



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.04.2022

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.9529 of 2022

Sankar & Associates
Represented by its Partner
Mr.V.P.Ponnuswami,
27, Sengupta Street,
Ramnagar,
Coimbatore - 641 009.

...Petitioner

Vs

1.Tamil Nadu Generation and Distribution
Corporation Limited, (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.

...Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing R1 to R3 to allow the petitioner to migrate the utility change from "Sale to Board" to "Group Captive Scheme", by terminating the existing 'Wind Energy Purchase Agreements' dated 14.03.2008, 29.03.2008, 19.09.2009, 22.03.2010 & 03.04.2010 pertaining to their Wind Mills bearing present HTSC Nos.079214722518, 079214722555, 079224722931, 079224723064 & 079224723216 respectively and to execute fresh 'Energy Wheeling Agreements' under Group Captive Scheme by considering the Petitioner's representation dated



14.02.2022 and reminder representation dated 28.03.2022 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 consequential direction directing R1 to R3 to make outstanding payment of Rs.21,13,566/- to the petitioner towards the wind energy sold by them to the Respondent/TANGEDCO for a period from September 2021 to February 2022 along with interest at 1% per month for delay in payments.

For Petitioner : Mr.S.Senthil

For Respondents : Mr.C.Jaya Prakash,
Government Advocate
for Mr.Abul Kalam,
Standing Counsel

O R D E R

Mr.C.Jaya Prakash, learned Government Advocate representing on behalf of Mr.Abul Kalam, learned Standing Counsel accepts notice for the respondents and is armed with instructions to proceed with the matter finally. Hence, by consent of both counsel, this writ petition is disposed finally even at the stage of admission.

2. The prayer of the petitioner 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;

(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;



WEB COPY

(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. This Writ Petition is disposed as above and the mandamus sought for is issued including the specific direction for settlement of dues to the petitioner. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

sl/kbs

To

1.Chairman and Managing Director,
TANGEDCO, No.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.

W.P.No.9529 of 2022

SSN(CO)

SP(04/05/2022)