

**Record of Proceedings dated 17.11.2018**

O. P. (SR) No. 5 of 2016

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I. A. No. 6 of 2016

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I. A. No. 29 of 2017

M/s. REI Power Bazar Pvt. Ltd. Vs. TSTRANSCO, TSDISCOMs, TSGENCO  
& IEX Ltd.

Petition filed seeking establishment of power market (power exchange) in the State of Telangana.

I. A. filed seeking to implead IEX Ltd. as respondent.

I. A. filed seeking permission to file additional documents in support of the petition.

Sri. M. Abinay, Advocate representing Sri. P. Vikram, Advocate for the petitioner, Sri. Y. Rama Rao, Standing Counsel for respondents along with Ms. M. Pravalika, Advocate and Sri. E. N. Aditya, Manager of IEX Ltd for impleading respondent are present. The advocate representing the counsel for the petitioner stated that the Commission directed filing of certain information which has been filed partly and further information is yet to be filed, therefore he needs time. On the other hand, the counsel for the respondents DISCOMs reiterated the submission that other Commissions have refused similar prayer of the petitioner.

The Commission pointed out that the petitioner ought to have filed bank statements for the relevant period as directed by the Commission. Yet the same is not done. However, the Commission is not inclined to grant any time at present. The parties are directed to file their written submissions on or before 30.11.2018. Accordingly the matter is reserved for orders.

Sd/-  
Chairman

R. P. (SR) No. 126 of 2018

in

O. P. No. 40 of 2018

TSNPDCL Vs.M/s. Jilesh Power Pvt. Ltd.

Petition filed seeking review of the date of SCOD as 31.10.2017 as per SCOD extension order given by the Government and order to pay penalty up to 2304.12018 for the balance of 22 MW of the project.

Sri. Y. Rama Rao, Standing Counsel for the review petitioner / respondent along with Ms. M. Pravalika, Advocate and Sri. Challa Gunaranjan, Advocate for the respondent / petitioner along with Sri. N. Sai Phanindra Kumar, Advocate are present. The counsel for the review petitioner stated that the Commission directed confirmation of the date of synchronization as claimed by the original petitioner is acceptable or not. Though the same is acceptable, yet the review petitioner would insist upon 23.04.2018 to be the SCOD date. The counsel for the original petitioner agreed to the date of 21.01.2018, on which date the original petitioner had declared readiness of the project. In view of the submissions of parties, the matter is reserved for orders.

Sd/-  
Chairman

O. P. No. 27 of 2018  
&  
I. A. No. 30 of 2018

M/s. Mytrah Aakash Power Private Ltd. Vs. TSDISCOMs & Spl. Chief Secretary  
to Energy Department

Petition filed seeking orders for granting extension of time for SCOD for (426) days

I. A. filed seeking amendment in the prayer at paragraph 20 of the original petition.

Sri. Hemant Sahai, Senior Advocate along with Sri. Varun Kapur, Advocate representing Sri. Challa Gunaranjan, Advocate for the petitioner and Sri. Y. Rama Rao, Standing Counsel for the respondents along with Ms. M. Pravalika, Advocate are present. The counsel for the respondents sought adjournment stating that synchronization is not yet done in the matter. The same is opposed by the counsel for the petitioner. The Commission made it clear that the DISCOM shall implement the order of synchronization within one week and report to the Commission on the next date of hearing.

The counsel for the petitioner stated that the PPA is dated 23.02.2016 and the SCOD as per PPA is 23.05.2017. The period of 21 months gets extended by six months, the delay is in respect of 20 MW and the petitioner has reported to be ready on 30.04.2018, which is well within the extended period by the government being taken into consideration and adding the six months period to the same. The delay is mainly due to inaction on the part of the TRANSCO in approving the CTPT set.

The petitioner also faced a civil suit in respect of erection of lines and has to settle the matter out of court, which took around two months. Both these events have to be taken under force majeure and benefit should be given of the delay caused. The counsel for the respondents pointed out that the petitioner did not seek synchronization of the project for 20 MW within the period of 21 months as required under the PPA and the reasons offered for delay are not to be treated as force majeure condition. Yet he sought adjournment of the matter to submit in detail on the facts.

Having heard the submissions of the counsel for parties and the request made by the counsel for respondents, the matter is adjourned.

Call on 24.11.2018 at 11.00 A.M.

Sd/-  
Chairman

O. P. No. 37 of 2018  
&  
I. A. No. 31 of 2018

M/s. Mytrah Agriya Power Pvt. Ltd. Vs. TSDISCOMs & Spl. Chief Secretary

Petition filed seeking orders for granting extension of time for SCOD for (420) days  
I. A. filed seeking amendment in the prayer at paragraph 20 of the original petition.

Sri. Hemant Sahai, Senior Advocate along with Sri. Varun Kapur, Advocate representing Sri. Challa Gunaranjan, Advocate for the petitioner and Sri. Y. Rama Rao, Standing Counsel for the respondents along with Ms. M. Pravalika, Advocate are present. The counsel for the petitioner stated that the petitioner informed the DISCOM on 17.04.2018 that the project is ready for synchronization.

The counsel for the petitioner stated that it applied for approval of CTPT set to the TRANSCO on 31.03.2017 and the same was approved on 24.05.2017. It also applied for route approval and preliminary sanction was given on 30.05.2017. Detailed route approval is accorded on 18.07.2017, causing the delay of 54 days on the part of the TRANSCO. The CEIG gave approval for equipment of the project. The period of 21 months is not correct and gets extended by six months due to extension given by the government.

The counsel for the petitioner stated that the time taken by the respondents to sanction for line and metering cannot be attributed to the petitioner. The respondents ought to have given timely permission for enabling the petitioner to complete the project within the time stipulated.

The counsel for the respondents stated that the petitioner informed them about the readiness of the project only after 19 months from the date of PPA. The petitioner cannot attribute that the respondents have delayed the approvals and sanctions required by the petitioner. Under the PPA it is the responsibility of the petitioner to obtain all approvals and sanctions in respect of the project.

Upon enquiring about the presence of representatives of the TRANSCO, the counsel for the respondents expressed their absence and sought time to take instructions on the delay caused by the TRANSCO in according the sanctions and approvals. Observing that the presence of the TRANSCO officers is necessary for ascertaining the delay in approvals, hence the matter is adjourned.

Call on 24.11.2018 at 11.00 A.M.

Sd/-  
Chairman

O. P. No. 38 of 2018

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I. A. No. 41 of 2018

M/s. Mytrah Agriya Power Pvt. Ltd. Vs. TSDISCOMs & Spl. Chief Secretary

Petition filed seeking orders for granting extension of time for SCOD for (436) days.

I. A. filed seeking directions to the respondent No. 1 not take any coercive action against the applicant / petitioner including but not limited to invocation of B. Gs. and / or termination of the PPA pending disposal of the original petition.

Sri. Hemant Sahai, Senior Advocate along with Sri. Varun Kapur, Advocate representing Sri. Challa Gunaranjan, Advocate for the petitioner and Sri. Y. Rama Rao, Standing Counsel for the respondents along with Ms. M. Pravalika, Advocate are present. The counsel for the petitioner stated that the connection to the substation of this project passes through Wanaparthy Town, which has thoroughly urbanized itself. There is no possibility of laying separate lines for transmission corridor. Approval was sought for 6.14 KMs on 20.01.2017, which was refused on

11.09.2017. Subsequently, fresh application was made on 30.10.2017 and after conducting joint inspection for the route, the same was accorded on 21.01.2018. This is because of severe right of way issues. The delay is attributed to the delay in approving the revised route plan for transmission line.

The counsel for the respondents would submit that as in other cases the developer is duty bound to obtain all permissions and sanctions and cannot allege that the concerned authorities have delayed the same. Moreover, the issue of force majeure cannot be attributed to these issues, is correct as under the PPA the developer is required to inform the respondents about the readiness of the project after completing all the formalities. As regards synchronization, the process is advanced stage.

The counsel for the petitioner stated that the petitioner has filed the gist of dates and documents, which may consider for passing orders. Since the respondents have not stated about the synchronization of the project, the matter is adjourned.

Call on 24.11.2018 at 11.00 A.M.

Sd/-  
Chairman

O. P. No. 54 of 2018

TSSPDCL Vs. Mittal Processors Pvt. Ltd.

Petition filed seeking recovery of outstanding amounts payable by the respondent towards compensation and also refund of STOA charges as per short term power purchase orders dated 29.04.2014 and 12.02.2014.

Sri. Y. Rama Rao, Standing Counsel for the petitioner along with Ms. M. Pravalika, Advocate and Sri. Adarsh Tripathi, Advocate along with Ms. Shraddha Gupta, Advocate for the respondent as well as Sri. Yogesh Kumar, Representative of the company are present. The counsel for the petitioner stated that the DISCOMs in the combined state sought to procure power and issued a purchase order to the respondent on 20.03.2014 for the period commencing from 28.05.2015. The period of procurement is for 30.05.2015 to 28.5.0216.

The petitioner has been corresponding with the respondent for recovery of amounts paid towards charges for procurement of energy. The issue of limitation does not arise as the petition is filed on 05.05.2018, which is well within the limitation period of three years.

The counsel for the respondent stated that the petition involves the claims in respect of two purchase orders placed by the petitioner. The power was to be supplied from a solar project in the state itself and another project located in the State of Chhattisgarh. The respondent has been raising invoices from time to time, but no payment was made within time. The payments were liable for penalty as per the terms of the purchase order itself. The action of the petitioner attracts the provisions of the Indian Contract Act, 1872. Though there were specific provisions in the PO regarding payment of bills, the same were never honoured by the petitioner well within time.

The counsel for the respondent pointed out that the petitioner was not able to draw power due to the generator being in shutdown condition for non-payment of bills. Repeated requests for payment of bills to the petitioner fell on no action status. According to the respondent, the limitation was expired in 2017 as the purchase order relating to the year 2014. Moreover, the purchase order has been placed by four DISCOMs whereas the petition is filed by two DISCOMs only. Thus, the issue of jurisdiction is also to be considered.

Having heard the arguments in detail of the counsel for parties, the matter is reserved for orders.

Sd/-  
Chairman

O. P. No. 58 of 2018  
&  
I. A. No. 34 of 2018

M/s. Clean Solar Power (Chitradurga) Pvt. Ltd. Vs. TSSPDCL & TSTRANSCO

Petition filed seeking extension of time for SCOD beyond 21.05.2017 until the respondent No. 1 verifies the commissioning of the project, set aside or quash the letter dated 30.05.2018 written by respondent No. 1 to the petitioner and declare that the events delayed the project are in nature of force majeure and the petitioner

is not liable for delay as specified under Article 10.5 of PPA or otherwise for delay in SCOD.

I. A. filed seeking directions to the respondent No. 1 to procure power from the petitioner's project subject to final outcome of the petition.

Sri. S. Niranjan Reddy, Senior Advocate for the petitioner along with Sri. Avijeet Lala, Advocate, Ms. Sheya Mukherjee, Advocate and Sri K. Jashwanth Rao, Advocate for and Sri. Y. Rama Rao, Standing Counsel for the respondents along with Ms. M. Pravalika, Advocate are present. The senior counsel for the petitioner stated that the significant issue in support of the prayer of the petitioner is the delay caused in approving the transmission line and allied aspects. Even though, the transmission licensee has been made party to the proceedings, no response is filed as has been done by the distribution company. The details of dates and events have been placed before the Commission. Synchronization of the project did not take place as yet.

The PPA has been signed on 22.02.2016, the SCOD thereof should have been 22.05.2017. The government had extended the time period up to 31.10.2017. The petitioner actually sought synchronization on 18.05.2018 and thus, there is a delay in execution of the project and synchronization thereof beyond the SCOD. He relied on the judgment of the ATE on subsequent law.

The counsel for the respondents relied on the submissions in the counter affidavit, however, has sought adjournment stating that he has to report on the issue of synchronization which is not done by that date and there are issues relating to force majeure which have to be argued. The Commission while considering the fact that synchronization had not been done despite orders of the Commission were granted, made it clear that the respondent shall report about synchronization by the next date of hearing. Accordingly, the matter is adjourned.

Call on 24.11.2018 at 11.00 A.M.

Sd/-  
Chairman

O. P. No. 59 of 2018

&

I. A. No. 35 of 2018

TSDISCOMs Vs. APGENCO, APTRANSCO & APDISCOMs

Petition filed seeking certain directions to APGENCO and APDISCOMs.

I. A. filed seeking interim directions to APGENCO not to proceed with coercive measures before any other forum in respect of the alleged claim to be paid by TSDISCOMs.

Sri. Y. Rama Rao, Standing Counsel for the petitioners along with Ms. M. Pravalika, Advocate and Sri. G.V. Brahmananda Rao, Advocate representing Sri. P. Shiv Rao, Counsel for the respondents are present. The counsel for the respondents sought further time for filing counter affidavit and stated that the respondents have filed a memo for adjournment. The counsel for the petitioner opposed the adjournment and sought orders of the Commission on the interim application filed by the petitioners.

The advocate representing the respondents stated that considerable time is required as the record relating to 20 years has to be gathered. The Commission expressed the view that it is not in a position to grant long adjournment as desired by the respondents. The counsel for the petitioners insisted on passing interim orders. However, an opportunity is provided to the respondents to file counter affidavit by the next date of hearing. Accordingly, the matter is adjourned.

Call on 01.12.2018 at 11.00 A.M.

Sd/-  
Chairman

O. P. No. 63 of 2018

M/s. Srinivasa Power Pvt. Ltd. Vs. TSSPDCL

Petition filed seeking determination of tariff for the period 11<sup>th</sup> to 20<sup>th</sup> year of the project.

Sri. P. Srinivasa Rao, Advocate for the petitioner and Sri. Y. Rama Rao, Standing Counsel for the respondents along with Ms. M. Pravalika, Advocate are present.

The counsel for the petitioner stated that the petitioner is an existing hydel project of 0.5 MW. The prayer is for determination of the tariff for 11<sup>th</sup> to 20<sup>th</sup> year of the project. Earlier there was order of the combined Commission but the Hon'ble ATE limited it to the appellants who approached the Hon'ble ATE. Thus, the petitioner is

required to obtain necessary orders for fixation of the tariff for the said period. The counsel for the respondents sought further time for filing counter affidavit.

The Commission pointed that for hydel projects, there is no sufficient water for functioning of the plant and sought to know how many projects are functioning. It was stated that four projects are functioning in the State of Telangana at present. In view of the request of the counsel for the respondents, the matter is adjourned.

Call on 01.12.2018 at 11.00 A.M.

Sd/-  
Chairman

O. P. No. 64 of 2018  
&  
I. A. No. 39 of 2018

M/s. Kranthi Edifice (P) Ltd. Vs. TSSPDCL & its officer

Petition filed seeking extension of SCOD beyond 08.01.2015 and a direction to that effect to TSSPDCL to amend the PPA.

I. A. filed seeking directions to the TSSPDCL not to take any coercive steps against the petitioner including termination of the PPAs.

Sri. D. Raghavender Rao, Advocate for the petitioner and Sri. Y. Rama Rao, Standing Counsel for the respondents along with Ms. M. Pravalika, Advocate are present. The counsel for the petitioner stated that the Commission required the petitioner to take steps for amendment of the PPA consequent upon change of name of the project. However, there is a difficulty in financing issues as the project has been established in the petitioner's name and a part of it has to be completed. Unless the Commission grants extension of time it will not be able to raise the funds required for completion of the project.

The counsel for the respondents endeavor to state that the PPA has been terminated and the bank guarantees have been encashed. The counsel for the petitioner sought time to effectively demonstrate that the PPA has not been cancelled due to the orders of the Hon'ble High Court. Accordingly the matter is adjourned.

Call on 24.11.2018 at 11.00 A.M.

Sd/-  
Chairman

O. P. No. 65 of 2018

M/s. Oberon Power Corporation Pvt. Ltd. Vs. TSNPDCL

Petition filed seeking adoption of tariff of Rs.5.72 / unit agreed by the petitioner before the government.

Sri. P. Srinivasa Rao, Advocate for the petitioner and Sri. Y. Rama Rao, Standing Counsel for the respondent along with Ms. M. Pravalika, Advocate are present. The counsel for the petitioner stated that the respondent appears to have filed counter affidavit in the matter and sent a copy to the petitioner directly. A rejoinder to the same is required to be filed in the matter. Adjournment may be granted by one weeks for enabling him to file rejoinder. The counsel for the respondent while confirming the filing of the counter affidavit has no objection as he also requires time to make submissions in the matter. He also stated that a report as directed by the Commission has been filed in the matter along with the counter affidavit.

The counsel for the petitioner sought orders of the Commission to direct the respondent to file amendment PPA with the Commission for consent simultaneously. It is the case of the respondent that the PPA has been terminated and therefore, fresh PPA has to be entered into. This is necessitated as tariff has to be re-determined and incorporated in the PPA.

The Commission also observed that the petitioner shall filed detail action plan in respect of execution and completion of the project and possible date of SCOD including the details of procuring material etc. Accordingly the matter is adjourned.

Call on 24.11.2018 at 11.00 A.M.

Sd/-  
Chairman

O. P. No. 66 of 2018

M/s. Oberon Power Corporation Pvt. Ltd. Vs. TSNPDCL

Petition filed seeking adoption of tariff of Rs.5.72 / unit agreed by the petitioner before the government.

Sri. P. Srinivasa Rao, Advocate for the petitioner and Sri. Y. Rama Rao, Standing Counsel for the respondent along with Ms. M. Pravalika, Advocate are present. The counsel for the petitioner stated that the respondent appears to have filed counter affidavit in the matter and sent a copy to the petitioner directly. A rejoinder to the same is required to be filed in the matter. Adjournment may be granted by one weeks for enabling him to file rejoinder. The counsel for the respondent while confirming the filing of the counter affidavit has no objection as he also requires time to make submissions in the matter. He also stated that a report as directed by the Commission has been filed in the matter along with the counter affidavit.

The counsel for the petitioner sought orders of the Commission to direct the respondent to file amendment PPA with the Commission for consent simultaneously. It is the case of the respondent that the PPA has been terminated and therefore, fresh PPA has to be entered into. This is necessitated as tariff has to be re-determined and incorporated in the PPA.

The Commission also observed that the petitioner shall filed detail action plan in respect of execution and completion of the project and possible date of SCOD including the details of procuring material etc. Accordingly the matter is adjourned.

Call on 24.11.2018 at 11.00 A.M.

Sd/-  
Chairman

O. P. No. 68 of 2018

Biomass Energy Developers Association Vs. TSDISCOMs & TSPCC

Petition filed seeking directions to the distribution licensees to extend the benefit of additional tariff for the year 2017-18 by clarifying the letter dated 07.02.2017 of the Commission.

Sri. Challa Gunaranjan, Advocate for the petitioner along with Sri. N. Sai Phanindra Kumar, Advocate and Sri. Y. Rama Rao, Standing Counsel for the respondent along with Ms. M. Pravalika, Advocate are present. The counsel for the petitioner stated

that the petition is filed for directions to pay additional tariff as agreed by the government and accepted to pay by the licensee earlier. The counsel for the respondents sought time for instructions in the matter as also filing counter affidavit.

The Commission pointed out that the issue with regard to payment of additional tariff, which was already considered by the Commission for earlier years. However, as the matter is coming up for the first time, the same is adjourned.

Call on 01.12.2018 at 11.00 A.M.

Sd/-  
Chairman

O. P. No. 69 of 2018

M/s. Rudra Solarfarm Ltd. Vs. TSSPDCL

Petition filed seeking orders for extension of SCOD of the solar project.

Sri. S. Subba Reddy, Advocate for the petitioner and Sri. Y. Rama Rao, Standing Counsel for the respondent along with Ms. M. Pravalika, Advocate are present. The counsel for the petitioner stated that the petition is filed for extension of SCOD and similar orders have already been passed by the Commission. The counsel for the respondent sought adjournment stating that the counter affidavit has to be filed in the matter and thereafter the Commission may consider deciding the matter. Accordingly the matter is adjourned.

Call on 01.12.2018 at 11.00 A.M.

Sd/-  
Chairman