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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.14336 of 2022

K.S.Kamalakannan

... Petitioner

vs.

- 1.Tamilnadu Generation and Distribution Corporation Ltd., (TANGEDCO),
10th Floor, 144, Anna Salai,
Chennai - 600 002.
Represented by its Chairmen
Cum Managing Director.
- 2.The Chief Engineer, NCES,
TANGEDCO,
2nd Floor,
144, Anna Salai, Chennai - 600 002.
- 3.The Superintending Engineer,
TANGEDCO,
Tirunlveli Electricity Distribution Circle,
Tirunlveli.
- 4.Director Finance,
Tamil Nadu Generation and Distribution Corporation Limtied, 144, Anna Salai,
Chennai - 600 002.

...Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India for Writ of Mandamus for directing the 1st, 2nd and 3rd respondents to allow that utility change to the petitioner by terminating the existing Energy Purchase Agreements dated 07.01.2016 for their WEG Nos.079234724299 and execute fresh Energy Wheeling Agreement under third party sale as per the Common Order of this Court dated 30.08.2019 which was upheld by the Division Bench of this Court dated 18.02.2020 and by the Hon'ble Supreme Court of India dated 24.09.2020 and make 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 07.01.2016 as per their respective invoices along with interest at 1% per month for any delay in payments.



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For Petitioner : Mr.R.S.Pandiyaraj

For Respondents: Mr.Abul Kalam,
Standing Counsel

ORDER

This writ petition has been filed for a mandamus seeking for a direction to the first, second and third respondents to allow the utility change for the petitioner by terminating the existing Energy Purchase Agreements (EPAs) dated 07.01.2016 for their WEG Nos.079234724299 and execute fresh Energy Wheeling Agreement under third party sale as per the Common Order of this Court dated 30.08.2019 passed in W.P.No.5196 of 2019 etc., batch which was upheld by the Hon'ble First Bench of this Court dated 18.02.2020 in W.A.No.4189 of 2019 etc., batch and thereafter by the Hon'ble Supreme Court by its order dated 24.09.2020.

2. Mr.Abul Kalam, learned Standing Counsel accepts notice on behalf of the respondents. By consent of both parties, this writ petition is taken up for final disposal in the admission stage itself.

3. Heard Mr.S.Pandiyaraj, learned counsel for the petitioner and Mr.Abul Kalam, learned Standing Counsel for the respondents.

4. The petitioner had earlier entered into a Energy Purchase Agreement dated 07.01.2016 for their WEG. Under the Energy Purchase Agreement, payments have not been made by the respondents. The petitioner seeks for conversion of the Energy Purchase Agreements to an Energy Wheeling Agreement under the third party sale. In similar circumstances, in respect of other companies who had also entered into Energy Purchase Agreements and payments were defaulted, the writ petitions were filed and they were allowed to convert Energy Purchase Agreement into Energy Wheeling Agreement under the third party sale. The following are the writ petitions in which similar orders were passed as the one sought for by the petitioner in this writ petition:

(a) the order dated 26.10.2021 passed in W.P.No.22695 of 2021 (Orange Valley Windmills Pvt. Ltd., vs. Tamil Nadu Generation and Distribution Corporation Ltd and three others)

(b) Order dated 20.01.2022 passed in W.P.Nos.519, 523 & 524 of 2022 (Pioneer NF Forging India Pvt., Ltd., vs. Tamil Nadu Generation and Distribution Corporation Ltd and others)

(c) Order dated 30.08.2019 passed in batch of writ petitions, namely W.P.No.5196 of 2018 etc batch.



6. In all the aforementioned writ petitions, almost identical directions were issued by the respondents which are as follows:

(a) The respondent/TANGEDCO is directed to permit the petitioner to switch over to group captive consumption/third party sale, as the case may be, as per the request made by the petitioner;

(b) the respondent/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 two months from the date of receipt of a copy of that order;

(c) Consequently, in view of permitting the petitioner to migrate from EPA to EWA, the proceedings issued by the 1st respondent deciding not to concede any request for migration is set aside.

7. Since the petitioner is also similarly placed as that of the petitioners therein, the directions issued in their favour as stipulated supra, shall hold good for this petitioner also.

8. In terms of the above directions, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS-VII)

//True copy//

Sub Assistant Registrar

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To

1.The Chairmen

Tamilnadu Generation and Distribution
Corporation Ltd., (TANGEDCO),
10th Floor, 144, Anna Salai,
Chennai - 600 002.
Cum Managing Director.

2.The Chief Engineer, NCES,

TANGEDCO,
2nd Floor, 144, Anna Salai, Chennai - 600 002.

3.The Superintending Engineer,

TANGEDCO,
Tirunlveli Electricity Distribution Circle,
Tirunelveli.



4. Director Finance,
Tamil Nadu Generation and Distribution
Corporation Limited, 144, Anna Salai,
Chennai - 600 002.

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+1cc to Mr.R.S.Pandiyaraj, Advocate SR.No.33884

W.P.No.14336 of 2022

PMK (CO)
GMY (24/06/2022)