

CENTRAL ELECTRICITY REGULATORY COMMISSION

NEW DELHI

Petition No.114/MP/2023 along with IA Nos.28/2023, 29/2023 & 51/2023

- Subject : Petition under Section 79 (1)(c) and (f) of the Electricity Act, 2003 read with Regulation 32 of the Central Electricity Regulatory Commission (Grant of Connectivity, Long term Access and Medium term Open Access in inter-State Transmission and related matters) Regulations, 2009 for setting aside the letter dated 23.03.2023 issued by the Central Transmission Utility of India Ltd.
- Date of Hearing : 14.7.2023
- Coram : Shri Jishnu Barua, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member
- Petitioners : Soltown Infra Private Limited (SIPL) and 2 Ors.
- Respondent : Central Transmission Utility of India Limited (CTUIL)
- Parties Present : Shri Sanjay Sen, Advocate, SIPL
Ms. Ruth Elwin, Advocate, SIPL
Ms. Neha Dabral, Advocate, SIPL
Shri Parinay Deep Shah, Advocate, SIPL
Ms. Alisha Gaba, Advocate, SIPL
Shri Alok Shankar, Advocate, CTUIL
Shri Chetan Saxena, Advocate, CTUIL
Shri Swapnil Verma, CTUIL
Shri Siddharth Sharma, CTUIL
Ms. Muskan Agarwal, CTUIL

Record of Proceedings

Learned senior counsel for the Petitioners submitted that the present Petition has been filed, *inter alia*, for setting aside a letter of CTUIL dated 23.3.2023 sent to the Petitioners whereby the Petitioner, SIPL and its Directors/Promoters have been blacklisted from applying for and obtaining any connectivity to open access with CTUIL for a period of 3 years from the date of issuance of its letter dated 23.3.2023. Learned senior counsel further submitted as under:

(a) Post filing of the present Petition, CTUIL vide its letter dated 5.4.2023 ('Second Revocation Notice') has also revoked and cancelled the subsisting 675 MW Stage II Connectivity granted to the Petitioner purportedly on the basis of its blacklisting letter dated 23.3.2023.

(b) Accordingly, the Petitioner has moved an IA No. 29/2023 seeking amendment to the Petition for incorporating the additional prayer for quashing of the Second Revocation Notice and connected facts & ground in this regard.

(c) Pursuant to the direction of the Commission, vide Record of Proceedings for the hearing dated 2.5.2023, CTUIL has filed its reply on the maintainability as well as the merits of the case. However, CTUIL has not filed its reply on the above amendment application and thus, ought to be directed to file its reply thereon.

(d) The aspect of the revocation and cancellation of the Petitioner's subsisting Stage II Connectivity by CTUIL would certainly fall within the jurisdiction of this Commission.

(e) On the ground of discrepancies in the land rights related documents, CTUIL had already revoked Stage II Connectivity for 1800 MW on 31.8.2022. The Petitioner had, thereafter, applied again for the grant of Stage II Connectivity for 350 MW and 125 MW, which was duly granted by CTUIL on 26.10.2022.

(f) However, CTUIL issued another show-cause notice to the Petitioners for the very same reason on which its earlier Stage II Connectivity of 1800 MW was revoked and proceeded to issue the blacklisting letter dated 23.3.2023 and the revocation of its subsisting 675 MW Stage II Connectivity. CTUIL ought to be directed to disclose as to what transpired between the revocation of earlier Stage II Connectivity and the issuance of a blacklisting letter & the subsequent revocation of 675 MW Stage II Connectivity.

(g) In the meantime, CTUIL may be restrained from allocating 675 MW Stage II Connectivity at the Bikaner-II ISTS sub-station to any other entity till the final disposal of the present Petition. The Petitioners have also moved IA No. 51/2023 (Diary No. 215/2023) in this regard. If CTUIL is allowed to re-allot the above capacity to some other entity during the pendency of the present Petition, then even if the Commission allows the present Petition and sets aside the second revocation, the entire Petition may be rendered infructuous especially when all the land acquired by the Petitioner is suitable for Bikaner-II Sub-station only.

2. Learned counsel for the Respondent, CTUIL submitted that since IA No. 29/2023 as filed by the Petitioners seeking amendment to the Petition is yet to be allowed by the Commission, CTUIL has not filed its reply on the IA/amendment sought to be incorporated. However, if the Commission so directs, CTUIL will file its reply to the amended Petition. Learned counsel submitted that pursuant to the direction of the Commission, vide Record of Proceedings for the hearing dated 2.5.2023, CTUIL has already filed its reply on maintainability as well as on merits in the matter. Insofar as maintainability is concerned, CTUIL, in its reply, has pointed out that CTUIL, being an instrumentality of the State, has inherent powers of blacklisting, and such an order of blacklisting can only be a subject matter of judicial review before a writ court. Learned counsel further submitted that CTUIL, in the reply, has also indicated that the action of blacklisting of the Petitioners is proportionate to their fraudulent conduct in order to obtain the connectivity without being eligible for it and once having been blacklisted, they cannot claim any rights with regard to 675 MW Stage II Connectivity as well.

3. After hearing the learned senior counsel for the Petitioners and the learned counsel for the Respondent, CTUIL, the Commission ordered to take the amended Petition on record and directed CTUIL to file its consolidated reply to the amended Petition on maintainability as well as on merits within three weeks, with a copy to the

Petitioner, who may file its rejoinder, within two weeks thereafter. Accordingly, IA No.29/2023 was disposed of.

4. The Commission directed CTUIL to also elaborate on an affidavit within two weeks the reason for the revocation of the 675 MW Stage-II Connectivity granted to the Petitioner subsequent to the revocation of the 1800 MW connectivity against which the Petitioner has been blacklisted.

5. With regard to the prayer of the Petitioners for direction to CTUIL not to create any third party rights on the capacity corresponding to the Petitioners' 675 MW Stage II Connectivity as revoked, the Commission did not find any appropriate reason to issue any interim direction at this stage.

6. The Petition along with IA shall be listed for the hearing on 'maintainability and merits' on 21.8.2023.

By order of the Commission

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