

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 224/MP/2020 Alongwith I.A 15/2020

Subject : Petition under Section 79 (1) (c) and (k) of the Electricity Act, 2003 read with Regulation 34(1) and Regulation 37 of the Central Electricity Regulatory Commission (Cross-Border Trade of Electricity) Regulations, 2019 for declaration of revocation of the Letter of Intent dated 3.1.2020 issued to the Petitioner is illegal and arbitrary and further to direct the Respondent No. 1 and Respondent No. 2 to honour their obligations under the Letter of Intent dated 3.1.2020

Petitioner : Coastal Energen Pvt. Ltd.

Respondents : Meenakshi Energy Private Limited
PTC India Limited
Central Electricity Authority
National Load Dispatch Centre
Manikaran Power Limited

Date of hearing : 12.3.2020

Coram : Shri P.K. Pujari, Chairperson
Shri I.S. Jha, Member

Parties present : Shri Matrugupta Mishra , Advocate, CEPL
Shri Pratiksha Chaturvedi, Advocate, CEPL
Shri MD Aman Sheikh, Advocate, CEPL
Shri Basava Prabhu Patil, Sr. Advocate, PTC India Limited
Shri Ravi Kishore, Advocate, PTC India Limited
Ms. Prerna Singh, Advocate, PTC India Limited
Shri Geet Ahuja, Advocate, PTC India Limited
Shri Rajshree Chaudhary, Advocate, PTC India Limited

Record of Proceedings

Learned counsel for the Petitioner submitted that the present Petition has been filed seeking declaration that (i) e-mails dated 4.2.2020 issued by the Respondent 1, Meenakshi Energy Private Limited (MEPL) to the Petitioner, communicating revocation of Letter of Intent (LOI) dated 3.1.2020, is illegal, and (ii) withdrawal of application dated 3.1.2020 made by the Respondent 2, PTC India Limited before the Respondent 3, Central Electricity Authority in respect of supply of power from the Petitioner to Bangladesh Power Development Board (BPDB) is illegal. Learned counsel further submitted as under:

(a) Issuance of Lol to the Petitioner by MEPL was in terms of the Clause 7(1)(iii) of the PPA dated 9.10.2018 entered into between PTC and Bangladesh Power Development Board and pursuant to the approval of Committee of Creditors (CoC) of MEPL, which had accorded in-principle approval only after analyzing the eligibility as well as viability of the Petitioner.

(b) As per terms and conditions of Lol dated 3.1.2020, it could have been terminated by MEPL only a prior notice of one months and on full discharge of operational security deposit. However, contrary to this, termination of Lol vide e-mail dated 4.2.2020 is violation of terms and conditions of Lol.

(c) PTC has violated the term and conditions of the Lol by making a fresh application for supply of power from third party source while the Lol issued to the Petitioner stood valid and the application in respect of the Petitioner was pending before CEA for approval.

(d) The Petitioner was fulfilling the eligibility criteria as prescribed under Clause 5 and Clause 6 of the Cross Border Guideline as well as under Cross Border Regulations. However, CEA rejected the application made by PTC. Accordingly, CEA has failed to discharge its functions as Designated Agency qua the application made by PTC seeking approval for the transaction involving the Petitioner.

(e) The conduct of CEA, PTC and MEPL is in contravention of the Cross Border Guidelines and Cross Border Regulations as no explanation/rationale or justification has been given by PTC/CEA with regard to approval of third party generation. The said approval was given while the application made by PTC in respect of the Petitioner was kept pending for more than a month.

(f) IA has been filed by the Petitioner seeking an ex-parte ad-interim order directing the National Load Despatch Centre to restrain/regulate supply of power to BPDB in furtherance to clause 7.1 (iii) of the PPA dated 9.10.2018 by any party other than the Petitioner.

2. Learned counsel for PTC submitted that in terms of Lol, PPA dated 9.10.2018 was executed between PTC and BPDB and PPA dated 29.10.2018 was executed between PTC and MEPL on back to back basis.

3. After hearing the learned counsel for the Petitioner, the Commission reserved order on the admissibility in the matter.

By order of the Commission

**Sd/-
(T. D. Pant)
Deputy Chief (Law)**