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W.P.No.16311 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.06.2022

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THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.16311 of 2022

Velavan Stores,
Rep. by its Authorized Signatory,
PA.Saravanabalan

.. Petitioner

Vs.

1.Tamil Nadu Generation and Distribution
Corporation Ltd., (TANGEDCO),
Rep. by its Chairman cum Managing Director,
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,
Coimbatore South Electricity Distribution Circle,
Coimbatore.

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

.. Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus, to direct 1st, 2nd & 3rd respondents to allow the Utility Change to the petitioner by terminating the existing Energy Purchase Agreements dated 26.06.2009 for their WEG Nos.039204390428 (Old No.350) 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 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 20.08.2009 as per their respective invoices along with interest at 1% per month for any delay in payments.

For Petitioner : Mr.R.S.Pandiyaraj

For Respondents : Mr.L.Jaivenkatesh,
Standing Counsel [TANGEDCO]

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) 26.06.2009 for their WEG Nos.039204390428 (Old No.350) and execute fresh Energy Wheeling Agreement under third party sale as per the Common Order



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of this Court dated 30.08.2019 passed in WP.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.L.Jai Venkatesh, learned standing counsel for TANGEDCO 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.R.S.Pandiyaraj, learned counsel appearing for the petitioner and Mr.L.Jai Venkatesh, learned standing counsel for the respondents.

4. The petitioner had earlier entered into Energy Purchase Agreement dated 26.06.2009 for their WEGs. Under the Energy Purchase Agreement, payments have not been made by the respondents. The petitioner seeks for conversion of the Energy Purchase Agreement to an Energy Wheeling Agreement under the third party sale.

5. In similar circumstances, in respect of other companies who had also entered into Energy Purchase Agreements and payments were defaulted, Writ



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Petitions were filed and they were allowed for converting Energy Purchase Agreement into Energy Wheeling Agreement under the Group Captive Scheme.

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) 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 respondents/TANGEDCO are directed to permit the petitioners to switch over to group consumption/captive consumption/third party sale, as the case may be, as per the request made by the petitioners;

(b) the respondents/TANGEDCO are directed to settle the respective dues to the petitioners as per their respective invoices raised by them, along



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with interest as per Clause 6(b) within a period of two months from the date of receipt of a copy of the order;

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

7. Since the petitioner is also similarly placed, the directions issued by this Court earlier shall hold good for this petitioner also.

8. In terms of the above directions extracted supra, this Writ Petition is disposed of. No costs.

29.06.2022

Speaking/Non-speaking order

Index: Yes/No

Internet: Yes/No

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ABDUL QUDDHOSE,J.

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To

- 1.Chairman cum Managing Director,
Tamil Nadu 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,
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