

Record of Proceedings dated 19.12.2017

O. P. No. 6 of 2017

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I. A. No. 21 of 2017

M/s. Mytrah Vayu (Godavari) Pvt. Ltd. Vs. TSSPDCL & TSTRANSCO

Petition filed seeking to amend the PPA concerning evacuation and metering arrangements.

I. A. filed seeking for directions to the respondents to release the withheld payments to the tune of Rs. 21.75 crores immediately and to pay the monthly power purchase bills regularly.

Sri. Hemant Sahai, Senior Advocate alongwith Ms. Meghana Aggarwal, Advocate for Sri. Challa Gunaranjan, counsel for the petitioner and Sri. Y. Rama Rao, Standing counsel for the respondents alongwith Ms. Pravalika, Advocate are present.

The senior counsel appearing for the petitioner stated that the Commission had directed in its order dated 30.11.2017 about the payment of amount due within 21 days from the date of the order and also directed the parties to the petition to hammer out a solution in respect of the alleged loses on line in view of metering at the sub-station of the licensee instead of the pooling sub-station of the generator. He also stated that the request made by the petitioner for giving permission to shift the metering from the pooling sub-station to the licensee sub-station was accorded only the previous day by intimating the estimated cost and required expenditure for the purpose. He also brought to the notice of the Commission that meters were already available in the sub-station, which can be converted to regular meters, as they are at present being utilized, according to the licensee for reading purposes only.

The senior counsel for the petitioner sought to emphasize the fact that the petition arose on the issue of metering and its location and nothing more. In fact, the said factum was recorded by the Commission in its order dated 29.06.2017. It is stated that the respondents are seeking to enforce the conditions of the PPA contrary to the regulation of the CEA and orders of this Commission insofar as metering is concerned. He prayed for disposal of the case expeditiously as the matter has been hanging in interlocutory stage itself.

The counsel for the respondents stated that he has some more time to comply with the directions of the Commission insofar as payment is concerned, as they have physically received the order only around 06.12.2017. In respect of the metering availability in the sub-station, on the instructions he has stated that the said meters are for the purpose of reading only to know the input and output of current and nothing more. He also stated that the necessary permission for shifting of the meters has been given and it is now for the petition to take action to install meters at the TRANSCO sub-station itself. On the query of the Commission, as to how long it will take to establish the meters, he stated that the time taken ordinarily is about 3 months. On the query of the Commission, as to why it was not permitted earlier, the petitioner was asked to install meters within one month of the request made by it, but the petitioner came with the plans after six months, that caused the delay. It is also their case on this issue that there was space constraint for metering bay at Parigi sub-station, which has been now resolved by them. The Commission wanted to know as to how far wiring and at which voltage has to be made for shifting the meters. The reply came from the counsel for the respondents that the distance is about 50 meters and the line is at 132 / 33 KV.

The counsel for the respondents further stated that the issue of metering arose primarily for the reason that the Commission issued orders on metering in January, 2015 and later on clarification sought by the distribution company, the Commission clarified that the metering shall be in accordance with the metering location adopted for solar projects. In fact, the petitioner had itself given an undertaking that the amounts payable to it may be withheld till shifting of metering is completed. That being the case, it is now turning around and stating that the DISCOM was withholding amounts unnecessarily. The PPA being binding on the parties, the petitioner ought to have approached the Commission at first instance for amending the PPA inline with the Commission's orders, but did not do so. He concluded by saying that the issue of metering may be resolved once and for all in the matter so that the petitioner is estopped from moving the Commission time and again on this issue.

The counsel for the petitioner has pointed out that the petitioner was at no fault and sought to go by the provisions of the PPA. Therefore, he is before the Commission seeking amendment of the clauses of the PPA relating to the metering and designated

sub-station, which the respondents hitherto should have taken action. On the alleged violation of the contract under the Contract Act as contended by the licensee, he is of the view that there is no necessity for cancelling the contract as parties have worked out their rights and liabilities under the contract and have to continue to do so as the same are not opposed to general principles of the contract. Further the petitioner is not inclined to wriggle out of the contract just because it was signed under duress as heavy investments are made in the project, which cannot be put back.

The Commission having heard detailed arguments sought to know from the petitioner in what period of time, the metering arrangement as sanctioned by the TRANSCO would be completed. Reply came from both the parties it may be at higher side of six months from the work being started immediately that is the next day of hearing. It was made clear to the parties that there will be no further hearing in the matter. The parties are directed to file their written submissions by serving a copy on the other side within a period of one week. Accordingly, the matter is reserved for orders.

Sd/-
Member

Sd/-
Chairman

O. P. No. 20 of 2016

M/s. Sugna Metals Limited Vs. Officers of TSSPDCL

Petition filed seeking for questioning the action of DISCOM in not implementing the order of the CGRF and to punish the licensee under sec. 142 of Electricity Act, 2003.

Sri. N. Vinesh Raj, counsel for the petitioner and Sri. Y. Rama Rao, Standing Counsel for the respondents alongwith Ms. Pravalika, Advocate are present. The counsel for the respondents stated that the matter has been carried in appeal to the Hon'ble High Court and stay has been obtained by the licensee against the order of the CGRF. The counsel for the petitioner did not deny the same.

In view of the submission of the counsel for the parties, as the higher forum has seized of the issue in the matter, the matter is adjourned indefinitely without any date.

Sd/-
Member

Sd/-
Chairman

O. P. No. 21 of 2016

Sri Akthar Ahmed Vs. Officers of TSSPDCL

Petition filed seeking for questioning the action of DISCOM in not implementing the order of the c|GRF and to punish the licensee under sec. 142 of Electricity Act, 2003.

Sri. N. Vinesh Raj, counsel for the petitioner and Sri. Y. Rama Rao, Standing Counsel for the respondents alongwith Ms. Pravalika, Advocate are present. The counsel for the respondents stated that the matter has been carried in appeal to the Hon'ble High Court and stay has been obtained by the licensee against the order of the CGRF vide W. P. M. P. No. 50056 of 2017 in W. P. No. 40332 of 2017. The counsel for the petitioner did not deny the same.

In view of the submission of the counsel for the parties, as the higher forum has seized of the issue in the matter, the matter is adjourned indefinitely without any date.

Sd/-
Member

Sd/-
Chairman

O. P. No. 27 of 2016

M/s. Sugna Metals Limited Vs. Officers of TSSPDCL

Petition filed seeking for questioning the action of DISCOM in not implementing the order of the CGRF and to punish the licensee under sec. 142 of Electricity Act, 2003.

Sri. N. Vinesh Raj, counsel for the petitioner and Sri. Y. Rama Rao, Standing Counsel for the respondent alongwith Ms. Pravalika, Advocate are present. The counsel for the respondents stated that the matter has been carried in appeal to the Hon'ble High Court and stay has been obtained by the licensee against the order of the CGRF vide W. P. M. P. No. 44476 of 2017 in W. P. No. 35795 of 2017. The counsel for the petitioner did not deny the same.

In view of the submission of the counsel for the parties, as the higher forum has seized of the issue in the matter, the matter is adjourned indefinitely without any date.

Sd/-
Member

Sd/-
Chairman

R. P. (SR) No. 46 of 2016
In
O. P. Nos. 6 & 7 of 2016

M/s. Salasar Iron and Steel Private Ltd. Vs. TSDISCOMs

Petition filed seeking review of the tariff order dated 23.06.2016 passed in O. P. for FY 2016-17 insofar as regards KVAH billing of energy on consumers.

Sri. N. Vinesh Raj, counsel for the petitioner and Sri. Y. Rama Rao, Standing Counsel for the respondent alongwith Ms. Pravalika, Advocate are present. The counsel for the petitioner stated that the issue in the review petition is under the challenge before the Hon'ble Supreme Court. Therefore, on the instructions of the petitioner he wishes to withdraw the review petition. The counsel for the respondents has no objection for it.

Accordingly, the review petition at S.R. stage is dismissed as withdrawn in terms of the endorsement made by the counsel for the petitioner.

Sd/-
Member

Sd/-
Chairman

O. P. No. 11 of 2017

M/s. Sugna Metals Limited Vs. Officers of TSSPDCL

Petition filed seeking to punish the officers of the TSSPDCL for not implementing the orders of the Commission passed in O. P. No. 92 of 2015.

Sri. N. Vinesh Raj, counsel for the petitioner and Sri. Y. Rama Rao, Standing Counsel for the respondents alongwith Ms. Pravalika, Advocate are present. The counsel for the respondents has stated that the respondents are inclined to implement the order and in fact suggested to the petitioner that it should pay the bill of November, 2017 in short payment to the extent of amount due to it. The counsel for the petitioner has insisted on physical payment by the respondents as otherwise, they would again bill the petitioner penalty for short payment. The counsel for the respondents, on instructions, stated that the respondents would give credit to the amounts due to the petitioner as per the policy of the DISCOM not to refund the amount physically or pay penalty as ordered by the Commission.

The Commission was not inclined to accept the submission of the counsel for the respondents, therefore, it was directed that the respondents shall make the payment due to the petitioner by appropriate means and obtain acknowledgement

from the petitioner and file such proof before the Commission by 22.12.2017. Thereupon only the Commission will close the matter.

Sd/-
Member

Sd/-
Chairman

I. A. No. 30 of 2017
in
O. P. No. 1 of 2014

M/s. Shalivahan (MSW) Green Energy Ltd., Vs. TSNPDCL

Application filed seeking for amendment of order dated 23.12.2016 passed in O. P. No. 1 of 2014.

Sri. Challa Gunaranjan, Advocate for the applicant and Sri. Y. Rama Rao, Standing Counsel for the respondent alongwith Ms. Pravalika, Advocate are present. The counsel for the respondent has sought adjournment of the matter as the notice has been received only few days ago. The counsel for the petitioner sought orders of the Commission to run the plant. The representative of the licensee, who is present in the Court Hall, stated that the petitioner was informed and required him to demonstrate the plant operation in terms of the order of the Commission several times, however, the petitioner did not come forward to do so.

At this stage, the Commission expressed the view that there will be no harm in directing the petitioner to synchronize the plant and run the same for few months to demonstrate the requirement made in the order of the Commission and in the event of such demonstration being unsatisfactory, the licensee has the right of refusal to enter into PPA as directed by the Commission in the order. The Commission required the licensee to state clearly about the allowing of the petitioner to run the plant. The counsel for the respondent sought some time to make up the mind of the licensee on the subject matter and convey its views, so that the Commission may pass appropriate orders. The Commission wanted expeditious filing of counter affidavit in the interlocutory application and adjourned the matter.

Call on 08.01.2018 at 11.00 A.M.

Sd/-
Member

Sd/-
Chairman