
(2011) 09 MAD CK 0096

In the Madras High Court

Case No : Writ Petition (MD) No. 9946 of 2011 and M.P (MD) No. 1 of 2011

Harihar Alloys Private Limited

APPELLANT

Vs

The Superintending Engineer Pudukottai Electricity
Distribution Circle, Tangedco (formerly TNEB), Pudukottai

RESPONDENT

Date of Decision : 05-09-2011

Acts Referred:

Citation : (2011) 09 MAD CK 0096

Hon'ble Judges : R. Sudhakar, J

Bench : Single Bench

Advocate : N.L. Rajah, for the Appellant; S.M.S. Johny Basha, for the Respondent

Final Decision : Allowed

Judgement

The Honourable Mr. Justice R. Sudhakar, J.—This writ petition has been filed by the Petitioner for a writ of Certiorarified Mandamus to call for the records of the Respondent culminating in his impugned proceedings bearing Lr. No. SE/PEDC/PDKT/DEV/AEII/F.HT/D. No. 429/11 dated 03.08.2011, quash the same and direct the Respondent to forthwith provide the Petitioner Additional demand of 190 KVA HT services as sought for by the Petitioner vide his application dated 25.07.2011 and or any additional energy demands that the Petitioner may be eligible for in this service.

2. Heard Mr. N.L. Rajah, Learned Counsel for the Petitioner and Mr. S.M.S. Johny Basha, Learned Counsel who takes notice for the Respondent.

3. By consent, the writ petition itself is taken up for final disposal.

4. The Petitioner sought for additional demand of 190 KVA HT in respect of HT SC No. 121 over and above the existing demand of 800 KVA. Such request was made on 25.07.2011 and the Superintending Engineer by the impugned proceedings dated 03.08.2011, called upon the Petitioner to rectify certain discrepancies. The portions of the proceedings which according to the Petitioner

is unreasonable and untenable are in paragraphs 1, 2 and 9, which read as follows:

(1) As per office records and agreement HT.SC. No. 121 stands in the name of M/S. Harihar Forgings (P) Ltd., But the HT application was produced in the name of M/S. Harihar Alloys (P) Ltd.

(2) HT application was produced in the name of M/S. Harihar Alloys (p) Ltd, but the revenue documents issued by the Thasildhar Illuppur and the pollution control board certificate are in the name of M/S. Harihar Forgings (P) Ltd., hence the correct name of HT.SC. No. 121 is to be informed.

(9) One number court case is pending between HT.SC.NO:121 M/S. Harihar Forgings (p) Ltd, Viralimalai and TANGEDCO at Hon''ble High Court of Madras Madurai branch regarding Reliability power charges and a sum of Rs. 7,14,102/- (Rupees seven Lakhs fourteen thousand one hundred and Two only) is yet to be collected from you. As per TNERC supply code Regulation (5) sub Regulation (2) (iv)

No addition or reduction of load in case of LT service and no addition or reduction of demand in case of HT service may be sanctioned unless the outstanding dues in the same service connection had been paid."

5. As far as Clauses (1) and (2) of the impugned proceedings are concerned, it relates to change of name of the Company from M/S. Harihar Forgings (P) Ltd., to M/S. Harihar Alloys (P) Ltd., and that issue cannot be raised by the Respondent in view of the order passed by this Court in W.P(MD)Nos. 8006 and 8007 of 2011 dated 19.07.2011 and paragraph 9 of the said order reads as follows:

9. The rejection of Petitioner's claim for change of name stems from misconception of law. The contention of the Learned Counsel for the Petitioner has to be accepted in view of the order passed in C.P. Nos. 43 and 44 of 2010 by order dated 22.04.2010 and the proceedings of the Registrar of Companies, dated 13.07.2010. The authority cannot refuse to correct the name, in view of the above records. Therefore, the first Respondent is directed to effect the name transfer forthwith as sought for by the Petitioner, on submission of the order of Court in C.P. Nos. 43 and 44 of 2010, dated 22.04.2010 and the proceedings of the Registrar of Companies, dated 13.07.2010, if it is not on records already."

6. Insofar as paragraph 9 of the impugned proceedings is concerned, referring to a Court case, the authority calls upon the Petitioner to settle the outstanding amount for the purpose of considering the additional load. In paragraph 9, the authority admits the pendency of the Court case and in M.P(MD) No. 2 of 2010 in W.P(MD) No. 14627 of 2010, there is an order of interim injunction which has been extended until further orders by order dated 19.01.2011.

7. In view of the above, the demand for payment of Reliability power charges which is the subject matter of the above writ petition, cannot be a ground to deny the additional load. This has already been expressed by this Court in paragraph 10 of the order passed in W.P(MD)Nos. 8006 and 8007 of 2011 decided on 19.07.2011 and it reads as follows:

10. Insofar as the temporary power supply of 3 KW is concerned, the reason for non-consideration of the above application citing the pendency of W.P(MD) No. 14627 of 2010, is no reason at all. It is stated by the Learned Counsel for the Petitioner that in that case, there is interim order against the Respondent Board. The pendency of the Writ petition in another issue cannot be a ground to deny the right of the Petitioner to get temporary connection, if law permits the same. No right of the individual can be curtailed citing the pendency of any other Court proceedings unless it has a bearing on the present issue, which is not the case here. It will amount to curtailing the legal right of an individual. Such a reason given by the Respondent Authority is contrary to principles of law and arbitrary.

8. Accordingly, Clauses (1), (2) and (9) of the impugned proceedings are set aside and the authority is directed to consider the claim of the Petitioner for additional power supply. If there is any amount due other than the Reliability charges and if such claim is already made as against the Petitioner, then the authority is entitled to seek payment of the same as per law.

9. The writ petition is allowed as above. Consequently, the connected Miscellaneous Petition is closed. No costs.