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W.P.No.19053 of 2024

W.P. No.19053 of 2024
and
W.M.P. Nos.20898, 20899 and 20901 of 2024

M. DHANDAPANI, J.

Today, the matter is listed under the caption “for being mentioned” at the instance of the learned counsel for the petitioner.

2. Learned Senior counsel for the petitioner submitted that this Court, though had granted liberty to the petitioner to work out his remedy before the CERC in view of the effective remedy available, however, in para-5 of the order dated 23.08.2024, had inadvertently noted as if the parties had expressed consent for the said order. Further, the above is the observation of this Court and no concedement was made by the petitioner, as reflected in para-3 of the order dated 23.8.2024. Therefore, to the said extent the order may be modified, as the petitioner had been making the payments voluntarily, but under protest.

3. Mr.AR.L. Sundaresan, learned Additional Solicitor General, assisted by Mr.Rahul Balaji, learned counsel appearing for the 2nd respondent submitted that the petitioner / TANGEDCO has to pay an outstanding



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amount of Rs.276 crores for the procurement of power to the 2nd respondent.

While the learned Senior counsel also concurred with the view of the petitioner, he further submitted that of the outstanding, the petitioner has paid only three instalments out of six, that too relating to the principal amount and with regard to interest no amount has been paid. Therefore, it is submitted that the petitioner, if at all aggrieved, has to approach the approach the Central Electricity Regulatory Commission to have their grievance redressed.

4. This Court perused the order dated 23.08.2024 and also considered the submissions of the learned counsel appearing on either side and it transpires that in para-5 of the said order, inadvertently, the order is said to have been passed on the consent of the learned counsel appearing on either side. Further, it is to be noted, as submitted by the learned Additional Solicitor General that in view of the interim relief granted, the petitioner has not paid the principal amount already paid by way of instalments which causes great inconvenience to the 2nd respondent and works great hardship. Further, learned Senior counsel also submits that the petitioner has not conceded about the alternative remedy available, as is reflected in para-3 of



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the order dated 23.08.2024. Therefore, paras-3 and 5 of the order dated

23.08.2024 shall stand replaced with the following :-

"3. Learned Senior counsel appearing for the respondent submitted that as against the impugned debit note, there is an effective remedy available to the petitioner before CERC and hence the petitioner may be permitted to work out the same in the manner known to law.

* * * * *

5. Since there is an effective remedy available to the petitioner, the petitioner is directed to file appropriate petition in terms of Section 79(1)(f) of the Electricity Act, 2003 before the Central Electricity Regulatory Commission, along with stay petition, within a period of two weeks from the date of receipt of a copy of this order. If any such petition is filed, the Central Electricity Regulatory Commission is directed to dispose of the main petition itself, within a period of eight weeks from the date of filing such petition. Till



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such time, the respondents shall not take any coercive steps as against the petitioner”.

5. It is further clarified that whatever amount paid by the petitioner by way of instalments under protest, during the pendency of the writ petition, shall be continued to be paid by the petitioner. Except for this clarification, the remaining part of the order dated 23.08.2024 shall stand unaltered.

6. Registry is directed to carry out the necessary correction and issue fresh order copy to the learned counsel for the parties.

09.09.2024

Note : Issue order copy on 11.09.2024.

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M.DHANDAPANI, J.

vsi2

W.P. No.19053 of 2024
and
W.M.P. Nos.20898, 20899
and 20901 of 2024

09.09.2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2024



W.P.No.19053 of 2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.19053 of 2024

And

W.M.P.Nos.20898, 20899 and 20901 of 2024

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Tamil Nadu Generation and Distribution
Corporation Limited,
Represented by The Chief Financial Controller,
Regulatory Cell, 7th Floor, NPKRR Maaligai,
144, Anna Salai,
Chennai – 600 002.

... Petitioner

Vs.

- 1.The Ministry of Power
Represented by its Secretary,
Union of India,
Shram Shakti Bhawan,
Rafi Marg,
New Delhi – 110 001.
- 2.N.L.C.India Limited,
Rep. by its General Manager/ Commercial,
No.135, E.V.R. Peiyar High Road,
Kilpauk,
Chennai – 600 010.
- 3.M/s.PFC Consulting Limited,
Regd. Office - 1st Floor, "Urjanidhi"
1, Barakhamba Lane,
Connaught Place,
New Delhi – 110 001.
- 4.Southern Regional Load Despatch Centre,



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29, Race Course Cross Road,
Bangalore – 560 009.

... Respondents

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Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the second respondent pertaining to impugned invoice in debit note no.90073260 dated 02.05.2024, quash the same and consequently direct the third respondent to remove said invoice from the Praapti Portal.

For Petitioners : Mr.S.Wilson
Senior Counsel
for Mr.D.R.Arun Kumar

For Respondents : Mr.A.Kumaraguru for R1
Mr.ARL.Sundaresan for R2
Additional Solicitor General
Assisted by
Mr.Rahul Balaji
R3 – No Appearance

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for the records of the second respondent pertaining to impugned invoice in debit note no.90073260 dated 02.05.2024, quash the same and consequently direct the third respondent to remove said invoice from the PRAAPTI Portal.

2.The learned Senior Counsel appearing for the petitioner



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submitted that TANGEDCO is clearing all the invoices that are being raised then and there by the second respondent and as on date there is no arrears payable to the second respondent. Whiles, the second respondent sent the impugned debit note that TANGEDCO is liable to pay difference amount due to revised LTP to the tune of Rs.694 Crores. Despite the fact that the said claims were returned by TANGEDCO on various grounds, the second respondent ignored the communication returning the claim and deliberately did not withdraw the said claim that was uploaded in the PRAAPTI Portal. The said portal is established only to recover the legitimate dues payable by the DISCOMs to the Generators, however, once a claim is made in the said portal, TANGEDCO is bound to pay the claim amount unless an order of interim stay is uploaded within the trigger date. In case the stay order of competent Court for the illegitimate claim is not uploaded, the first respondent will suspend the entire grid connectivity of the TANGEDCO which leads to a severe power crisis across the State, thereby, the petitioner filed this writ petition.

3.The learned Senior Counsel appearing for the petitioner further submitted that as against the impugned debit note there is effective remedy available to the petitioner in terms of Section 79(1)(f) of the



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Electricity Act, 2003 before the Central Electricity Regulatory Commission and hence this Court may grant liberty to the petitioner to approach the Central Electricity Regulatory Commission and direct the respondents not to take any coercive action against the petitioner.

4.The learned Additional Solicitor General appearing for the second respondent submitted that the second respondent issued the impugned debit note for the legitimate claim as against the petitioner and the petitioner has to necessarily pay the due and further submitted that the petitioner started paying the principal amount by way of instalment under protest. He further submitted that without prejudice to the second respondent's rights, this Court may grant liberty to the petitioner to approach the Central Electricity Regulatory Commission in terms of Section 79(1)(f) of the Electricity Act, 2003.

5.In view of the consent view expressed by the learned counsel appearing on either side, this Court grants liberty to the petitioner to approach the Central Electricity Regulatory Commission and file appropriate petition in terms of Section 79(1)(f) of the Electricity Act, 2003 along with stay petition, within a period of two weeks from the date of receipt of a copy of this order. If any such petition is filed, the



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Central Electricity Regulatory Commission is directed to dispose of the main petition itself within a period of eight weeks from the date of filing such petition. Till such time, the respondents shall not take any coercive steps as against the petitioner.

6.The writ petition is disposed of on the above terms. No costs. Consequently, the connected miscellaneous petitions are closed.

23.08.2024

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Note: Issue order copy on 02.09.2024

Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

1.The Ministry of Power
Represented by its Secretary,
Union of India,
Shram Shakti Bhawan,
Rafi Marg,
New Delhi – 110 001.

2.N.L.C.India Limited,
Rep. by its General Manager/ Commercial,
No.135, E.V.R. Peiyar High Road,
Kilpauk,
Chennai – 600 010.



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23.08.2024