



TELANGANA STATE ELECTRICITY REGULATORY COMMISSION
5th Floor, Singareni Bhavan Lakdi-ka-pul Hyderabad 500 004

I. A. No. 11 of 2021
in
R. P. (SR) No. 19 of 2021
in
O. P. No. 24 of 2020

Dated 27.08.2021

Present

Sri T. Sriranga Rao, Chairman
Sri M. D. Manohar Raju, Member (Technical)
Sri Bandaru Krishnaiah, Member (Finance)

Between:

1. Southern Power Distribution Company of Telangana Limited,
Corporate Office, # 6-1-50, Mint Compound, Hyderabad – 500 063.
2. Northern Power Distribution Company of Telangana Limited,
Vidyuth Bhavan, Warangal, Telangana ... Petitioners.

AND

-Nil- ... Respondent.

This petition has come up for hearing on 11.08.2021, Sri Mohammad Bande Ali, Law Attaché of TSSPDCL for the petitioners appeared virtual hearing through video conference on 11.08.2021. This petition having been heard and having stood over for consideration to this day, the Commission passed the following:

ORDER

The TSDiscoms (TSSPDCL and TSNPDCL) have filed a petition under Section 94 (1) (f) of the Electricity Act, 2003 read with clause 32 of the Conduct of Business Regulations, 2015 seeking review of the order dated 02.01.2021 in O. P. No. 24 of 2020 regarding re-determination of tariff determined for energy injected into the grid from the solar power projects having capacity ranging between 500 kW

to 2 MW to be set up by individual farmers/Group of farmers/cooperatives/panchayats/framer producer organisations/water user associations under Component A of PM-KUSUM Scheme issued by Ministry of New and Renewable Energy (MNRE), Government of India.

2. The review petitioners have also filed an Interlocutory Application (I. A.) for condonation of delay in filing the review petition as below.

- a. The present review petition is being filed seeking review of the order of the Commission dated 02.01.2021 in O. P. No. 24 of 2020.
- b. It is stated that due to the increase in COVID-19 cases, the office of the petitioners was functioning with limited staff and as a result of which delay in approval and dispatch of the present petition occurred.
- c. It is stated that the delay caused in filing of the petition occurred due to the reasons mentioned above which is neither wilful nor deliberate. If the said delay is not condoned, the petitioners will suffer irreparable loss and injury.
- d. It is stated that in view of the orders passed by the Hon'ble Supreme Court in suo moto Writ Petition (Civil) No. 3 of 2020 from time to time suspending the running of limitation from 15.03.2020, this review petition is within the period of limitation.
- e. Therefore, the petitioners seek the indulgence for this Commission to allow the application and grant an opportunity to put their case before it in the interest of justice.
- f. For the aforesaid reasons, the petitioners pray the Commission to condone the delay in filing the review petition against the order dated 02.01.2021 in O. P. No. 24 of 2020.

3. The I.A. for condonation of delay has been taken up for hearing and the representative of the petitioners has been heard. Also the Commission examined the material available in the original proceeding in the light of the submissions made in the review petition. The submissions for the day are extracted below.

Record of proceedings dated 11.08.2021:

“.....

The review petition is not filed within the stipulated time and also the period that is allowed for condoning the delay. The Commission may consider and admit the review petition by passing orders on admission and condoning the delay in filing the review petition.”

4. The Commission considered it appropriate to decide the I.A. seeking condoning the delay in filing the review petition before proceeding to decide the review petition. Therefore, I. A. (SR) No. 20 of 2021 is taken up for consideration at 1st instance.

5. The Commission is vested with the power of reviewing its decisions, directions and orders under section 94 (1) (f) of the Act, 2003 and that power has to be exercised in terms of its Conduct of Business Regulations, 2015 being Regulation No.2 of 2015 wherein clause 32 (1) provides for entertaining petitions/applications for undertaking review of the order the same is extracted below -

“32. Review of the decisions, directions, and orders

(1) The Commission may on its own motion, or on the application of any person or parties concerned, within 75 days of any decision, direction, or order, review such decision, direction or order as the case may be and pass such appropriate orders as the Commission thinks fit.

Provided that the Commission may allow on production of sufficient cause to the petitioner, a further period not exceeding 30 days for filing the review petition on such terms and conditions as may be appropriate.”

6. It is clear that a review petition has to be preferred within 75 days from the date of the order and the Commission may allow a further period of 30 days beyond the 75 days stipulated in the clause for filing of a review petition, if the person or party intending to file such review shows sufficient cause.

7. In the instant matter, this Commission has passed the order on 02.01.2021 in O.P.No.24 of 2020, the applicant herein, if felt aggrieved with the said order was expected to file a petition for reviewing the said order within 75 days of the order that

is on or before 18.03.2021 and additional 30 days of delay would expire on 17.04.2021.

8. Whereas the applicant has filed the review petition on 09.06.2021 along with the Interlocutory Application seeking condonation of delay. The ground for delay is due to uprising of the pandemic and consequential relief measures adopted by the Government including the working of the licensee. According to G.O.Ms.No.87 dated 19.04.2021 issued by the Government of Telangana State (GoTS) any sort of restriction were imposed on and from 19.04.2021.

9. Reference is placed on the order passed by the Hon'ble Supreme Court in *Suo Motu Writ Petition (Civil) No.3 of 2020* extending the timelines in respect of filing petitions and applications. The said writ petition came to be disposed of on 08.03.2021. The Hon'ble Supreme Court has considered the aspect of cognizance for extension of limitation and provided as below.

"1. Due to the onset of COVID-19 pandemic, this Court took suo motu cognizance of the situation arising from difficulties that might be faced by the litigants across the country in filing petitions/applications/suits/appeals/all other proceedings within the period of limitation prescribed under the general law of limitation or under any special laws (both Central or State). By an order dated 23.03.2020 this Court extended the period of limitation prescribed under the general law or special laws whether compoundable or not with effect from 15.03.2020 till further orders. The order dated 23.03.2020 was extended from time to time. Though, we have not seen the end of the pandemic, there is considerable improvement. The lockdown has been lifted and the country is returning to normalcy. Almost all the Courts and Tribunals are functioning either physically or by virtual mode. We are of the opinion that the order dated 23.03.2020 has served its purpose and in view of the changing scenario relating to the pandemic, the extension of limitation should come to an end.

2. We have considered the suggestions of the learned Attorney General for India regarding the future course of action. We deem it appropriate to issue the following directions: -

- 1. In computing the period of limitation for any suit, appeal, application or proceeding, the period from 15.03.2020 till 14.03.2021 shall stand excluded. Consequently, the balance*

period of limitation remaining as on 15.03.2020, if any, shall become available with effect from 15.03.2021.

2. *In cases where the limitation would have expired during the period between 15.03.2020 till 14.03.2021, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 15.03.2021. In the event the actual balance period of limitation remaining, with effect from 15.03.2021, is greater than 90 days, that longer period shall apply.*
3. *The period from 15.03.2020 till 14.03.2021 shall also stand excluded in computing the periods prescribed under Sections 23(4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.*
4. *The Government of India shall amend the guidelines for containment zones, to state.*

“Regulated movement will be allowed for medical emergencies, provision of essential goods and services, and other necessary functions, such as, time bound applications, including for legal purposes, and educational and job-related requirements.”

3. *The Suo Motu Writ Petition is disposed of accordingly.”*

10. Further to this order, the Hon'ble Supreme Court in its order dated 27.04.2021 had passed an order in M.A.No.665 of 2021 and observed as below.

“The Court is convened through Video Conferencing.

This Court took suo motu cognizance of the situation arising out of the challenge faced by the country on account of COVID-19 Virus and resultant difficulties that could be faced by the litigants across the country. Consequently, it was directed vide order dated 23rd March, 2020 that the period of limitation in filing petitions / applications / suits / appeals / all other

proceedings, irrespective of the period of limitation prescribed under the general or special laws, shall stand extended with effect from 15th March, 2020 till further orders.

Thereafter on 8th March, 2021 it was noticed that the country is returning to normalcy and since all the Courts and Tribunals have started functioning either physically or by virtual mode, extension of limitation was regulated and brought to an end. The suo motu proceedings were, thus, disposed of issuing the following directions:

- “1. In computing the period of limitation for any suit, appeal, application or proceeding, the period from 15.03.2020 till 14.03.2021 shall stand excluded. Consequently, the balance period of limitation remaining as on 15.03.2020, if any, shall become available with effect from 15.03.2021.*
- 2. In cases where the limitation would have expired during the period between 15.03.2020 till 14.03.2021, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 15.03.2021. In the event the actual balance period of limitation remaining, with effect from 15.03.2021, is greater than 90 days, that longer period shall apply.*
- 3. The period from 15.03.2020 till 14.03.2021 shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.*
- 4. The Government of India shall amend the guidelines for containment zones, to state.*

“Regulated movement will be allowed for medical emergencies, provision of essential goods and services, and other necessary functions, such as, time bound applications, including for legal purposes, and educational and job-related requirements.”

Supreme Court Advocate on Record Association (SCAORA) has now through this Interlocutory Application highlighted the daily surge in COVID cases in Delhi and how difficult it has become for the Advocates-on-Record and the litigants to institute cases in Supreme Court and other courts in Delhi. Consequently, restoration of the order dated 23rd March, 2020 has been prayed for.

We have heard Mr. Shivaji M. Jadhav, President SCAORA in support of the prayer made in this application. Learned Attorney General and Learned Solicitor General have also given their valuable suggestions.

We also take judicial notice of the fact that the steep rise in COVID-19 Virus cases is not limited to Delhi alone but it has engulfed the entire nation. The extraordinary situation caused by the sudden and second outburst of COVID-19 Virus, thus, requires extraordinary measures to minimize the hardship of litigant–public in all the states. We, therefore, restore the order dated 23rd March, 2020 and in continuation of the order dated 8th March, 2021 direct that the period(s) of limitation, as prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings, whether condonable or not, shall stand extended till further orders.

It is further clarified that the period from 14th March, 2021 till further orders shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.

We have passed this order in exercise of our powers under Article 142 read with Article 141 of the Constitution of India. Hence it shall be a binding order within the meaning of Article 141 on all Courts/Tribunals and Authorities.

This order may be brought to the notice of all High Courts for being communicated to all subordinate courts/Tribunals within their respective jurisdiction.

Issue notice to all the Registrars General of the High Courts, returnable in 6 weeks.

List the Miscellaneous Application on 19th July, 2021”

11. Inasmuch as the purport and intent of the said order is very clear that the initiating proceedings before the court or tribunal are to be extended. Thus, the cause shown for the delay by the applicants in this I.A. is cogent reason to accept as the explanation is sustainable to condone the delay by the Commission in filing the review petition.

12. For the above said reasons and the findings the application in I. A. (SR) No. 20 of 2021 is allowed. Office to number this I.A. and communicate to the petitioner. List the review petition for admission at SR stage on 15.09.2021.

This order is corrected and signed on this the 27th day of August, 2021.

Sd/- (BANDARU KRISHNAIAH) MEMBER	Sd/- (M.D.MANO HAR RAJU) MEMBER	Sd/- (T.SRIRANGA RAO) CHAIRMAN
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