



W.P.No.8517 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2025

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CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

W.P.No.8517 of 2025
and W.M.P.No.9540 of 2025

ECHANDA URJA PRIVATE LIMITED,
 (R.O. AT 618, MAKER CHAMBERS V,
 NARIMAN POINT, MUMBAI- 400 021)
 A.O. AT 1ST FLOOR,
 DOOR NO.4/64, 4TH CROSS STREET,
 GANGA NAGAR, KODAMBAKKAM,
 CHENNAI- 600 024.
 REPRESENTED BY MR.V.MUTHUSWAMY
 ITS AUTHORIZED SIGNATORY.

... Petitioner

Vs

1. TAMIL NADU ELECTRICITY REGULATORY COMMISSION,
 4TH FLOOR, SIDCO CORPORATE OFFICE BUILDING,
 GUINDY, CHENNAI- 600 032.
 REPRESENTED BY ITS SECRETARY.
2. TAMIL NADU POWER DISTRIBUTION
 CORPORATION LIMITED, (TNPDC),
 10TH FLOOR, 144, ANNA SALAI, CHENNAI-600 002.
 REPRESENTED BY ITS
 CHAIRMAN AND MANAGING DIRECTOR.
3. THE CHIEF FINANCIAL CONTROLLER,
 DEPOSITS AND DOCUMENTATION,
 TNPDC, 7TH FLOOR, 144, ANNA SALAI,
 CHENNAI - 600 002.
4. THE SUPERINTENDING ENGINEER,
 TNPDC,
 TIRUNELVELI ELECTRICITY DISTRIBUTION CIRCLE,
 TIRUNELVELI.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for the



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issuance of Writ of Mandamus, directing the first respondent to reject the Petition in M.P.No.11 of 2025 filed by the third respondent, in the matter relating to reopening of the CGP Verification for the years of 2015- 16 to 2021- 2022, which was already decided in favour of the petitioner, by the fourth respondent in its letter No.SE/TEDC/DFC/AO/wind/AS1/F.CGP/Fulfilment/Inti/-D.No.1228/ 23 dated 19.09.2023 as per the directions of the third respondent and accordingly, issue further direction to the first respondent not to hear any CGP related matters until the first respondent TNERC makes a Final Regulation, for the “Verification of Captive Status of Generating Plants/Consumers Regulations 2024” in terms of the order of the Apex Court dated 09.10.2023 with prospective application.

For Petitioner	: Mr.Srinath Sridevan, Senior Counsel assisted by Mr.S.P.Parthasarathy
For R1	: Mr.P.Kumaresan, Additional Advocate General VII assisted by Ms.J.Sudeksha
For R2 to R4	: Mr.P.S.Raman, Advocate General, assisted by Mr.D.R.Arunkumar

ORDER

This writ petition is filed seeking a direction to the first respondent to reject the petition in M.P. No.11 of 2025 filed by the third respondent, relating to the reopening of the CGP verification for the years 2015-2016 to 2021-2022, which was already decided in favor of the petitioner by the fourth respondent in its letter No.SE/TEDC/DFC/ AO/wind/AS1/F.CGP/ Fulfilment/Inti/-



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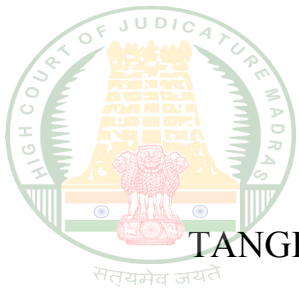
D.No.1228/ 23 dated 19.09.2023, as per the directions of the third respondent

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and accordingly, issue further direction to the first respondent not to hear any CGP related matters until the first respondent TNERC makes a Final Regulation, for the “Verification of Captive Status of Generating Plants/Consumers Regulations 2024” in terms of the order of the Apex Court dated 09.10.2023 with prospective application.

2. *Mr.Srinath Sridevan*, the learned Senior Counsel appearing on behalf of the petitioner would submit that as far as this petitioner is concerned, the issue was earlier decided by the APTEL and has become final. Subsequently, if the Hon'ble Supreme Court of India had taken a contrary view in Civil Appeal No. 8527 of 2009 etc., holding that there should be a minimum of 26% of shares to be held throughout the year, then this cannot automatically apply to the petitioner, as the judgment between the petitioner and TANGEDCO has become final.

3. It is his further contention that even as per the Hon'ble Supreme Court judgment, the first respondent has taken up the exercise of framing the regulations, which is currently in the draft stage. Objections have been called for from the parties and the matter is pending adjudication. At this stage,



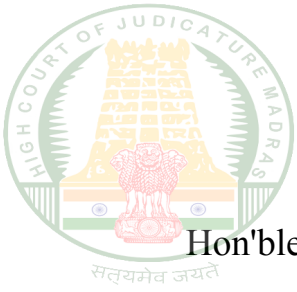
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TANGEDCO has filed an application claiming to verify the 26% shareholding in respect of various captive generation plants. In all other cases, the matter has been adjourned *sine die* because the regulation itself is only in draft stage. Therefore, the question of whether the dictum of the Hon'ble Supreme Court of India applies prospectively or retrospectively should be decided before proceeding further. However, only in the case of the petitioner, the respondents are proceeding with the matter. Once notices are issued to all the shareholders, the very purpose of contesting the Miscellaneous Petition itself will go and therefore, the Miscellaneous Petition should be order to be dismissed. In any event, the first respondent should at least be directed to take up the question of jurisdiction raised by the petitioner first and only after that they should be permitted to issue notices to all the shareholders.

4. Per contra, *Mr.P.Kumaresan*, the learned Additional Advocate General VII appearing on behalf of the first respondent would submit that the authority has taken the application on file and will decide in accordance with law.

5. *Mr.P.S.Raman*, the learned Advocate General appearing on behalf of the second to fourth respondents would submits that there is no error of jurisdiction in entertaining the M.P. No.11 of 2025. The judgment of the



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Hon'ble Supreme Court of India will be applicable to the petitioner also. The

verification of the shareholding pattern of the captive generation plants throughout the year need not be awaited until the framing of the draft regulations. As a matter of fact, in this case, notice has been issued only because the pleadings are complete. Even in respect of the other cases, the respondents are going to pray to the first respondent Commission to proceed further.

6. In reply, the learned counsel appearing on behalf of the petitioner submits that the order was passed at the admission stage and the distinction on the basis of pleadings is not tenable.

7. I have considered the rival submissions made on either side and perused the material records of the case.

8. Firstly, a writ of prohibition would lie only in the case of a complete lack of jurisdiction and even in such cases, the High Court would not always exercise its jurisdiction under Article 226 and it would always exercise restraint. A writ of prohibition will only be issued, if the party would be put to



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grave prejudice by the very entertaining of the application itself and that too, if it is entirely without jurisdiction. In this case, the first respondent is a statutory authority deciding these issues. The contention of the petitioner is that the matter has been settled *inter se* and cannot be re-opened based on the law being settled in the connected matter. The second contention is that the matter should not be proceeded until the issue regarding the framing of the draft regulations is settled.

9. I am of the view that these questions can also be raised before the first respondent Commission itself. If according to the petitioner that any of the question that it is raising is relating to the jurisdiction and it has to be first tried on preliminary basis, such a prayer can be made before the Commission. It is for the said Commission to take a call in accordance with the law. This Court, sitting under Article 226, cannot interdict or direct the Tribunal to exercise its jurisdiction in a particular manner before the Tribunal has even exercised its jurisdiction. Therefore, keeping open the rights of both parties, that is, the petitioner and the second to fourth respondents, to make all submissions before the first respondent and the the first respondent to consider the same in accordance with law, this writ petition is disposed of. Even the prayer that notices should be issued only after a preliminary decision can only be made



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before the first respondent. Consequently, connected miscellaneous petition is

closed. No costs.

12.03.2025

Neutral Citation: Yes
nsl

To

1. THE SECRETARY.
TAMIL NADU ELECTRICITY REGULATORY COMMISSION,
4TH FLOOR, SIDCO CORPORATE OFFICE BUILDING,
GUINDY, CHENNAI- 600 032.
2. THE CHAIRMAN AND MANAGING DIRECTOR.
TAMIL NADU POWER DISTRIBUTION
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DEPOSITS AND DOCUMENTATION,
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TIRUNELVELI.

D.BHARATHA CHAKRAVARTHY, J.

nsl



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