



**WP(MD). No.20468 of 2024**

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**Date : 30/08/2024**

**CORAM**

**The Hon`ble Mr.Justice N.SATHISH KUMAR**

**WP(MD). No.20468 of 2024**  
**and WMP(MD) No.17364 of 2024**

M/s.Paanayil Heavy Engineers,  
rep. by its Authorised Signatory

... Petitioner

**Vs**

1. M/s.Bharat Heavy Electricals,  
Ltd., 2x660, Mw Udangudi Supercritical  
Thermal Power Project,  
Udangudi  
Project Site, Thiruchendur Taluk,  
Turicorin District Tamil Nadu.

2. The Project Director,  
M/s.Bharat Heavy Electricals Ltd,  
Pssr Udangudi Project Site, Udangudi.

3. The Superintending Engineer,  
/ Civil, Tamil Nadu Generation and  
Distribution Corporation Ltd,  
Udangudi Stpp Stage I,  
Udangudi.

4. M/s.Kanwar Engerprises Pvt Ltd,  
No. C-73, Industrial Area,C Block, Sector 10,  
Noida, Uttar Pradesh 201  
301, India.

... Respondents



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**PRAYER :-** Writ Petition, filed under Article 226 of the Constitution of India, praying this court to issue a Writ of Mandamus directing the respondents herein to forthwith consider the representations dated 27.07.2024 and 16.08.2024 and forthwith allow the petitioner to continue the work of Design, Engineering, Fabrication, Supply, Stacking, Erection and Handling over etc, including all labour, machinery, cranes, tools and tackles, consumables, transportation, material handling etc, all complete as per approved drawings of BHEL.

For Petitioner : Mrs.AL.Gandhimathi  
Senior counsel for  
Mr.L. Palani Muthu,  
For Respondent : Mr.Raghuvaran Gopalan for R1 & R2

### **ORDER**

By consent of both sides, the writ petition itself is taken up for final disposal at the stage of admission itself.

2. This writ petition has been filed for a direction to the respondents herein to forthwith consider the representations dated 27.07.2024 and 16.08.2024 and forthwith allow the petitioner to continue the work of Design, Engineering, Fabrication, Supply, Stacking, Erection and Handling over etc, including all labour, machinery, cranes, tools and



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tackles, consumables, transportation, material handling ect, all complete as per approved drawings of BHEL.

3. It is the case of the petitioner that he is a sub contractor under the 4<sup>th</sup> respondent and work order has been given to the petitioner on 20.12.2022. The petitioner has also given designs and drawings, which are also approved by the 1<sup>st</sup> respondent. There was some delay in completion of the work and hence, the work order given to the petitioner by the 4<sup>th</sup> respondent has been cancelled. According to them, if any new contractor is assigned work, there is every chance of using the same drawings and designs. Therefore, since the petitioner is already placed their machineries, they ought to be permitted to continue the work of license engineers fabrication supply etc. Therefore, seeks a direction.

4. The learned counsel for the respondents 1 and 2 would submit that the first respondent is the main contractor for various works and sub contract has been given to various persons. The 4<sup>th</sup> respondent is a sub contractor appointed by the 1<sup>st</sup> respondent. The 4<sup>th</sup> respondent has given the works to various other persons. To ensure that the work has been



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completed within time, the work order was issued only to the 4<sup>th</sup> respondent for certain work in favour of the petitioner. There are internal dispute between the petitioner and the 4<sup>th</sup> respondent and hence, work order has been terminated. Once the contract is terminated, there is no privity of contract between the petitioner and the first respondent. The petitioner, as a matter of right, cannot insist or seek direction against the first respondent to allow them to continue the work.

5. I have considered the rival submissions and perused the materials available on record.

6. The entire dispute is only a contractual issue and the petitioner is not the main contractor and not a sub contractor. The 4<sup>th</sup> respondent is the sub contractor appointed by the first respondent, who is the main contractor for the work for erection of the thermal power plant for TANGEDCO and there is no contract between the petitioner and the first respondent and the work order assigned by the 4<sup>th</sup> respondent is also terminated. At this juncture, this Court is of the view that as a matter of right, the petitioner cannot seek a direction against the first respondent to



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allow the petitioner to continue the work of Design, Engineering, Fabrication, Supply, Stacking, Erection and Handling over etc, including all labour, machinery, cranes, tools and tackles, consumables, transportation, material handling etc. If such request is acceded in fact it will amount to overturning from contract and termination order passed by the 4<sup>th</sup> respondent in respect of the work. In fact, the termination order has not been challenged by the petitioner. Hence, the relief of direction to allow the petitioner to continue the work cannot maintain. However, it is for the first respondent to consider the representation of the petitioner and to take a decision on its own merits.

7. The writ petition is disposed of with the above direction. No costs. Consequently connected Miscellaneous Petition is closed.

**30.08.2024**

**NCC : Yes/No**

**Index : Yes/No**

**RR**



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**N.SATHISH KUMAR,J**

**RR**

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