



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED **05.01.2023**

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No.10558 of 2020

And

W.P.M.P.No. 12819 of 2020

And

W.P.No. 13206 of 2004

And

W.M.P.No. 15439 of 2020

And

W.M.P.Nos. 1060 of 2006, 550 of 2007 and 19918 of 2022

M/s. Diamond Engineering (Chennai) Pvt. Ltd.,
Represented by its Deputy Managing Director P.Danaraj
No.159, Old Mahabalipuram Road,
Sholinganallur, Chennai – 600 119.

... Petitioner in W.P.No. 10558/2020

M/s. Diamond Engineering Pvt. Ltd.,
Represented by its Managing Director P.Mohanraj
No.179, Old Mahabalipuram Road,
Sholinganallur, Chennai – 600 119.

... Petitioner in W.P.No. 13206/2004

..Vs..

1. The Chief Electrical Inspector to the Government
Tamil Nadu Electricity Board,
Thiru Vi Ka Industrial Estate, Guindy,
Chennai – 600 032.



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2. The Superintending Engineer
Tamil Nadu Electricity Distribution Circle / South
110, K.V.S.S. Complex,
K.K.Nagar, Chennai – 600 017.
3. The Assistant Engineer (O&M) / Sholinganallur CEDC/South-II
Sholinganallur, Chennai – 600 119.

... Respondents

PRAYER IN W.P.No. 10558 of 2020: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari calling for the records relating to the order dated 27.07.2020 passed by the third respondent in LR No. AE/O&M/SNLR/CI/F Court Case/D.No. 48 /2020, quash the same.

PRAYER IN W.P.No. 13206 of 2004: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari calling for the records relating to the order of the second respondent passed in LR No. SE/CEDC/S/DFC/AAO/HT/AS/A7/F SC 1001/D/3370/2004 dated 24.04.2004 and quash the same.

For Petitioner in
both W.Ps. :: Mr. Thanjai P.N Chezian

For Respondents in
both W.Ps. :: Mr. L.Jai Venkatesh
TNEB

COMMON ORDER

There are two Writ Petitions. One was filed in the year 2004 and the other had been filed in the year 2020. They have both been filed by the same petitioner, namely, M/s. Diamond Engineering (Chennai) Pvt. Ltd., represented in one Writ Petition by its Managing



Director P.Mohanraj and in the other Writ Petition, represented by its Deputy Managing Director P.Danaraj.

2. In the first Writ Petition, which had been filed in the year 2004, the petitioner questioned the order of the second respondent therein, namely, the Superintending Engineer, Tamil Nadu Electricity Distribution Circle / South, 110, K.V.S.S. Complex, K.K.Nagar, Chennai – 600 017, with respect to an order passed on 24.04.2004 by which order, the petitioner was directed to pay a sum of Rs.57,57,240/-, failing which the service connection would be disconnected.

3. In the second Writ Petition, which had been filed in the year 2020, again in the nature of Certiorari, the writ petitioner had questioned an order of the Assistant Engineer, O & M /Sholinganallur, CEDC/South-II, Sozhanganllur, Chennai -19, wherein the petitioner was directed to pay a sum of Rs.34,91,279/-, failing which further action in accordance with the TNERC Rules and Regulation shall be taken.

4. Even before the second Writ Petition had been filed, the petitioner had suffered an order passed by the National Law Tribunal



at Chennai, in Petition No. IND/1523/(IB)/CB/2017 which had been filed by another private limited Company to the Shah Brothers Ispat Pvt Ltd., and after hearing, an order had been passed by the NCLT appointing V.Mahesh as a resolution professional.

5. The petitioner had now filed W.M.P.No. 19918 of 2022 to implead the said V.Mahesh as the fourth respondent in the Writ Petition. Both the Managing Director P.Mohanraj, who had filed the earlier Writ Petition in the year 2004 and the Deputy Managing Director P. Danaraj, who had filed the next Writ Petition in the year 2020, stood disqualified to represent the company consequent to the order of the National Company Law Tribunal. They have no locus. Atleast, the second Writ Petition could not have been filed by the Deputy Managing Director. It is only the resolution professional, who should have filed or if the resolution professional is not interested in protecting the interests of the petitioner, then he cannot and should not perform the duties of a resolution professional. There are some duties which are inbuilt to the post which is given to him. He alone is the only person, who can file the Writ Petition on behalf of the petitioner M/s. Diamond Engineering (Chennai) Pvt., Ltd.



6. Both the Writ Petitions are dismissed on the issue of locus.

Both the impugned orders can be challenged by way of a fresh Writ Petition if at all the resolution professional is interested in filing a Writ Petition and such Writ Petition should be filed on or before 31.01.2023. Till that time, the protection given not to take coercive action shall continue but if the resolution professional fails to file a fresh Writ Petition on or before 31.01.2023, the respondents are at liberty to take necessary action in accordance with law.

7. Recording the same, the Writ Petitions stand dismissed. Consequently, connected Civil Miscellaneous Petitions are also dismissed. No costs.

05.01.2023

vsg

Index: Yes/No

Internet: Yes/No

Speaking / Non Speaking Order

To

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C.V.KARTHIKEYAN, J.,

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