



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2022

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P. No.26052 of 2021

and

WMP.Nos. 27495, 27496 & 27498 of 2021

OPG Power Generation Pvt Ltd
OPG Nagar Periya Obalapuram Village
Nagaraja Kandigai, Madharapakkam Road,
Gummidipoondi,
Thiruvallur - 601 201.

.....Petitioner

vs.

- 1 Tamil Nadu Generation and Distribution Corporation Ltd (TANGEDCO),
Rep by its Chairman and Managing Director,
10th Floor, 144 Anna Salai, Chennai - 2.
- 2 The Chief Engineer / PPP,
TANGEDCO, 144 Anna Salai, Chennai - 2.
- 3 Tamil Nadu Transmission Corporation Ltd
TANTRANSCO, 144 Anna Salai,
Chennai - 2.
- 4 State Load Despatch Center C/o TANTRANSCO,
144 Anna Salai Chennai - 2.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue an order or direction or Writ and in particular Writ in the nature of a Writ of Mandamus directing the respondents TANGEDCO to pay the outstanding dues of Rs. 93 64 47 378/- (Rupees Ninety Three Crores Sixty Four Lakhs Forty Seven Thousand Three Hundred Seventy Eight) for the energy supplies made by the petitioner from February 2021 to September 2021 along with accrued interest thereon till date in compliance with the Long Term Power Purchase Agreement dated 12.12.2013 executed between the petitioner and TANGEDCO and further direct the respondent TANGEDCO to strictly comply with



the principles as set out in the directives issued by the Ministry of Power Government of India in Ministry of Power Government of India vide its order dated 28.6.2019 in NO. 23 / 22 / 2019 R and R r/w compliance directive dated 09.08.2019 by not scheduling any electricity from the petitioner's plant at any time when the dues are outstanding and make payment towards capacity charges for the period the petitioner's plant does not generate electricity due to delay in payment of the outstanding dues.

For Petitioner : Mr. R.Parthasarathy

For Respondents : Mr.J.Ravindran
Additional Advocate General
Assisted by
Mr.L.Jaivenkatesh
Standing Counsel

ORDER

The petitioner has filed this petition seeking direction to the respondents TANGEDCO to pay the outstanding dues of Rs. 93 64 47 378/- (Rupees Ninety Three Crores Sixty Four Lakhs Forty Seven Thousand Three Hundred Seventy Eight) for the energy supplies made by the petitioner from February 2021 to September 2021 along with accrued interest thereon till date in compliance with the Long Term Power Purchase Agreement dated 12.12.2013 executed between the petitioner and TANGEDCO and further direct the respondent TANGEDCO to strictly comply with the principles as set out in the directives issued by the Ministry of Power Government of India in Ministry of Power Government of India vide its order dated 28.6.2019 in NO. 23 / 22 / 2019 R and R r/w compliance directive dated 09.08.2019 by not scheduling any electricity from the petitioner's plant at any time when the dues are outstanding and make payment towards capacity charges for the period the petitioner's plant does not generate electricity due to delay in payment of the outstanding dues.

2. The facts of the case are as follows:

The petitioner is a generating company and the company operates a 414 MW coal fired power thermal plant at Gummudipoondi. One of the units was duly commissioned on 05.06.2013 and the company has been generating and supplying the contracted capacity to the respondent from 01.01.2014 in accordance with Power Purchase Agreement dated 12.12.2013 for supply of a total contracted capacity of 74 MW from the generating station of the petitioner. In pursuance of the power



purchase agreement, the petitioner has continued to duly provide an uninterrupted power supply to the respondent. Due to non-payment of the long pending outstanding dues under the PPA dated 12.12.2013 legally payable by the respondent. As a result of the continued non-payment of outstanding dues by the respondents, the petitioner was constrained to raise demand letter dated 05.10.2021 with respect to the payment of monthly outstanding dues by the respondent. The non-payment of undisputed dues of the petitioner is wholly arbitrary and violates the fundamental rights guaranteed under Article 14 and 19(1)(g) of the Constitution of India. Without having any other option, the petitioner has filed the present writ petition before this Court.

3. The Government have filed the counter affidavit. The learned Additional Advocate General appearing for the respondents submitted that the outstanding dues on the monthly bills claimed by the petitioner for a sum of Rs.82,67,88,258/- for the energy supplies made by the petitioner from February 2021 to August 2021. The learned counsel further submitted that the payment for a sum of Rs.50,00,00,000/- have already been paid to the petitioner on 02.12.2021 and the balance amount will be settled within a period of six weeks.

4. The learned counsel for the petitioner submitted that the petitioner's company have no grievance if the respondents pays the outstanding dues within a period of six weeks. However, this Court may, at its discretion, issue a direction to the respondents not to insist the petitioner to provide electricity without remitting the dues.

5. Heard the learned counsel for the petitioner as well as the learned Additional Advocate General of Tamil Nadu assisted by the learned Standing counsel appearing for the respondents and perused the materials available on record.

6. Considering the fact that the respondents have already paid a sum of Rs.50,00,00,000/- to the petitioner on 02.12.2021 and the respondents have agreed to pay the balance amount within a period of six weeks and therefore, this Court passes the following order:

(a) The respondents/TANGEDCO are directed to settle the admitted dues to the petitioner within a period of four weeks from the date of receipt of a copy of this order; and

(b) The petitioner is directed to approach the competent authorities with regard to the electricity



supply to the respondent, if any.

7. With the above observations, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

Rli

To

- 1 The Chairman and Managing Director,
Tamil Nadu Generation and Distribution
Corporation Ltd (TANGEDCO),
10th Floor, 144 Anna Salai, Chennai - 2.
- 2 The Chief Engineer / PPP,
TANGEDCO, 144 Anna Salai, Chennai - 2.
- 3 Tamil Nadu Transmission Corporation Ltd
TANTRANSCO, 144 Anna Salai,
Chennai - 2.
- 4 State Load Despatch Center C/o TANTRANSCO,
144 Anna Salai Chennai - 2.

+1cc to Mr.R.Parthasarathy, Advocate SR.No.4421
+1cc to Mr.L.Jaivenkatesh, Advocate SR.No.4230

W.P. No.26052 of 2021

KJ(CO)
GN(02/03/2022)