

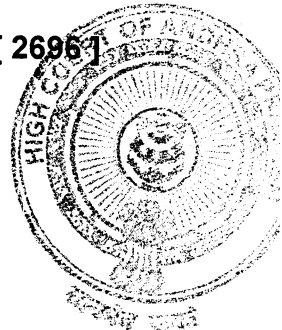
[26961]

**(SHOW CAUSE NOTICE BEFORE ADMISSION)
IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI
(SPECIAL ORIGINAL JURISDICTION)**

THURSDAY, THE TWENTY FIFTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY ONE

: PRESENT:

**THE HONOURABLE SRI JUSTICE M.GANGA RAO
WRIT PETITION NO: 4614 OF 2021**



Between:

Mytrah Vayu (Thungabhadra) Private Limited, having its registered office at 8001, Survey No.109, Q-City, Nanakramguda, Gachibowli, Hyderabad - 500032, Telangana
Represented by its Authorized Representative, Sri. S.Nagarjuna Reddy

Petitioner

AND

1. State of Andhra Pradesh, Represented by its Principal Secretary, Energy (Infrastructure and Investment) Department, A.P. Secretariat, Velagapudi, Amaravati, Andhra Pradesh.
2. Southern Power Distribution Company of Andhra Pradesh Ltd, Represented by its Chairman and Managing Director and Chief General Manager, Office at 19-13-65/A, Srinivasapuram, Tiruchanoor Road, Tirupati,
3. Superintending Engineer, Operations, APSPDCL, Kurnool
4. Andhra Pradesh Power Coordination Committee, Represented by its General Manager (PP & S) Vidyut Soudha, Gunadala, Eluru Road, Vijayawada, Andhra Pradesh-520004

Respondents

WHEREAS the Petitioner above named through its Advocate SRI VIVEK CHANDRA SEKHAR S presented this Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ, order or direction more particularly in the nature of Mandamus declaring the Notices dated 22.01.2021 issued by the 3rd Respondent directing the Petitioner to make a payment of Rs.3,69,11,979/-and Rs.1,39,06,409/-to the 2nd Respondent towards electricity charges in respect of HT Service KNL-746 and HT Service KNL-769, M/s.Mytrah Vayu (Tungabhadra) Pvt. Ltd., Phase -I and II, Jutur(V), Pathikonda (M), Kurnool (D) as illegal, arbitrary, unfair and unconstitutional and set aside the same and direct the Respondents not to take any coercive measures for recovery of the electricity charges payable by the Petitioner to the 2nd Respondent in respect of HT Service KN-746 and HT Service KNL-769, M/s Mytrah Vayu (Tungabhadra) Pvt. Ltd., Phase -I and II, Jutur (V), Pathikonda (M), Kurnool (D)

AND WHEREAS the High Court upon perusing the petition and affidavit filed herein and upon hearing the arguments of Sri VIVEK CHANDRA SEKHAR S Advocate for the Petitioner, and of SRI Y.NAGI REDD Standing Counsel for respondents 2 & 3 directed issue of notice to the Respondents herein to show cause as to why this WRIT PETITION should not be admitted.

You viz:

1. The Principal Secretary, Energy (Infrastructure and Investment) Department, State of Andhra Pradesh, A.P. Secretariat, Velagapudi, Amaravati, Andhra Pradesh.
2. The Chairman and Managing Director and Chief General Manager, Southern Power Distribution Company of Andhra Pradesh Ltd, Office at 19-13-65/A, Srinivasapuram, Tiruchanoor Road, Tirupati,
3. Superintending Engineer, Operations, APSPDCL, Kurnool
4. General Manager (PP & S) Vidyut Soudha, Andhra Pradesh Power Coordination Committee, Gunadala, Eluru Road, Vijayawada, Andhra Pradesh-520004

are directed to show cause either appearing in person or through an Advocate, as to why in the circumstances set out in the petition and the affidavit filed therewith (copy enclosed) this WRIT PETITION should not be admitted, on or before 23.03.2021, on which date the case stands posted for hearing

IA NO: 1 OF 2021

Petition under Order 39 Rules 1 & 2 of CPC r/w Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to restrain the Respondents from taking any coercive action against the Petitioner in respect of HT Service KNL-746 and HT Service KNL-769, M/s Mytrah Vayu (Tungabhadra) Pvt. Ltd, Phase -I and II, Jutur (V), Pathikonda (M), Kurnool (D), pending disposal of WP No.4614 of 2021, on the file of the High Court.

**The Court made the following:
ORDER:**

“Notice before admission.

Sri Y. Nagi Reddy, learned standing counsel, takes notice for the respondents 2 & 3 and waives further notice and seeks time to file counter.

Learned counsel for the petitioner submits that the petitioner entered into Power Purchase Agreements with the 2nd respondent for supply of power generated from its 98.3 MW and 100.6 MW capacity wind power projects at Aspari Site in Kurnool District. As per the PPA, the 2nd respondent was required to buy the power generated from the plant @ Rs.4.84/- per unit and the import power is charged @ Rs.12.25/- per unit. When the 2nd respondent failed to make payments due to the petitioner, the petitioner filed W.P.No.10244 of 2019. This Court by order dated 24.09.2019 while allowing the writ petition along with batch, directed the 2nd respondent to make interim payment to the petitioner @ Rs.2.43/- per unit. Petitioner filed W.A.No.393 of 2019 against the common order dated 24.09.2019. The Writ Appeal is pending. While so, the 2nd respondent issued HT bills dated 05.01.2021 along with arrears as of December, 2020 against the energy imported @ Rs.12.25 for the Auxiliary Consumption of the projects. The 2nd respondent erroneously and arbitrarily added the amount netted off by the petitioner in the bills raised by the 2nd respondent. The 4th respondent vide its letters dated 23.04.2019 and 30.05.2019 directed the 2nd respondent to revise the HT bills by reflecting the deductions made by the 4th respondent towards the import charges. As per the terms of the PPAs, the 2nd respondent is bound to make timely payments. However, it is clear from the payment details that the 2nd respondent in gross violation of the terms of the PPAs has not been making full payment for invoices raised for the billing month of February, 2019 to December, 2020 for Aspari I project and billing month of September, 2018 to December, 2020 for Aspari II. Due to non payment of interim tariff from April, 2020 by the 2nd respondent, the petitioner is facing financial crisis and unable to meet its O & M expenses and debt payment obligations. As on date, the 2nd respondent is due an amount of Rs.270,39,46,993/- (calculated @ Rs.4.84/- per unit) and an amount of Rs.39,67,97,387/- (calculated @ Rs.2.43/- per unit). Notwithstanding the pending dues payable by the 2nd respondent, the petitioner was regularly paying the 2nd respondent the electricity charges for the import power used by the petitioner for operating its plants. Due to non-receipt of timely payments from the 2nd respondent, the petitioner has been facing severe financial hardship, which has affected the cash flows of the petitioner. Therefore, the petitioner made representations to the 2nd respondent, on 02.02.2021, 11.02.2021 & 19.02.2021 requesting the 2nd respondent not to take any coercive steps against the petitioner on account of the import power charges payable by the petitioner. However, the respondents are insisting that the petitioner has to make the payments as demanded by them, failing which the HT lines would be disconnected, which is illegal and arbitrary.

Learned standing counsel opposed for granting interim order stating that the petitioner has to approach the APERC for redressal of its grievance.

Considering the submissions of the learned counsel and on perusal of the record, this Court is *prima facie* satisfied that the petitioner has shown sufficient cause for grant of an interim direction.

Accordingly, there shall be interim direction to the respondents not to take any coercive action against the petitioner in respect of HT Service KNL-769, M/s.Mytrah Vayu (Tungabhadra) Pvt Ltd., Phase I & II, Jutur village, Pathikonda Mandal, Kurnol District, pursuant to the impugned notice, dated 22.01.2021.

Post on 23.03.2021 along with W.P.No.2176 of 2021."

//TRUE COPY//

Sd/-M.Suryanadha Reddy
ASSISTANT REGISTRAR
P. S. Reddy
Fo SECTION OFFICER

To,

1. The Principal Secretary, Energy (Infrastructure and Investment) Department, State of Andhra Pradesh, A.P. Secretariat, Velagapudi, Amaravati, Andhra Pradesh.
2. The Chairman and Managing Director and Chief General Manager, Southern Power Distribution Company of Andhra Pradesh Ltd, Office at 19-13-65/A, Srinivasapuram, Tiruchanoor Road, Tirupati,
3. Superintending Engineer, Operations, APSPDCL, Kurnool
4. General Manager (PP & S) Vidyut Soudha, Andhra Pradesh Power Coordination Committee, Gunadala, Eluru Road, Vijayawada, Andhra Pradesh-520004 (Addresses 1 to 4 by RPAD- along with a copy of petition and memorandum of grounds)
5. One CC to SRI VIVEK CHANDRA SEKHAR S Advocate [OPUC]
6. Two CCs to GP FOR ENERGY, High Court of Andhra Pradesh. [OUT]
7. One spare copy

HIGH COURT

MGRJ

DATED:25/02/2021

POST ON 23.03.2021 ALONG WITH WP.NO.2176 OF 2021

NOTICE BEFORE ADMISSION

WP.No.4614 of 2021

INTERIM DIRECTION

