

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Wednesday, the Tenth day of March Two Thousand Twenty One

PRESENT

THE HON`BLE MR JUSTICE B.PUGALENDHI

WP.NO.6013 OF 2021

PRECOT LTD

[PETITIONER]

(FORMERLY PRECOT MERIDIAN LIMITED)
REP BY ITS AUTHORISED SIGNATORY,
SF NO.559 / 4, D BLOCK, 4TH FLOOR,
HANUDEV INFOPARK, NAVA INDIA ROAD,
UDAIYAMPALAYAM,
COIMBATORE-641 028.

Vs

1 TAMIL NADU GENERATION AND
DISTRIBUTION CORPORATION LIMITED,
REP BY ITS CHIEF FINANCIAL CONTROLLER,
144, ANNA SALAI,
CHENNAI 600 002.

[RESPONDENTS]

2 THE EXECUTIVE ENGINEER
OPEN ACCESS, STATE LOAD
DESPATCH CENTER, NO. 144,
ANNA SALAI, CHENNAI - 600 002.

3 THE SUPERINTENDING ENGINEER,
COIMBATORE SOUTH ELECTRICITY DISTRIBUTION
CIRCLE, TAMILNADU GENERATION AND
DISTRIBUTION CORPORATION LIMITED,
COIMBATORE SOUTH - 641 012.

4 SAI REGENCY POWER CORPORATION
PRIVATE LIMITED, REP BY ITS INSOLVENCY
RESOLUTION PROFESSIONAL MR.G.RAMACHANDRAN,
ROAD NO. 22, JUBILEE HILLS,
HYDERABAD, TELANGANA 500 003

Writ Petitions under Article 226 of the Constitution of India praying that in the circumstances stated therein and in the respective affidavits filed therewith the High Court will be pleased to issue a WRIT OF MANDAMUS or any other writ, order or direction in the nature of the writ, directing the 2nd respondent to issue Standing Clearance and NOC to the petitioner permitting the Petitioner to purchase power from IEX power exchange and other open access procurement (in WP.NO.6013 OF 2021).

Order : This petition coming on this day for hearing upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.R.PARTHASARATHY, Advocate for the petitioner and of MR.N.DAMODHARAN, Advocate on behalf of the first and third respondents, the court made the following order:-

This writ petition has been filed to direct the second respondent to issue Standing Clearance and NOC to the petitioner, permitting the petitioner to purchase power from IEX power exchange and other open access procurement.

2. The petitioner entered into a Power Delivery Agreement (PDA) with Sai Regency Power Corporation Private Limited, fourth respondent, on 31/7/2007, for the purchase of 3 MW power from the fourth respondent. The petitioner has also entered into valid Medium Term Open Access Agreement with the second respondent for the use of the grid of the TANTRANSCO dated 31/7/2019.

3. Fourth respondent Company was arrayed as a Corporate Debtor in IBA/92/2019 India Opportunities III Pte Limited and IDBI Trusteeship Services Limited Vs. Sai Regency Power Corporation Private Limited before the National Company Law Tribunal, Chennai. In the said case, an order initiating Corporate Insolvency Resolution Proceedings (CIRP) against Sai Regency Power Corporation Private Limited was passed on 27/3/2019. In view of the above proceedings, the petitioner could not consume power from the fourth respondent. The petitioner has also made a request to the Tamil Nadu Transmission Corporation (TANTRANSCO) seeking cancellation of MTOA, in respect of its units located at PRECOT Limited, Coimbatore to Pollachi Main road, Nanjegoundan Pudur, Achipatti Post, Pollachi, stood cancelled vide Order No.93, dated 7/1/2020 and Order No.97, dated 4/1/2020, issued by the TANTRANSCO. In order to meet its power requirements, since February 2020, the petitioner has been procuring power from IEX through Manikaran Power Limited.

4. Mr.R.Parthasarathy, learned counsel appearing for the petitioner by referring the earlier orders of this Court, sought for an interim relief pending disposal of the writ petition. This Court, in similar circumstances, in W.M.P.Nos.21785 and 21788 of 2020 in W.P.No.17577 of 2020, has passed an order as follows:-

"3. The fourth respondent has already applied before the first and second respondents for the removal of the name of the petitioner from the wheeling agreement. The same is pending for quite a long time. The second respondent has already cancelled the MTOA of the petitioner Company and virtually it amounts to termination of the existing wheeling agreement insofar as the petitioner is concerned. What thereafter remains is a formal approval to be granted by the second respondent. On the one hand, the second respondent is not taking a decision on the application already

submitted by the fourth respondent. There is a specific averment in the affidavit to that effect. On the other hand, even after the cancellation of MTOA, the petitioner is not allowed to purchase power from IEX.

4. A prima facie case has been made out by the petitioner. There shall be an interim direction to the second respondent to give a temporary No Objection Certificate to the petitioner permitting the petitioner to purchase power through IEX under open access, pending disposal of the writ petition. This interim direction is issued without prejudice to the rights of the respondents to file their counter affidavit and contest the writ petition on merits.

5. Accordingly, there shall be an order of interim direction, directing the second respondent to give a temporary No Objection Certificate to the petitioner, permitting the petitioner to purchase power through IEX and other open access sources, pending disposal of the writ petition.

6. Mr.N.Damodharan, learned Standing Counsel takes notice for the respondents 1 and 3.

7. Notice to the second fourth respondent returnable by 17/3/2021.

8. Post on 17/3/2021 along with W.M.P.Nos.21785 and 21788 of 2020 in W.P.No.17577 of 2020.

-sd/-
10/03/2021

/ TRUE COPY /

Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

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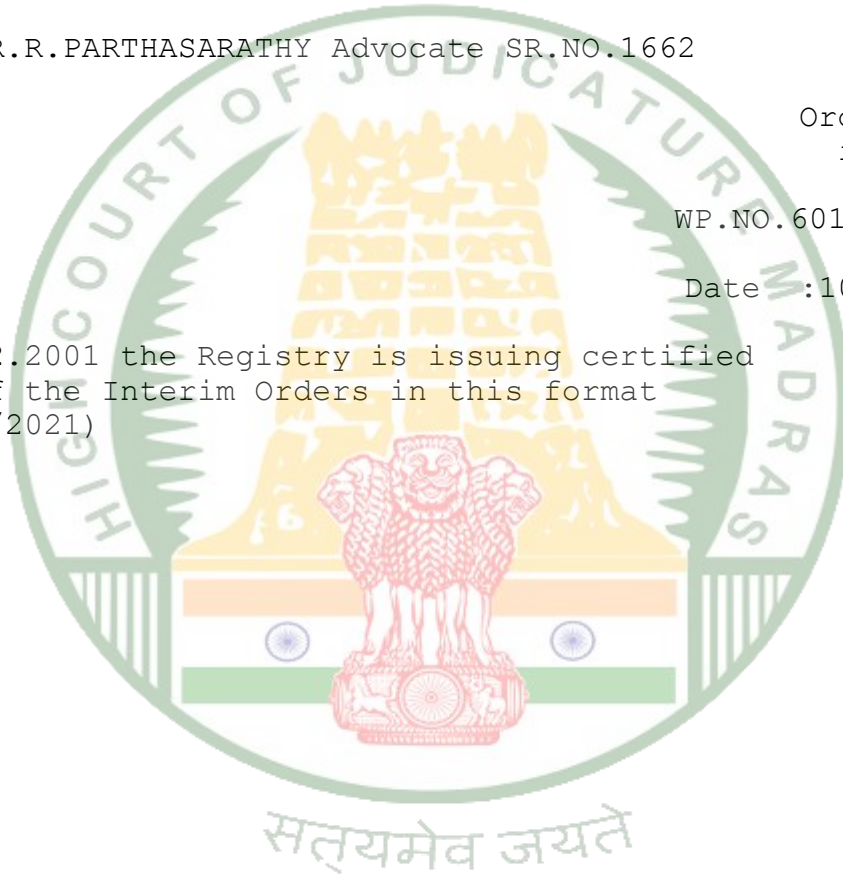
C.C. to MR.R.PARTHASARATHY Advocate SR.NO.1662

Order
in

WP.NO.6013 OF 2021

Date:10/03/2021

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