

Record of proceedings dated 31.01.2022

| Case No. | Name of the Petitioner(s) | Name of the Respondent(s) |
|---|---------------------------|---------------------------------------|
| O. P. No. 20 of 2016 & I. A. No. 13 of 2016 | M/s. Sugna Metals Limited | DE (Operation) TSSPDCL & its officers |

Petition filed questioning the action of DISCOM in not implementing the order of the CGRF and to punish the licensee u/s 142 of the Act, 2003.

I. A. filed seeking interim orders not to disconnect the power supply pending disposal of the original petition.

Sri N. Vinesh Raj, advocate for petitioner and Sri Mohammad Bande Ali, Law Attachee for respondents have appeared through video conference. The counsel for petitioner stated that the respondents have not filed any counter affidavit in respect of the original petition, however, they have replied to the interlocutory application pending consideration before the Commission. The main issue required to be considered is with regard to calculation of demand charges. The issue was originally agitated before the CGRF and subsequently before the Ombudsman. The calculations towards PDL and PCL for the month of November, 2012 had been substantially settled by the Ombudsman and confirmed by the Hon'ble High Court.

Originally the then Commission had imposed restriction and control measures in October, 2012 to be valid upto March, 2013. While imposing the same, the Commission had considered off peak hours as 6.00 AM to 6.00 PM and 2200 hours to 6 hours on the next day. However, in its proceedings dated 01.11.2012, the Commission had modified the period of calculation to start with 0.00 hours and apportioning the off peak and peak hours respectively. The said period was to be applicable from 07.11.2012. Dispute has been raised as to the calculation of applying the consumption from 0.00 hours and not 6 hours as was valid earlier upto the month of November, 2012.

The CGRF as well as the Ombudsman had specifically ordered for recalculation of the charges keeping in mind the orders of the Commission. When the petitioner approached the Hon'ble High Court for implementation of the order of the Ombudsman, even the Hon'ble High Court directed the licensee to give effect to the directions of the Ombudsman by rectifying the calculations. Despite such

directions by the Hon'ble High Court, no action came forth from the licensee. Therefore, in order to ensure, the petitioner had again approached the Hon'ble High Court insofar as recalculations, disconnection and compliance of the order of the Ombudsman. The present petition, therefore, is limited to punishing the licensee for not giving effect to the order of the Ombudsman as confirmed by the Hon'ble High Court.

The counsel for petitioner extensively dealt with the calculations, which are part of the record, as regards the calculations for the demand and energy during the operation of R and C measures including application of the timelines for calculating the same. The action of the licensee appears to be detrimental to the consumer as they have continued to apply the timelines applicable to the petitioner prior to 01.11.2012 after 07.11.2012 also. By adopting different timelines, the licensee is seeking to recover the penalty for violating the R and C measures, which is neither appropriate nor is in terms of the order of the Commission read with orders of the Ombudsman and Hon'ble High Court.

The counsel for petitioner endeavour to explain the rational of providing peak and off peak quantities of power as also the period for which such quantities can be availed in terms of number of working days in a month. The petitioner seeks to punish the licensee for violating the orders of the Commission.

The representative of the respondents endeavoured to submit that the CGRF and the Ombudsman had given substantial relief and the same had been confirmed by the Hon'ble High Court. The licensee acted in accordance with the directions of the Hon'ble High Court only. The licensee submits that the petitioner is pursuing both the remedies. The communication made by the licensee pursuant to earlier round of directions of the Hon'ble High Court, is clear and there is no error in the decision of the licensee in giving effect to the order of the Ombudsman. The petitioner was not estopped from making representation and getting the billing settled in terms of the orders of the Ombudsman. The licensee has clearly identified the amounts and made proper claims towards demand and energy charges in terms of the orders of the Commission.

The counsel for petitioner stated that the order of the Ombudsman is very clear and the same had not been adhered to completely. In view of the submissions of the parties, the matter is reserved for orders.

Sd/-
Member

Sd/-
Member

Sd/-
Chairman

| Case No. | Name of the Petitioner(s) | Name of the Respondent(s) |
|----------------------|--------------------------------|---------------------------|
| O. P. No. 24 of 2021 | M/s. Prashanth Narayan G (PNG) | TSSPDCL & TSTRANSCO |

Petition filed seeking the energy generated fed into the grid for the period before open access as deemed purchase of licensee or pay for the same.

Sri Challa Gunaranjan, counsel for the petitioner and Sri Mohammad Bande Ali, Law Attachee for respondents have appeared through video conference. The counsel for petitioner stated that he needs further time to file rejoinder in the matter as the authorized signatory to the same is undergoing treatment for Covid-19. However, he stated that he has required the petitioner to make alternate arrangements and will definitely file the same within a week. The representative of the respondents has opposed the same. But in the circumstances, the Commission is inclined to grant adjournment by granting time for filing rejoinder. Accordingly, the matter is adjourned.

Call on 11.04.2022 at 11.30 AM.

Sd/-
Member

Sd/-
Member

Sd/-
Chairman

| Case No. | Name of the Petitioner(s) | Name of the Respondent(s) |
|---|---|----------------------------|
| O. P. No. 47 of 2021 & I. A. No. 20 of 2021 | M/s. Mytrah Vayu (Godavari) Private Limited | TSSPDCL, TSTRANSCO & TSPCC |

Petition filed seeking payment of amounts towards energy supplied and rebate claimed by the DISCOM in the year 2016.

I. A. filed seeking direction to the respondent No. 1 not to deduct for generation beyond 23% and consequently to make payments in full towards the invoices raised by the petitioner for the energy generated and supplied by the petitioner.

Sri Sajan Poovayya, Senior Advocate alongwith Sri Challa Gunaranjan, Advocate for petitioner and Sri Mohammad Bande Ali, Law Attachee for respondents have appeared through video conference. The counsel for petitioner stated that the

petition is filed for reimbursement of the amounts payable towards generation and supply of electricity over above the capacity utilization factor as set out by the Commission in its order dated 15.11.2012. It is stated that the petitioner is a 100.8 MW wind power project and had entered into PPA in the year 2015 in terms of the order of the Commission. In the year 2016-17 and subsequently, it had exceeded the CUF normative as fixed by the Commission and delivered quantum of energy. The licensee is making payments only to the extent of CUF and deducting the amounts towards excess generation eventhough claim is made by the petitioner.

The counsel for petitioner stated that he has preferred gist of dates and events in the matter and shared the same with the Commission as a presentation during the course of hearing. He also stated that the same will be filed before the Commission subsequently. He has referred to extensively as also the relevant clauses in the Electricity Act, 2003, regulations and the power purchase agreement in support of the case of the petitioner. He has stated that the licensee has been withholding the amount payable to it for the last four years in respect of the generation supplied to them in excess of CUF. He also stated about the amounts due and quantified it at Rs. 78 crores.

The counsel for petitioner stated that the licensee is not giving effect to the orders of the Commission, as the order of the Commission is specific and clear that it should pay for all the energy delivered to it. It is also his case that it is an infirm power, as such the licensee cannot insist that the generator should adhere to the CUF and it should be taken only as a normative. The CERC had been stating that the CUF will vary according to the wind zone as also the hub height of the generator. The petitioner had employed better technology and as such, he is achieving better CUF.

The representative of the respondents stated that he is not in receipt of the dates and events statement as also he needs further time to make submissions in the matter. Therefore, the matter may be adjourned to enable receipt of the statement of dates and events and also to make submissions in the matter. In view of the request made by the representative of the respondents, the matter is adjourned.

Call on 11.04.2022 at 11.30 A.M.

Sd/-
Member

Sd/-
Member

Sd/-
Chairman

| Case No. | Name of the Petitioner(s) | Name of the Respondent(s) |
|----------------------|---------------------------|---------------------------|
| O. P. No. 36 of 2021 | M/s. L. B. Kunjir | TSSPDCL |

Petition filed seeking reimbursement of the principle amount along with DPS / LPS for the energy supplied to the DISCOM.

Sri V. N. Bohra, advocate for petitioner and Sri. Mohammad Bande Ali, Law Attachee respondent have appeared through video conference. The counsel for petitioner stated that despite several adjournments, the respondent has not filed its counter affidavit in the matter. The representative of the respondent has stated that due to some technical difficulties, the same could not be filed, but they will do so within a week. The Commission expressed its displeasure and stated that the relief sought is in respect of reimbursement of small amount yet the respondent is not facilitating the same. Having said that the Commission has imposed cost of Rs. 10,000/- for non-filing of counter affidavit. It has been informed that the details of payment of costs will be informed by the office of the Commission. The Commission made it clear that the respondent shall file counter affidavit within 15 days from today and thereafter rejoinder, if any shall be filed expeditiously within 15 days. The parties shall make available the counter affidavit and the rejoinder to the other side well in advance either physically or through email. Therefore, the matter is adjourned.

Call on 11.04.2022 at 11:30 A.M.

Sd/-
Member

Sd/-
Member

Sd/-
Chairman

| Case No. | Name of the Petitioner(s) | Name of the Respondent(s) |
|----------------------|--|---------------------------|
| O. P. No. 52 of 2021 | M/s. Suraj Kiran Solar Technologies Pvt. Limited | TSSPDCL & its officer |

Petition filed seeking extension of SCOD and consequently refund of penalty.

Sri P. Pavan Kumar Rao, Advocate for petitioner and Sri Mohammad Bande Ali, Law Attachee for respondents have appeared through video conference. The counsel for the petitioner stated that the petition is filed for its extension of scheduled commercial operation date upto 27.10.2017 and consequential relief. He stated that due to several events, which can be called as force majeure conditions, the project

could not be completed in time. It is his case that initially procurement of land was in issue, but later the petitioner suffered delays due to demonetization, rains and non-availability of labour. It is also stated that the petitioner suffered right of way issue due to location of substation in the town, as the stringing of the lines on overhead basis was impossible. The petitioner had to resort to underground cabling of the transmission line connecting to the substation.

Subsequently, the project was completed and it was synchronized with a delay of about eight months. The project is now functional and the energy is being delivered to the licensee. The Commission had occasion to consider the extension of SCOD in several cases earlier filed before it. He also relied on the judgment of the Hon'ble Supreme Court that SCOD should be extended considering the force majeure events. The counsel for petitioner sought reference to the communication made by the government in this regard. By extending the SCOD, the petitioner is entitled to refund of the bank guarantee furnished by it, which had been encashed by the licensee.

The representative of the respondent stated that the petitioner is not entitled to any relief in the relief, both on extension of SCOD as also refund of the bank guarantee furnished by the petitioner. It is his case that the Commission had decided to examine the extension of SCOD on a case to case basis and informed the licensee that it should convey to the developers that they should file petitions before the Commission for extension of SCOD. The same was also communicated to the petitioner in this case. The petitioner has slept over the matter for nearly three years and eight months and then approached the Commission. The petitioner is not diligent in establishing the project as also approaching the Commission, as such it is not entitled to any relief. Though, the Hon'ble Supreme Court held force majeure conditions in favour of the petitioner, however, the petitioner cannot take advantage of the said order due to lapses on its part. The Commission may consider refusing to extend the SCOD.

Having heard the submissions of the counsel for petitioner and representative of the respondent, the matter is reserved for orders.

Sd/-
Member

Sd/-
Member

Sd/-
Chairman

| Case No. | Name of the Petitioner(s) | Name of the Respondent(s) |
|----------------------|----------------------------------|---------------------------|
| O. P. No. 38 of 2020 | M/s. Sri Ambika Steel Industries | TSSPDCL & its officers |

Petition filed seeking penal action against the TSSPDCL and its officers for non-compliance of the directions given in the order dated 09.09.2021 by the Commission.

Ms. Nishtha, Advocate for petitioner and Sri Mohammad Bande Ali, Law Attachee for respondents have appeared through video conference. The advocate representing the petitioner has stated that the present petition is filed for compliance of the directions of this Commission. Till date no action is taken by the respondents in the matter. On the other hand, the representative of the respondents stated that they have paid the costs imposed on the earlier occasion. They have preferred an appeal against the order of the Commission and it has been taken on file as DFR No. 434 of 2021 on the file of the Hon'ble ATE. The Hon'ble ATE is not taking up regular matters and is only considering most urgent matters filed or pending before it, therefore, they are not able to obtain any orders thereon. The Commission pointed out that it had passed order based on the orders of the Hon'ble High Court and required compliance within 15 days, which is not done till date. They should report the status of the matter by the next date of hearing invariably, otherwise, the Commission will be constraint to proceed to take action in the matter. In these circumstances, the matter is adjourned.

Call on 11.04.2022 at 11.30 A.M.

Sd/-
Member

Sd/-
Member

Sd/-
Chairman

| Case No. | Name of the Petitioner(s) | Name of the Respondent(s) |
|---|------------------------------------|---|
| O. P. (SR) No. 8 of 2021 & I. A. (SR) No. 9 of 2021 | M/s. Sneha Renewable Energies Ltd. | Pri. Secretary to GoTS, Energy Dept., TSSPDCL & TSTRANSCO |

Petition filed seeking directions to enter into PPA by fixing tariff at Rs. 5/- per unit.

I. A. filed seeking interim directions to purchase power from the petitioner on payment of average pooled purchase costs till the disposal of the petition.

Ms. P. Lakshmi, Advocate for petitioner has appeared through video conference. The counsel for petitioner has stated that the petitioner is filed for directions to purchase power from the petitioner's hydel project by entering into PPA. It is her case that the petitioner has established the project of small capacity and earlier

undertook long term open access. However, at present it intends to cancel the LTOA and undertake supply to the licensee only at a tariff of Rs. 5/- per unit. The petitioner would be able to generate the power as and only when water is available, as at present the flow of water is available.

She submitted that it being a small hydro project is a renewable source and should be encouraged by the Commission. In fact, the sister licensee of the respondent has made submission in another matter in O. P. No. 9 of 2021 before this Commission that it is ready to procure power from a power plant of the capacity of 24 MW. Compared to the said project, the petitioner's is very small project. Inasmuch as, the Electricity Act, 2003 and the policy seek to encourage renewable power purchase by the licensees. Having said that the petitioner is seeking similar consideration for ensuring power sale to the licensee being a renewable source.

The counsel for petitioner strenuously contended that in the light of the judgments of the Hon'ble ATE and the Hon'ble Supreme Court, the Commission may consider to direct the licensee to procure power from the petitioner's project. Reliance has been placed on the judgment of the Hon'ble ATE in Appeal No. 4 of 2006 and batch, Appeal No. 247 of 2013 and the Hon'ble Supreme Court judgment in Civil Appeal No. 2926 of 2006 to support the case that renewable sources should be encouraged.

The counsel for petitioner also relied on other provisions of the Electricity Act, 2003 and extensively submitted that the petitioner should be allowed to sell energy to the licensee by directing them to enter into PPA. It is also stated that the petitioner has invested huge amount for establishing the unit as well as another unit elsewhere. The investment so made is relating to public finance and non-functioning of the generating unit, would result in petitioner becoming an NPA. All these years, eventhough, there was LTOA availability, yet did not make money out of it.

The counsel for petitioner prayed for consideration of the project and its survival. Having heard the submissions, the matter is reserved for orders.

Sd/-
Member

Sd/-
Member

Sd/-
Chairman

| Case No. | Name of the Petitioner(s) | Name of the Respondent(s) |
|---|-------------------------------------|---------------------------|
| R. P. (SR) No. 93 of 2021 in O. P. No. 14 of 2020 & I. A. (SR) No. 94 of 2021 & I. A. (SR) No. 95 of 2021 | M/s. Ramky Enviro Engineers Ltd. | TSSPDCL |

Review petition seeking to review of the order dated 18.04.2020 in O. P. No. 14 of 2020 (suo motu) regarding determination of generic tariff for RDF projects.

I. A. filed seeking condonation of delay in filing the review petition

I. A. filed seeking the listing of R. P. & I. A. expeditiously.

Sri Avinash Desai, Advocate for the review petitioner has appeared through video conference. This review petition is filed seeking review of the order of the Commission. It also filed two applications for interim orders and expeditious hearing of the review petition. The interlocutory application for expeditious hearing may be disposed of in view of the listing of the matter. The review petition is connected to the other matter in the list in O. P. No. 1 of 2022 pertaining to M/s. Hyderabad MSW Energy Solutions Private Limited. The matter may be taken up as and when the said O. P. is taken up for hearing. Accordingly, the matter is adjourned. The interlocutory application for expeditious hearing is allowed.

Call on 11.04.2022 at 11.30 A.M.

Sd/-
Member

Sd/-
Member

Sd/-
Chairman

| Case No. | Name of the Petitioner(s) | Name of the Respondent(s) |
|---|---|---------------------------|
| O. P. No. 1 of 2022 & I. A. No. 1 of 2022 & I. A. No. 2 of 2022 | M/s. Hyderabad MSW Energy Solutions Pvt. Ltd. | TSSPDCL |

Petition seeking to quash notice dated 16.07.2021 issued by the respondent seeking reimbursement of the tipping fee from the petitioner.

I. A. filed seeking ex parte adinterim stay of the operation of the notice dated 16.07.2021 issued by the respondent seeking reimbursement of the tipping fee from the petitioner.

I. A. filed seeking to list the original petition and I. A. No. 1 of 2022 expeditiously.

Sri Avinash Desai, Advocate for the petitioner and Sri Mohammad Bande Ali, Law Attachee for respondent have appeared through video conference. The counsel for petitioner stated that the licensee had issued notice seeking to recover the amount paid or payable by the government towards tipping fee from the tariff to be paid by it for generation. The said notice is questioned in this petition. The licensee is on the verge of deducting the amount from the payments to be made to it. Therefore, necessary orders are sought by filing interlocutory application alongwith another application for expeditious hearing of the matter. The representative of the respondent stated that the necessary notice alongwith paper book has been received only on 24.01.2022, as such he needs time to file counter affidavit. The Commission pointed out that the petitioner is apprehending deduction of amounts, as such the licensee should file an undertaking through a memo that it will not resort to recovering the amount as directed by the Commission in the order dated 15.04.2020 in terms of the notice issued by it. The representative of the respondent sought sufficient time to file memo as well as counter affidavit. However, the Commission is not inclined to grant time in respect of memo, as such sufficient time will be granted to file counter affidavit upon filing the memo. The memo should be filed by the next date of hearing that is 02.02.2022. In view of the discussion the matter is adjourned.

Call on 02.02.2022 at 11.30 A.M.

Sd/-
Member

Sd/-
Member

Sd/-
Chairman