



W.P.No.14287 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED :30.04.2025

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THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Writ Petition No.14287 of 2025
& W.M.P.Nos.16080, 16081 & 16082 of 2025

Indian Wind Power Association,
Door No. E, 6th Floor,
Tower - 1, Shakthi Towers,
No. 766, Anna Salai,
Chennai -600 002.

... Petitioner

/versus/

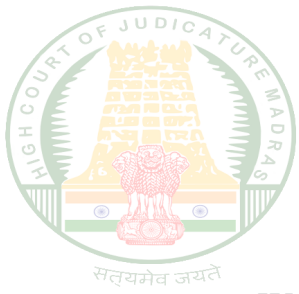
1. Tamil Nadu Green Energy Corporation Ltd.
(TNGECL)
Represented by its Chairman and Managing Director,
No.144, Anna Salai,
Chennai - 600 002.

2. Tamil Nadu Power Distribution Corporation Ltd.
(TNPDC),
Represented by its Chairman and Managing Director,
No.144, Anna Salai,
Chennai - 600 002.

3. State Load Despatch Centre,
No.144, Anna Salai,
Chennai - 600 002.

4. Tamil Nadu Electricity Regulatory/Commission,
Thiru.Vi.Ka Industrial Estate,
Guindy,
Chennai-600 032.
Represented by its Secretary.

... Respondents



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Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 4th respondent in its order dated 13.08.2024 in M.P.No.23 of 2024, filed by the 2nd respondent, mandating the implementation procedure for the adjustment of energy purchased/wheeled by HT consumers under various open access sources pursuant to the Forecasting, Scheduling, and Deviation Settlement for Wind and Solar Generation Regulations, 2024 ('DSM Regulations'), and quash the same, insofar as it applies retrospectively from 01.04.2024, despite being issued only on 13.08.2024, and the directions relating to banking and the manner of adjustment issued in gross violation of the principles of natural justice, as being ultra vires, without jurisdiction, and in contravention of the Electricity Act, 2003 and the DSM Regulations, 2024 and consequently direct the Respondent TNERC to issue a fresh order, with prospective effect, inconsonance with the principles governing banking as upheld by the Hon'ble APTEL, and followed by TNERC in its tariff orders and after hearing the stakeholders on, inter alia, the issue of banking and the manner of adjustment.

For Petitioner : Mr.Rahul Balaji.

For Respondents : Mr.P.S.Raman, Advocate General,
Assisted by Mr.D.R.Arun Kumar, (TNEGCL),
for R1 to R4



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ORDER

This writ petition is filed challenging the order of the Tamil Nadu Electricity Regulatory Commission dated 13.08.2024 made in M.P.No.23 of 2024.

2. When the matter came up for admission, the Learned Advocate General took notice on behalf of the respondents. It can be seen that the grievance that is expressed by the petitioner is that when M.P.No.23 of 2024 was filed by the respondents seeking the approval of the implementation procedure for the adjustment of energy purchased and wheeled to High Tension customers under various open access sources by virtue of *Forecasting Scheduling and Deviation Settlement for Wind and Solar Generation Regulations, 2024 ('DSM Regulations')* which came into effect from 01.04.2024, the TNERC by its order dated 13.08.2024, laid down the procedure for block-wise energy adjustments with effect from 01.04.2024. It refrained from passing any order on the banking period for WEGs thereby, maintaining the *status quo* with respect to the banking mechanism, in line with the orders of the APTEL. It is further contended that despite refraining from making the changes for the banking period/mechanism, the TNERC has unilaterally altered



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the operational framework of the Banking in contravention of the objective of the DSM Regulations, its own tariff orders and orders of APTEL concerning the banking, which according to the petitioner was without jurisdiction and in violation of the principles of natural justice. The petitioner has enumerated the relevant directions in the impugned order in paragraph No.11 of the affidavit, which is extracted hereunder for ready reference:

“11. The relevant directions in the impugned order dated 13.08.2024, unilaterally modifying the prevailing banking mechanism, without any notice, or opportunity of hearing to the affected stakeholders, are set forth below:

3.4.1 The energy accounting shall be done in 15 minutes time block basis for Open Access energy accounting purpose. Block wise / day wise generation / purchase shall be adjusted against the same block wise / day wise consumption.

3.4.2. The surplus energy, if any, available after adjustment in the respective same 15 minutes time block basis shall be considered as banked energy along with the banking charges in force and excess consumption over and above the actual injection of energy will be charged at the tariff applicable to the consumer subject to the terms and conditions of supply.



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3.4.3. The banking of energy shall be evaluated for energy accounting on 15 minutes time block basis. The positive difference between the injected energy from Wind/Solar generator available at consumption point (excluding losses in kind) and consumer's consumption in same 15 minutes time block basis on the same day shall be considered as banked energy and this banked energy shall be permitted to be consumed on banking cycle basis.

3.4.4 Energy banked can be adjusted during any block period except during peak hour blocks within the banking cycle. However, for the Pumped Storage System/Battery Energy Storage System (BESS), energy injected can be adjusted in any time block, including peak hour blocks

3.4.5. This order will be applicable with effect from 01-04-2024 as per the TNERC (Forecasting, Scheduling and Deviation Settlement and related matters for Wind and Solar Generation) Regulations, 2024. Commission also directs that the billing software for adjustment of energy at the consumer end for block wise/day wise generation against block wise/day wise consumption shall be made ready within 6 months from the date of issue of this order. Till such time, adjustment of energy at the consumer end shall be made as per the relevant tariff orders issued by the Commission from time to time.



3.5.2 (i) *In view of the APTEL order. Commission refrain from passing any order on banking period in respect of the WEGs and directs status-quo shall be maintained in respect of banking period for WEGs. Regarding solar generation, the banking period is continued to be one month billing period without any banking charges till banking charges are fixed by the Commission under proposed Green Energy Open Access (GEOA) Regulations.*'' (emphasis supplied).

3. The Learned Advocate General for the respondents would submit that it cannot be said that the TNERC did not have jurisdiction at all in the matter. However, he would agree with the Learned Counsel for the petitioner that there were no specific prayers that were made by the respondents in respect of those directions. To that extent, he is not in a position to dispute the contention that the directions are issued without adequate opportunity for the petitioner, who are the stakeholders and who have something to say in the matter. To that extent, it is now submitted by the Learned Counsel for petitioner that they will again approach the TNERC by way of appropriate application in respect of those directions. The same can be done. The only prayer that is made is to keep those directions in '*abeyance*' till for some time so that, the respondents can approach the forum and get the directions/



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clarifications in that regard.

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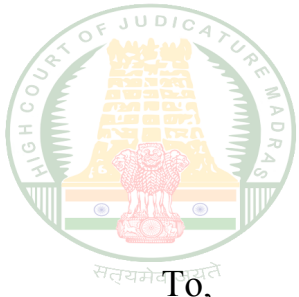
4. In view thereof, this writ petition is disposed of keeping open the liberty of the petitioner to approach the Tamil Nadu Electricity Regulatory Commission (TNERC) itself with reference to its order dated 13.08.2024 made in M.P.No.23 of 2024 by filing such applications before the very same Commission, in respect of the grievance that is expressed by the petitioner. For a period of 8 weeks from today, the directions that are enumerated in paragraph No.11 above, shall not be implemented by the respondents so as to enable the petitioner to approach the Commission. As and when such application is filed, the Commissioner shall take up the application and dispose of on merits in accordance with law.

Consequently, connected miscellaneous petitions are closed.

There shall be no order as to costs.

30.04.2025

Neutral citation :No.
bsm



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To,

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Tamil Nadu Green Energy Corporation Ltd.
(TNGECL)
No.144, Anna Salai,
Chennai - 600 002.
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(TNPDC),
No.144, Anna Salai,
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Tamil Nadu Electricity Regulatory/Commission,
Thiru.Vi.Ka Industrial Estate,
Guindy,
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5. The Government Pleader, High Court, Madras.



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D.BHARATHA CHAKRAVARTHY, J.

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