



WEB COPY

WP No.5069 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11-04-2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP No.5069 of 2017

And

WMP No.5346 of 2017

M/s.Flow Link Systems (P) Ltd.,
HTSC No.222, 235 and 241,
SF No.189/1A-C, Uthupalayam,
Arasur,
Coimbatore-641 407 Represented by its
General Manager Operations Mr.J.Parthiban.

... Petitioner

Vs.

- 1.TANGEDCO,
Represented by its Chairman and Managing Director,
No.144, Anna Salai,
Chennai-02.
- 2.The Chief Financial Controller (Revenue),
TANGEDCO,
No.144, Anna Salai,
Chennai-02.
- 3.The Superintending Engineer,
Coimbatore Electricity Distribution Circle/South,
TANGEDCO,



Coimbatore.

4.The Superintending Engineer,
Coimbatore Electricity Distribution Circle/North,
TANGEDCO,
Coimbatore.

5.The Superintending Engineer,
Tirunelveli Electricity Distribution Circle,
TANGEDCO,
Tirunelveli.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the second respondent to issue working instructions in order to implement the Hon'ble TNERC Order in DRP No.19 of 2013 dated 19.01.2015 which has also be confirmed by the Hon'ble APTEL in Appeal No.53 of 2016 and also to implement the order of third and fourth respondents Hon'ble TNERC's Order in RA No.6 of 2013 dated 31.03.2016 in so far as REC Windmill/Solar adjustments are concerned and consequently direct the third and fourth respondents to give adjustment of 6,62,341 Units of REC Wind/Solar energy generated in the petitioner's REC WEG No.4046 and Solar PV Power Plant HTSC No.SPG.01 which was illegally allowed to lapse for the period from 07/2015 to 08/2015.

For Petitioner : Mr.M.Saravanakumar

For Respondents : Mr.L.Jai Venkatesh,
Standing Counsel for TANGEDCO.



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ORDER

The relief sought for in the present writ petition is to direct the second respondent to issue working instructions in order to implement the TNERC Order in DRP No.19 of 2013 dated 19.01.2015 which has also be confirmed by the APTEL in Appeal No.53 of 2016 and also to implement the order of third and fourth respondents TNERC's Order in RA No.6 of 2013 dated 31.03.2016 in so far as REC Windmill/Solar adjustments are concerned and consequently direct the third and fourth respondents to give adjustment of 6,62,341 Units of REC Wind/Solar energy generated in the petitioner's REC WEG No.4046 and Solar PV Power Plant HTSC No.SPG.01 which was illegally allowed to lapse for the period from 07/2015 to 08/2015.

2. Brief facts which are necessary for the disposal of this writ petition are as follows:-

The petitioner Company has invested in establishing Wind Farms in the Sate of Tamil Nadu of a total capacity of about 2 MW/located at Alankulam, Tirunelveli District and 1.26 MW Solar Plant located at



Munanjipatti, Tirunelveli District under REC Scheme. The petitioner is eligible for adjustment of 6,62,341 Units of REC Wind/Solar Energy as the third respondent has illegally lapsed 6,62,341 Units of REC Wind Energy from July/2015 and August/2015 as directed in the order in D.R.P. No.19 of 2013 or at least for encashment of lapsed Unit is made at 75% of the applicable rate for REC users as per R.A. No.6 of 2013. Therefore, the first respondent is liable to make heavy adjustment/encashment to REC energy on lapsed Units.

3. However, the second respondent has not issued any working instruction for implementing the order of the State Commission passed in D.R.P. No.19 of 2013 and R.A. No.6 of 2013, even though for subsequent orders issued by TNERC, working instructions are found issued. Therefore, the intention of the second respondent is to avoid adjustment/payments to the REC WEGs and however, to collect charges erroneously when orders are issued by the State Commission in other issues.

4. The stand adopted by the second respondent is wholly unreasonable and not in any aimed at development of the Green Power



Industry. Such a stand adopted by the second respondent is very harsh to consumers like the petitioner.

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5. The second respondent is attempting to subvert the orders of the TNERC and APTEL by not issuing working instructions to implement the order in D.R.P. No.19 of 2013 and R.A. No.6 of 2013. Such conduct on the part of the second respondent is contumacious, arbitrary and unreasonable.

6. Under these circumstances, being left with no efficacious alternative remedy, the petitioner-Company is constrained to approach this Court for the purpose of implementing the order of the third respondent-TNERC's order in R.A.No.6 of 2013 dated 31.03.2016 in so far as REC Windmill adjustments are concerned and consequently, direct the third respondent to give adjustment of 6,62,341 Units of REC Wind Energy generated in the petitioner's REC WEG No.4046 and HTSC No.SPG No.01, which was illegally allowed to lapse for the period from 07/2015 to 08/2015.



7. Heard Mr.M.Saravanakumar, learned counsel for the petitioner and Mr.L.Jai Venkatesh, learned Standing Counsel for the respondents.

8. The learned counsel appearing for the petitioner submitted that the second respondent has not issued any working instruction for implementing the order of the State Commission passed in D.R.P.No.19 of 2013. This act of the second respondent clearly shows that the intention of the second respondent is to avoid adjustment/payments to the REC WEGs and however, to collect charges erroneously when orders are issued by the State Commission in other issues.

9. The learned Standing Counsel appearing for the respondents submitted that he is not disputing the order passed by the Tamil Nadu Regulatory Commission in D.R.P.No.19 of 2013. He further submitted that the dispute in question has reached its finality and in fact, before the Hon'ble Supreme Court, in Civil Appeal No.15618 of 2017, TANGEDCO also agreed to adopt the procedure laid down in the Notification dated 21/3/2022 for adjustment priority among WEGs under REC and non~REC



with effect from 1/8/2012 retrospectively. The abovementioned Notification dated 21/3/2022 shall be adopted prospectively for other energy sources of the High Tension Consumers.

10. Submission of the learned Standing Counsel for the respondents is recorded.

11. In the result, this writ petition is disposed of, directing the respondents to either adjust 6,62,341 units of REC Wind/Solar Energy generated in the petitioner's REC WEG No.4046 and Solar PV Power Plant HTSC No.SPG.01, which was illegally allowed to lapse for the period from 07/2015 to 08/2015 or encash the same towards the future bills. However, there shall be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

11-04-2023

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
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To

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No.144, Anna Salai,
Chennai-02.
2. The Chief Financial Controller (Revenue),
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S.M.SUBRAMANIAM, J.

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