

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s).24151-24153/2019

(Arising out of impugned final judgment and order dated 20-09-2019 in WA No. 3254/2019 20-09-2019 in WA No. 3255/2019 20-09-2019 in WA No. 3163/2019 passed by the High Court of Judicature at Madras)

THE STATE OF TAMIL NADU

Petitioner(s)

VERSUS

TAMIL NADU SPINNING MILLS ASSOCIATION,
(REGN. NO. 330/1997) & ORS.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.153739/2019-PERMISSION TO FILE LENGTHY LIST OF DATES)

Date : 18-10-2019 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA
HON'BLE MR. JUSTICE S. RAVINDRA BHAT

For Petitioner(s) Mr. C.S. Vaidyanathan, Sr. Adv.
Mr. Balaji Srinivasan, AAG
Mr. Vinodh Kanna B., AOR

For Respondent(s) Mr. V. Giri, Sr. Adv.
Mr. Anil Kaushik, Adv.
Mr. Tanmaya Mehta, Adv.
Mr. Abhishek Mishra, Adv.
Mr. Akash Bhardwaj, Adv.
Ms. Arunima Dwivedi, AOR

UPON hearing the counsel the Court made the following
O R D E R

Sri Venkateswara Cotton Yarn Mills Salem Pvt. Ltd., and others including Tamil Nadu Spinning Mills Association filed writ petitions in the High Court impugning the direction issued by the State Government to amend the Regulations to Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO) to amend Regulation 9(6) of the Regulations. The Single Judge has directed the Regulatory Commission to take up the policy decision of the Government expressed in G.O. (Ms) No.37, Energy (D1) dated

17.04.2018 for consideration forthwith and complete the proceedings within a period of ten weeks. That order has been questioned in the writ appeal, pending before the Division Bench of the High Court, in which the impugned order has been passed calling for certain information. Paragraph 4 of the impugned judgment, which is relevant is set out below:-

"4. This Court cannot ignore the submissions made by the Appellants. If the alleged higher rate purchase, if it is true, is avoided, the said money could be used for the benefit of weaker sections of the society. In that event, the impugned G.O. itself could be avoided. Hence, this Court would like to know as to whether it is a fact that the TANGEDCO is buying power at a higher rate from a particular power generator causing loss to the public exchequer and therefore, the following details shall be furnished by the respondents on the next hearing date:-

(i) From how many power generators, conventional and non-conventional power is purchased by TANGEDCO for the past 10 years? (yearwise details have to be given)

(ii) What is the rate of purchase of power from various generators? (year wise and generator wise rate details need to be provided)

(iii) What are the agreements which cover purchase of power by TANGEDCO? (give the details of agreement for the past 10 years)

(iv) It is a fact that TANGEDCO entered into a power purchase agreement with a power generator company for 21 years at the rate of Rs.7.00 per unit (approximately)?

(v) Is it a fact that power is purchased from the Appellants at the rate of Rs.2.00 per unit (approximately)?

(vi) Is it a fact that loss of Rs.5.00 per unit (approximately) is caused to TANGEDCO because of the agreement with a power generator for a period of 21 years?

(vii) Is it a fact that loss is deliberately caused to wind power generators because of non-evacuation of power generated by wind energy generators completely in time?

(viii) How much is due to be paid to various power generators: (yearwise and generator wise details have to be given for the past 10 years).

(ix) From which year onwards, the amounts are to be paid? (generator wise details have to be given).

(x) When the amounts would be paid to the generators, if TANGEDCO is due?"

Thereafter, another order was passed by the High Court calling for further information on 01.10.2019, after filing of the special leave petitions.

We have heard learned counsel for the parties at length.

We feel that High Court should confine itself to the pleadings as well as issues raised as ultimately the Court need not decide on the Regulation which is proposed to be amended. The facts which may be necessary in the course of amendment of the Regulation are not required to be gone into at this stage, since no amendment has as yet been made.

We request the High Court to confine itself to the impugned order and to the pleadings of the parties and render a decision in accordance with law, as expeditiously as possible. Obviously, as to the information sought in the impugned order, the High Court has to reexamine whether in view of this order it can consider the same or not.

The special leave petitions are, accordingly, disposed of.

Pending application(s), if any, shall stand disposed of.

(NARENDRA PRASAD)
COURT MASTER

(JAGDISH CHANDER)
COURT MASTER