

W.P.Nos.11133 to 11139 of 2018 and**WMP.Nos.13041, 13042, 13044, 13045, 13048, 13049, 13051,
13052, 13054, 13055, 13057, 13058, 13060 and 13061 of 2018****T.RAJA, J.**

Learned Senior Counsels appearing for the petitioners submitted that the State Government in exercise of its power conferred under Sub-Section (1) of Section 108 of the Electricity Act, 2003 cannot direct the Tamil Nadu Electricity Regulatory Commission, even in public interest to amend the regulation 9(6) of the Tamil Nadu Electricity Regulatory Commission (Grid Connectivity and HT Consumers Open Access) Regulations, 2014 in line with 5th proviso to Sub-Section (2) of Section 42 of the said Electricity Act, 2003.

2. The learned Senior Counsel further submitted that when the Tamil Nadu Electricity Regulatory Commission has been empowered under Section 181 of the Electricity Act, 2003 to make regulations, what are the functions to be discharged by the said Commission also have been defined under Section 86 of the said Act. While so, the 1st respondent cannot direct the Electricity Regulatory Commission to legislate a particular proviso which is beyond the jurisdiction of the State Government. If any attempt is allowed, this would reduce the independence of the Tamil Nadu Electricity Regulatory Commission. More over, even before making any regulation by the said commission, the impugned order cannot be

given effect to.

3. Replying to the above contentions, learned Additional Advocate General appearing for the respondents Tamil Nadu Generation and Distribution Corporation Limited, Tamil Nadu Transmission Corporation Limited and State Load Despatch Centre submitted that when the Notification dated 9.6.2005 has been issued by the Ministry of Power, Government of India, the procedure of previous publication has been properly explained. Firstly, under Section 181(3) of the Electricity Act, 2003, the authority or the proper commission shall before making any regulation publish a draft regulation for the information of persons likely to be effected and a notice specifying the date also will be issued. Secondly, the authority or the appropriate commission having power to make, only thereafter publish the said regulation in the Official Gazette. Since that procedure is going to take a long time, the present Writ Petitions are liable to be dismissed on the ground that they are all filed on pre-mature stage.

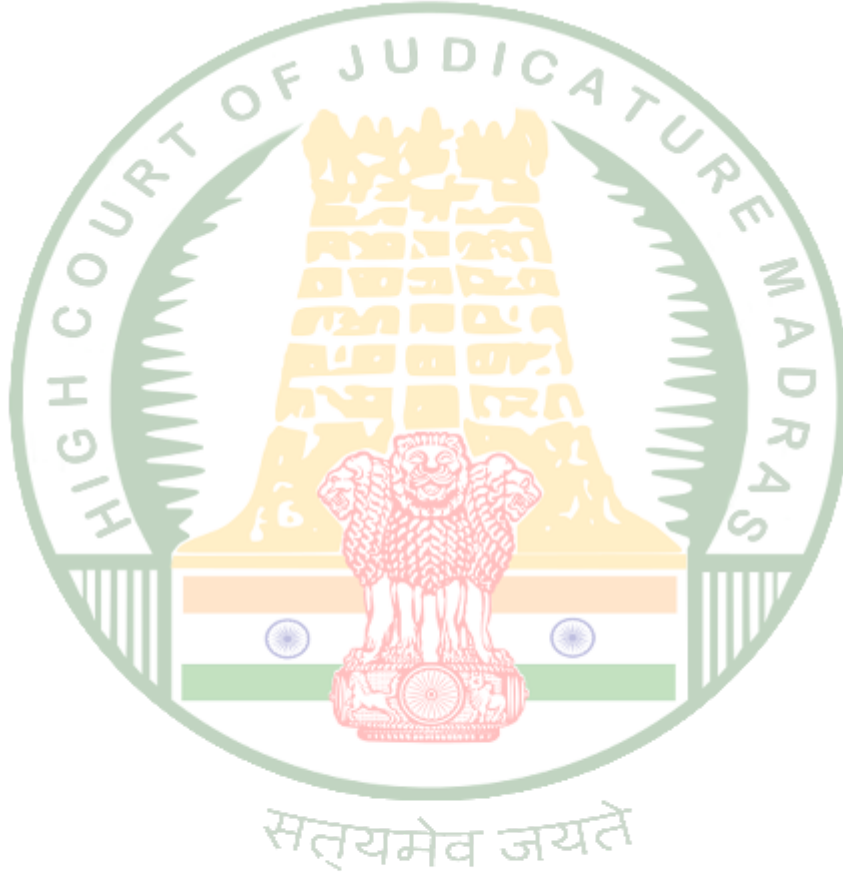
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4. Prima facie, I also see that once the procedure contemplated under Sub-Section (3) Section 181 of the Electricity Act, 2003 is going to take substantial time to come in force, the respondents are directed to maintain status quo as on today.

5. Notice to the Tamil Nadu Electricity Regulatory Commission through Court as well as privately returnable in six weeks. Post the matter on 13.06.2018.

27.04.2018

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T.RAJA, J.

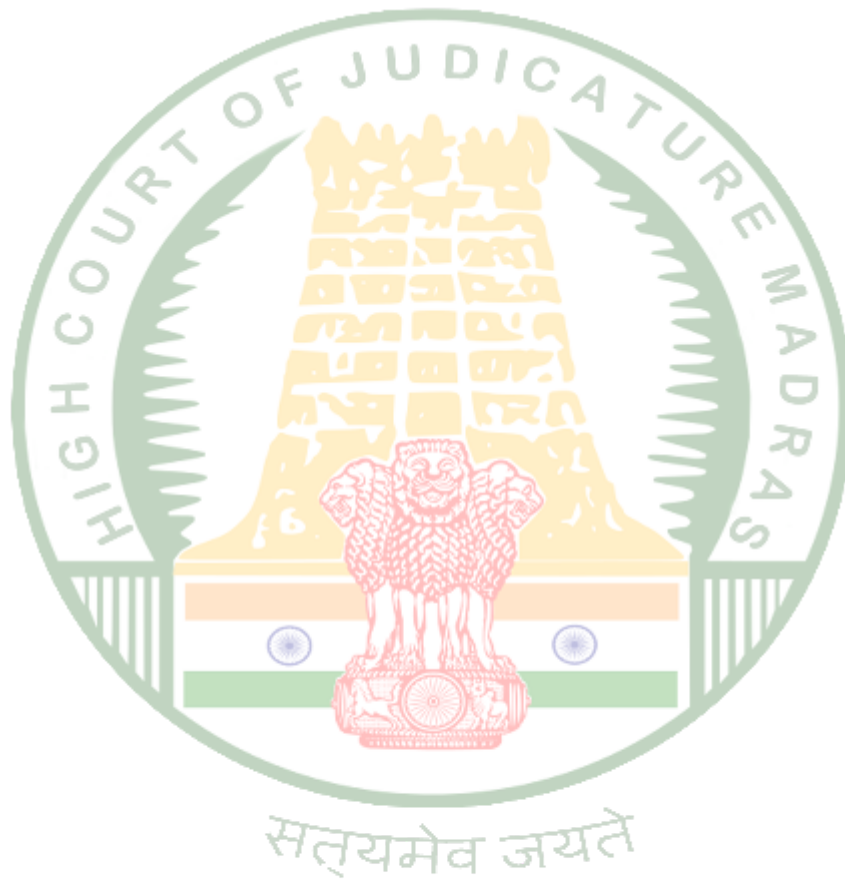
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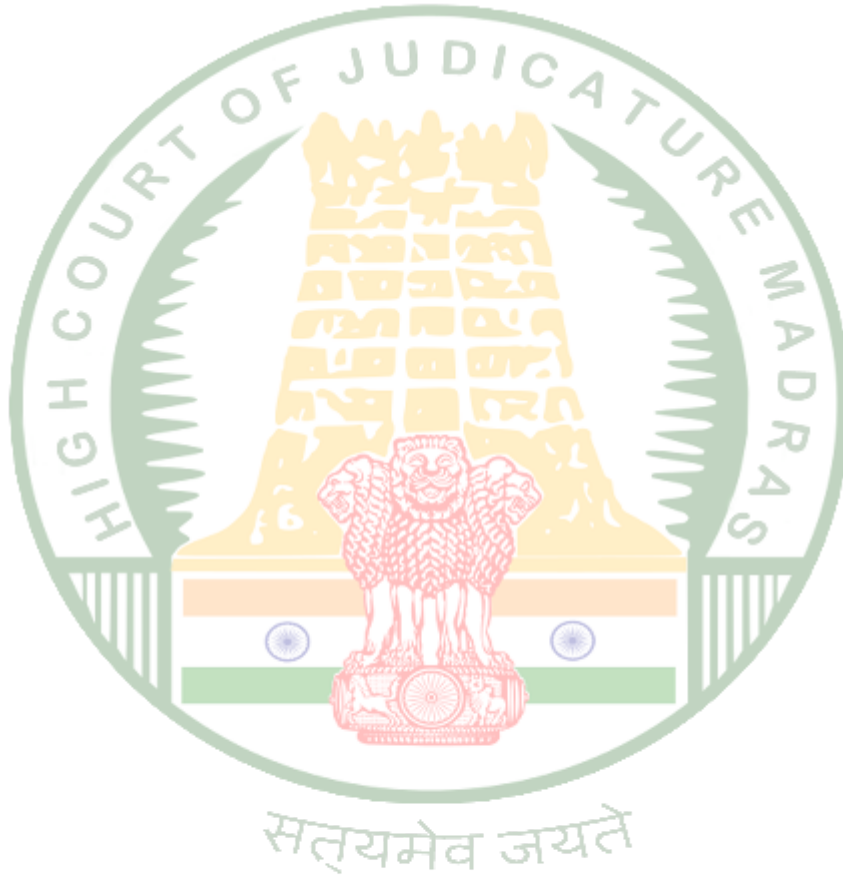
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