



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2022

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.Nos.7883 & 7888 of 2022

WP.No.7883 of 2022

Kongunad Hospital Private Limited,
Represented by its Managing Director,
Dr.P.Raju,
No.116 & 117, 11th Street, Tatabad,
Coimbatore-641 012.

... Petitioner

Vs

1. Tamilnadu Generation and Distribution
Corporation Ltd. (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.

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

4. Tamil Nadu Electricity Regulatory Commission
Represented by its Secretary
19-A, Rukmini Lakshmipathi Salai,
Egmore, Chennai-600 008.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents 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 19.09.2009 pertaining to their Wind Mill bearing present



HTSC No.039224391436 and old WEG HT SC No.846 and to execute fresh 'Energy Wheeling Agreement' under Group Captive Scheme by considering the petitioner's representation dated 14.02.2022 and reminder representation dated 21.03.2022 in consonance with Common order dated 30.08.2019 passed by this Court, which was upheld by the Division Bench of this 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 consequential direction directing the Respondents 1 to 3 to make outstanding payment of Rs.54,43,114/- to the Petitioner towards the wind energy sold by them to the Respondent/TANGEDCO for a period from 01.01.2020 to 31.01.2022 along with interest at 1% per month for delay in payments.

WP.No.7888 of 2022:

Yash Metal & Alloys,
Represented by its Proprietrix,
Manisha Khemka,
No.521-A, Avanashi Road, Peelamedu,
Coimbatore-641 004.

... Petitioner

Vs

1. Tamilnadu Generation and Distribution Corporation Ltd. (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.
 3. The Superintending Engineer,
TANGEDCO,
Tirunelveli Electricity Distribution Circle,
Tirunelveli.
 4. Tamil Nadu Electricity Regulatory Commission
Represented by its Secretary
19-A, Rukmini Lakshmipathi Salai,
Egmore, Chennai-600 008.
- ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct



the respondents 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 29.03.2015 pertaining to their Wind Mill bearing present HTSC No.079234724282 and old WEG HT SC No.4282 and to execute fresh 'Energy Wheeling Agreement' under Group Captive Scheme by considering the petitioner's representation dated 14.02.2022 and reminder representation dated 21.03.2022 in consonance with Common order dated 30.08.2019 passed by this Court, which was upheld by the Division Bench of this 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 consequential direction directing the Respondents 1 to 3 to make outstanding payment of Rs.1,24,082/- to the Petitioner towards the wind energy sold by them to the Respondent/TANGEDCO for a period from 01.11.2021 to 31.01.2022 along with interest at 1% per month for delay in payments.

(In both WPs)

For Petitioner : Mr.S.Senthil

For Respondents : Mr.C.Jayaprakash
Government Advocate

COMMON ORDER

Mr.C.Jayaprakash, learned Government Advocate accepts notice for the respondents and is armed with instructions to proceed with the matter finally. Hence, by consent expressed by both learned counsel, these Writ Petitions are disposed finally even at the stage of admission.

2. The prayer of the petitioners is for a mandamus directing the respondents to permit the Utility Change to them by terminating the existing Energy Purchase Agreements and execute fresh Energy Wheeling Agreement.

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;



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(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.

(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 matter 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

// TRUE COPY //

SUB ASSISTANT REGISTRAR

vs/ska

To

1. The Chairman and Managing Director,
Tamilnadu Generation and Distribution
Corporation Ltd. (TANGEDCO)
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.

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

4. The Secretary,
Tamil Nadu Electricity Regulatory Commission,
19-A, Rukmini Lakshmipathi Salai,
Egmore, Chennai-600 008.

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

+2cc to Mr.S.Senthil, Advocate SR.22324, 22325

W.P.Nos.7883 & 7888 of 2022'

mt[co]
srg 13/04/2022