



W.P(MD)No.17784 of 2014

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.11.2022

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.17784 of 2014

and

M.P(MD)No.1 of 2014

Sri Gomathy Mills (P) Limited,
HTSC No.4, Veeravanallur-627 426,
Tirunelveli District,
Represented by its Authorised Signatory
S.B.Jeyakumar.

... Petitioner

Vs.

1.Tamil Nadu Electricity Regulatory Commission,
Represented by its Secretary,
19-A, Rukmini Lakshmipathy Salai,
(Marshall's Road),
Egmore, Chennai-600 008.

2.The Chairman and Managing Director,
Tamil Nadu Generation and Distribution
Corporation Limited, 144, Anna Salai,
Chennai-600 002.



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3.The Chief Engineer-Distribution,
Tamil Nadu Generation and Distribution
Corporation Limited,
Tirunelveli Region,
Tirunelveli-11.

4.The Superintending Engineer-Distribution,
Tirunelveli Electricity Distribution Circle,
TANGEDCO, Tirunelveli-11.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the 4th respondent in his impugned demand notice Lr.No.SE/TEDC/Tin/AO/Rev/AS/HT/F.HT/4/D.695/2014 dated 04.10.2014 and quash the same as illegal and against the order of this Court in W.A(MD) NO.313 and 314 of 2013 and consequently forbear the respondents from resorting to load shedding or switching off the 11 KV Veeravanallur-Gomathi Mill Feeder thereby permitting/allowing the petitioner to utilize the power procured by them from 3rd party, captive Sources , IEX wind and Open Access sources up to their sanctioned demand.

For Petitioner : Mr.S.P.Parthasarathy

For Respondents : Mr.S.Deenadhayalan
Standing Counsel



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ORDER

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The present writ petition has been filed challenging an order passed by the 4th respondent, under which a penalty has been imposed as against the writ petitioner for not purchasing third party power during the load shedding for the period covering August 2012 – December 2012.

2. It is an admitted fact that restriction and control measures were introduced by the TANGEDCO from the year 2008 onwards. In view of the said restriction and control measures, the industrial units were subjected to load shedding to an extent of 40% during particular hours and power holiday on certain particular days in a week. During the said period of load shedding or power holiday, the industrial units were not even permitted to draw power from third party sources or utilize the power generated by them. This restrictions were introduced by a memo, dated 25.02.2012. The said memo was challenged by various industrial units in W.P(MD)No.5125 of 2012. This Court by an order, dated 27.03.2012, allowed the writ petitions. The respondent TANGEDCO was directed to move the regulatory commission seeking appropriate orders in imposing certain conditions on the high tension industries.



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3. According to the learned counsel for the petitioner, this Court also by the said order, had permitted the high tension consumers to consume or draw more power than the power purchased from the third party sources/self generating powers/wind mill generation/C.P.P/Banked Units. The TANGEDCO was given liberty to take action against the concerned petitioners in accordance with their regulations.

4. Consequent to the directions issued by this Court, the TANGEDCO had approached TNERC and they passed an order on 28.09.2012 setting aside the memo, dated 27.03.2012. Not being satisfied with the order of TNERC, TANGEDCO proceeded to issue another memo on 27.10.2012. This time, instead of restricting third party purchases, TANGEDCO has proceeded to restrict the self generating power from being utilized by the high tension consumers during the load shedding period and power holidays. This memo was also challenged by the high tension consumers in W.P(MD)No.16045 of 2012. This Court, by an order, dated 12.12.2012 has passed an order, quashing the memo, dated 27.10.2012 and directed the TANGEDCO to again approach TNERC for getting prior approval before introducing regulation and control measures on the high tension consumers.



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5. In view of the orders of this Court in W.P(MD)No.5125 of 2012 and the order of TNERC, dated 28.09.2012 and the order of this Court in W.P(MD)No.16045 of 2012, dated 01.02.2013, it is clear that any new regulatory and control measures have to be introduced by the TANGEDCO only after getting any approval from the TNERC. On the said ground that, the earlier measures, namely memo, dated 25.02.2012 and 27.10.2012 have been struck down by this Court on the ground that they have been introduced without getting prior approval by TNERC.

6. The present impugned order has been passed on the ground that the petitioner Mill has not purchased third party power during load shedding time covering the period between August 2012 and December 2012. According to the learned counsel for the petitioner, though they have not purchased third party power during the said period, they have utilized the power generated by themselves and hence, in view of quashing of memo, dated 27.10.2012, the present impugned order is not valid in the eye of law.



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7. In view of the above said facts, this Court passes the following order:

(i) The order impugned in the writ petition is set aside in view the orders of this Court in W.P(MD)No. 16045 of 2012 confirmed in W.A(MD)Nos.313 and 314 of 2013, dated 13.08.2013 and the matter is remitted back to the file of the 4th respondent for passing fresh orders after giving due opportunity to the writ petitioner.

(ii) The petitioners contend that they have utilized the power generated by themselves during the period between August 2012 and December 2012. In case, if the respondent authorities find that they have only utilized the power generated by them, no further proceedings can be initiated as against the writ petitioner for penalizing them on the ground of violation of regulation and control measures.

(iii) On the other hand, if the CMRI data available with the respondent authorities reveals that the petitioner Mill has neither utilized third party power nor the power generated by themselves, but have utilized the



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TANGEDCO power during August 2012 to December 2012 during load shedding hours and power holidays, they are always at liberty to initiate appropriate proceedings.

8. With the above said observations, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

28.11.2022

Index : Yes / No
Internet : Yes / No
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To

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Represented by its Secretary,
19-A, Rukmini Lakshmipathy Salai,
(Marshall's Road),
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TANGEDCO, Tirunelveli-11.



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R.VIJAYAKUMAR ,J.

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Order made in
W.P(MD)No.17784 of 2014

Dated:
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