

TAMIL NADU ELECTRICITY REGULATORY COMMISSION
(Constituted under Section 82 (1) of the Electricity Act 2003
Central Act 36 of 2003)

PRESENT:-

Thiru.K.Venugopal **Member**

and

Thiru.S.Nagalsamy **Member**

D.R.P. No.3 of 2012

and

I.A. No. 1 of 2012

Winever Energy Private Limited
Rep. by its authorized signatory
Mrs. B. Monica
1, 4th Floor, Park View
No.85, G.N. Chetty Road
T.Nagar, Chennai – 600 006.

.. **Petitioner**
(Thiru M.P.Balasubramanian,
Advocate for Petitioner)

Vs

The Superintending Engineer
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO)
a body corporate having its address
at Tirunelveli Circle
Tirunelveli – 627 011.

.... **Respondent**
(Thiru PH.Vinod Pandian,
Advocate for Respondent)

Date of hearing : 16-02-2012

Date of order : 16-02-2012

1. D.R.P.No.3 of 2012 and I.A. No. 1 of 2012 in D.R.P. No.3 of 2012 came up before the Commission for hearing as to admission on 16-02-2012. In the D.R.P. No.3 of 2012 the prayer is to declare that the Energy Purchase Agreement dated

20-05-2011 between the Applicant and the Respondent is valid subsisting and binding. In I.A. No. 1 of 2012 in D.R.P. No. 3 of 2012 the prayer of the Petitioner is to restrain –

- (i) The Respondent from unilaterally altering, modifying, amending in any manner whatsoever, the performance of and / or any of the terms and conditions of the said Energy Purchase Agreement dated 20th May 2011.
- (ii) The Respondent from in any manner taking further cognizance of any application that has been made or may be made by the said Rathna and Jothy and/or anybody claiming through them, effecting or altering in any manner whatsoever, the performance of and / or the rights of the Applicant under the said Energy Purchase Agreement dated 20th May, 2011.
- (iii) the Respondent from in any manner taking any cognizance of any application that has been made or may be made the said Rathna and Jothy or anybody claiming through them for transfer of or otherwise in respect of the said wind mills or transfer the said wind mills from the name of the Applicant in any manner whatsoever.

2. In paragraph 4 of the D.R.P. No. 3 of 2012, the Petitioner has stated that one Rathna and Jothy are claiming to have purportedly purchased the two wind mills from the Petitioner.

3. At paragraph 13 of the said D.R.P., the Petitioner has inter-alia stated that on 3rd October, 2011 they filed a Criminal Complaint against the aforesaid Rathna and Jothy before the D.C.B., Tirunelveli to prosecute them for forgery and fraudulently

procuring documents in a stealthy manner to illegally usurp the valuable assets of the Petitioner Company and that the investigation is under progress.

4. At paragraph 16 of the said D.R.P., the Petitioner has stated that they have filed a Civil Suit against the said Rathna and Jothy before the District Munsiff Court at Valliyoor for a declaration that the claim of the said Ratha and Jothy is fraudulent and illegal and the same is pending disposal.

5. The Commission after going through the said D.R.P. No. 3 of 2012 and I.A. No. 1 of 2012 and after hearing both sides passed the following order:-

ORDER

6. The Counsel for the Petitioner was present. The main issue involved in this case is with regard to the ownership of the company. When the learned Counsel for the Petitioner was asked to establish the jurisdiction of the Commission, he was not able to establish that this case comes under Section 86 (1) (f) of the Electricity Act, 2003 (Central Act 36 of 2003). On the other hand he has admitted that he has already filed cases in other forums. To a specific query by the Commission to specify what are all the cases filed by him and what is the prayer in all such cases, the reply of the learned counsel was elusive. The subject matter of the petition is purely a civil dispute and the learned counsel failed to establish the jurisdiction of this Commission over the matter. Therefore the Petition is not admitted.

(Sd.....)
(S.Nagalsamy)
Member

(Sd.....)
(K.Venugopal)
Member

/ True copy /

Secretary
Tamil Nadu Electricity
Regulatory Commission