

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No.100/MP/2018**

Subject :Petition under Section 79(1)(f)and (k) of the Electricity Act, 2003 read with Regulation 68 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 seeking indulgence of the Commission to direct NTPC Vidyut Vyapar Nigam Limited to comply with the order dated 11.10.2017 in Petition No.16/MP/2014 by computing the delay suffered by the Generation Project due to force majeure eventualities and revise the Schedule Commercial Operation Date for the Generation Project.

Date of Hearing : 10.4.2018

Coram : Shri P.K. Pujari, Chairperson  
Shri A.K. Singhal, Member  
Shri A.S. Bakshi, Member  
Dr. M.K. Iyer, Member

Petitioner : Megha Engineering and Infrastructures Limited (MEIL)

Respondent : NTPC Vidyut Vyapar Nigam Limited (NVVNL)

Parties present :Shri Sakya Singha Chowdhury, Advocate, MEIL  
Ms. Molshree Bhatnagar, Advocate, MEIL  
Shri N.M. Venugopal, MEIL  
Shri M.G. Ramachandran, Advocate, NVVNL  
Ms. Anushree Bardhan, Advocate, NVVNL  
Ms. Poorva Saigal, Advocate, NVVNL

**Record of Proceedings**

Learned counsel for the Petitioner submitted that the present petition has been filed *inter-alia* for seeking direction to NTPC Vidyut Vyapar Nigam Limited (NVVNL) to comply with the order dated 11.10.2017 in Petition No.16/MP/2014 by computing the delay suffered by the project due to force majeure events and to revise the Schedule Commercial Operation Date (SCoD) for the project. Learned counsel for the Petitioner further submitted as under:

- (a) The Petitioner has established a 50 MW solar thermal power project near Nagalapuram, Peddavadugurumandal, District Anantapur, in the State of Andhra Pradesh.
- (b) As per the PPA, SCoD was 9.5.2013. However, due to force majeure events, the Petitioner's project achieved CoD on 4.11.2014. The Petitioner requested NVVNL for extension of SCoD. However, NVVNL refused to extend the SCoD.
- (c) Aggrieved by the conduct of NVVNL, the Petitioner approached the Commission. The Commission vide order dated 11.10.2017 in Petition No.

16/MP/2014 allowed the extension of SCoD for the generation project for the period during which the drought persisted and held that it is covered under force majeure event. The Commission directed NVVNL to ascertain the duration of the drought based on the necessary notification/circular issued by the Government of Andhra Pradesh and revise the SCoD of the project accordingly.

(d) Subsequently, the Petitioner vide its letters dated 17.10.2017, 28.11.2017 and 22.12.2017 to NVVNL furnished the necessary notifications/ circulars issued by the Government of Andhra Pradesh declaring the project site as drought affected area. However, NVVNL is yet to indicate the Commission about the revision in the SCoD.

(e) On 26.3.2018, the Ministry of New and Renewable Energy (MNRE) declined the representations dated 5.3.2014 made by the solar thermal power developers dated 5.3.2014 and stated that both the parties are bound by the contractual provisions. Therefore, NVVNL was allowed to follow the mechanism in relation to extension of SCoD provided under respective PPAs.

(f) Learned counsel for the Petitioner requested the Commission to direct NVVNL to refrain from taking any coercive measures against the Petitioner till the ascertaining of period of force majeure.

2. Learned counsel for NVVNL submitted that the Petitioner is claiming force majeure on account of delay to achieve COD for four months whereas actual delay is of 240 days.

3. After hearing the learned counsels for the Petitioner and NVVNL, the Commission admitted the petition and directed to issue notice to the respondent.

4. The Commission directed the Petitioner to serve the copy of the petition on respondent immediately, if not served already. The respondent was directed to file its reply, by 4.5.2018 with an advance copy to the Petitioner, who may file its rejoinder, if any, by 31.5.2018. The Commission directed that due date of filing the reply and rejoinder should be strictly complied with. No extension shall be granted on that account.

5. The Commission directed NVVNL not to encash the Performance Bank Guarantee of the Petitioner till the next date of hearing. The Petitioner was directed to keep the Performance Bank Guarantee valid taking into account the next date of hearing plus three months and claim period in line with the terms and conditions of its PPA.

6. The Petition shall be listed for hearing on 12.6.2018.

**By order of the Commission**

**Sd/-  
(T. Rout)  
Chief (Law)**