391285 and old WEG HTSC No.1570 and to execute fresh 'Energy Wheeling Agreement' under Group Captive Scheme by considering the petitioner's representation dated 21.01.2022 and reminder representation dated 16.02.2022 in consonance with Common Order dated 30.08.2019 passed by this Hon'ble Court, which was upheld by the Hon'ble Division Bench of this Hon'ble Court, by its order dated 18.02.2020 and also by the Hon'ble Supreme Court of India by its order dated 24.09.2020 with consequent direction directing the respondents No.1 to 3 to make outstanding payment of Rs.86,34,593/- to the petitioner towards the wind energy sold by them to the respondent/TANGEDCO for a period from 01.07.2020 to 31.12.2021 along with interest at 1% per month for delay in payments.

PRAYER in W.P.No.5465 of 2022:- Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus directing the respondents No.1 to 3 to allow the petitioner to migrate the utility change from "Sale to Board" to "Group Captive Scheme", by terminating the existing 'Wind Energy Purchase Agreement' dated 25.08.2015 for their Wind Mill bearing present HTSC No.059214500110 and old WEG HTSC No.110 and to execute fresh 'Energy Wheeling Agreement' under Group Captive Scheme by considering the petitioner's representation dated 21.01.2022 and reminder representation dated 16.02.2022 in consonance with Common



Order dated 30.08.2019 passed by this Hon'ble Court, which was upheld by the Hon'ble Division Bench of this Hon'ble Court, by its order dated 18.02.2020 and also by the Hon'ble Supreme Court of India by its order dated 24.09.2020 with consequent direction directing the respondents No.1 to 3 to make outstanding payment of Rs.33,83,621/- to the petitioner towards the wind energy sold by them to the respondent/TANGEDCO for a period from 01.07.2020 to 31.12.2021 along with interest at 1% per month for delay in payments.

(In all W.P.'s)

For Petitioner : Mr.S.Senthil

For Respondents : Mr.Abul Kalam,
Standing Counsel

O R D E R

Mr.Abul Kalam, learned Standing Counsel accepts notice for the respondents and is armed with instructions to proceed with the matters finally. Hence, by consent of both counsel, these writ petitions are disposed finally even at the stage of admission.

2. The prayers of the petitioner in all Writ Petitions is for a mandamus directing the respondents to permit the Utility Change to them by terminating the existing Energy Purchase Agreements and executing fresh Energy Wheeling Agreements.

3. An identical prayer was made in the case of other similarly placed petitioners and has come to be accepted by this Court in W.P.No.5196 of 2019 etc. batch by a learned single Judge of this Court vide order dated 30.08.2019, operative portion of which reads as follows:

29. Thus, for the reasons stated above, the writ petitions deserve to be allowed with the following directions;

(a) the respondents/TANGEDCO are directed to permit the petitioners to switch over to captive consumption so as to use the same for their own industry;

(b) the respondents/ TANGEDCO are directed to settle the respective dues to the petitioners 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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(c) Consequently, in view of permitting the petitioners 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.

4. The aforesaid order is confirmed in W.A.No.4189 of 2019 vide order dated 18.02.2020, which has also been confirmed in SLP Nos.8513 to 8518 of 2020 by order of the Hon'ble Supreme Court dated 24.09.2020.

5. The aforesaid orders have also been consistently followed by this Court thereafter. In view of the admitted identity in facts and legal position, the aforesaid orders are taken to be passed in the present matters as well.

6. These Writ Petitions are allowed as above and the mandamus sought for is issued including the specific direction for settlement of dues to the petitioners. No costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

sl/kbs

To

1. The Chairman and Managing Director,
TANGEDCO,
10th Floor, 144, Annai Salai,
Chennai-600 002.
2. The Chief Engineer /
Non-Conventional Energy Sources (NCES)
TANGEDCO,
2nd Floor, 144, Anna Salai,
Chennai-600 002.
3. The Secretary,
Tamil Nadu Electricity Regulatory Commission,
19-A, Rukmini Lakshmipathi Salai,
Egmore, Chennai - 600 008.
4. The Superintending Engineer,
TANGEDCO,
Tirunelveli Electricity Distribution Circle,
Tirunelveli.



5. The Superintending Engineer,
TANGEDCO,
Palladam Electricity Distribution Circle,
Palladam.

6. The Superintending Engineer,
TANGEDCO,
Dindigul Electricity Distribution Circle,
Dindigul.

+3ccs to Mr.S.Senthil, Advocate SR. Nos.16595, 16596, 16597

W.P.Nos.5459, 5463 &
5465 of 2022

SPD (CO)
PR (24/03/2022)