



नई दिल्ली
NEW DELHI

याचिका संख्या. /Petition No.: 292/MP/2018

कोरम/Coram:

श्री पी. के. पुजारी, अध्यक्ष/Shri P. K. Pujari, Chairperson
डॉ. एम. के. अय्यर, सदस्य/ Dr. M.K. Iyer, Member
श्री आई. एस. झा, सदस्य/ Sh. I.S. Jha, Member

आदेश दिनांक /Date of Order: 12th of April, 2019

IN THE MATTER OF:

Petition under Section 66 & 79 of the Electricity Act, 2003 read with Regulations 14 & 15 of CERC (Terms and Conditions for recognition & issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 for issuance of directions to the Respondents, National Load Despatch Centre and the State Load Despatch Centre, to effect accreditation and registration of the Petitioner under the Renewable Energy Certificates (REC) mechanism and consequent reliefs.

AND IN THE MATTER:

Gokak Power & Energy Limited
Gokak Mills Division,
Gokak Falls – 591308,
Belagavi District, Karnataka

...Petitioner

VERSUS

National Load Despatch Centre
Power System Operation Corporation Limited
B-9, Qutab Institutional Area, Katwaria Sarai,
New Delhi – 110016

State Load Despatch Centre Karnataka
Karnataka Power Transmission Corporation Ltd.
Through its Chief Engineer
(State Load Despatch Centre)
Race Course Road,
Bangalore - 560009

Hubli Electricity Supply Company Ltd.
MRT Division, HESCOM,
Through its Executive Engineer
Gandhi Nagar,
Belagavi – 590016

...Respondents

Parties Present: Ms. Swapna Seshadri, Advocate, GPEL
Shri Ashwin Ramanatham, Advocate, GPEL
Shri Arjun Krishnan, Advocate, NLDC
Shri Ankur Singh, Advocate, NLDC
Shri Kaustav Som, Advocate, NLDC

आदेश/ ORDER

The Petitioner, M/s Gokak Power & Energy Limited owns and operates a 10.8 MW of Captive Small Hydro (Non Solar) plant (hereinafter referred to as 'Project') in Gokak Falls Belgaum, Karnataka. The Petitioner was accredited and registered as an Eligible Entity for 10 MW under the provisions of the Central Electricity Regulatory Commission (Terms And Conditions For Recognition And Issuance of Renewable Energy Certificate For Renewable Energy Generation) Regulations, 2010 (hereinafter referred to as "REC Regulations") for issuance of RECs with effect from 08.08.2013. Subsequent to the Fourth Amendment of RECs Regulations, the Petitioner is seeking revalidation of accreditation and registration of RECs for 4.5 MW with effect from April 2016 to June 2017.

2. The Respondent No. 1 is National Load Despatch Centre (hereinafter referred to as “NLDC”) designated as Central Agency as per notification dated 29.01.2010 under Regulation 3(1) of the REC Regulations.
3. The Respondent No.2, State Load Despatch Centre Karnataka (hereinafter referred to as “SLDC”) is the power transmission company in the State of Karnataka.
4. The Respondent No.3, Hubli Electricity Supply Company Ltd. (hereinafter referred to as “HESCOM”) is the power distribution company in the State of Karnataka.
5. The Petitioner has made the following prayers:
 - (a) Admit the petition;
 - (b) Hold that the Petitioner is entitled to revalidation of accreditation and registration of REC for the Petitioner’s project with effect from April 2016 to June 2017 under the REC Regulations and the procedures laid down thereunder;
 - (c) Direct the Respondent to take necessary action for issuing RECs to the Petitioner for the period April 2016 to June 2017;
 - (d) Pass such other further order(s) as the Hon'ble Commission may deem just and proper;

Brief facts of the case:

6. On 28.05.2013, the Petitioner received ‘Certificate of Accreditation’ for 10 MW and was registered as an ‘Eligible Entity’ under REC mechanism on 08.08.2013.
7. On 30.03.2016, the Commission notified Fourth Amendment in REC Regulations which stipulates: *“A Captive Generating Plant based on renewable energy sources, including renewable energy generating plant not fulfilling the conditions of CGP as prescribed in the Electricity Rules, 2005 but having self-consumption, shall not be eligible for participating in the REC scheme for the energy generated from such plant to the extent of self-consumption, if such a plant;*

*a) has been commissioned period to 29th September, 2010 or after 31st March, 2016; or
b) is not registered with Central Agency under REC scheme on or before 30th June, 2016.*

8. On 09.06.2016, SLDC informed the Petitioner that as per the Fourth Amendment to REC Regulations, only 4.5 MW capacity of the Project was eligible for the issuance of REC, and directed the Petitioner to send a revised application seeking RECs for the remaining installations for the period of March 2016.
9. On 15.06.2016, the Petitioner sent a request to SLDC for the reduction of capacity for REC eligibility and also requested SLDC for the grant of new accreditation certificate for the reduced capacity.
10. On 30.06.2016, SLDC directed the Petitioner for installation of separate ABT meter for the eligible installation, and thereafter apply for new accreditation.
11. On 25.07.2016, the Petitioner requested HESCOM for approval on new proposed location for ABT meter.
12. On 28.07.2016, the Petitioner requested SLDC to grant time till November, 2016 for installation of new ABT meter and also requested to issue REC on pro-rata basis for the period from April, 2016 to November, 2016.
13. On 12.08.2016, the Petitioner also sent the Single Line Diagram to SLDC and requested SLDC to accord its approval for the installation of ABT meter for the purpose of REC calculation. The Petitioner again requested on 12.08.2016, 20.09.2016 & 15.11.2016 for pro-rata issuance of RECs.
14. On 13.09.2016, SLDC directed the Executive Engineer, MRT Division HESCOM to obtain approval for the Single Line Diagram from the Office of the Chief Engineer, Electricity, O&M, HESCOM, Belgaum.
15. On 27.09.2016, HESCOM submitted the single line diagram to SLDC.
16. On 12.12.2016, the Petitioner requested HESCOM to arrange for calibration and issue the calibration certificate.

17. On 02.01.2017, the Petitioner received the specification for installation of ABT meter for 4.5 MW capacity unit.
18. On 21.01.2017, after installation of ABT meter the Petitioner requested HESCOM to arrange for calibration and testing of said meter.
19. On 23.01.2017, the Petitioner applied for approval of charging the ABT meter cubicle, from the Deputy Chief Electrical Inspector, Belgavi Circle. Petitioner also applied for the approval of the Chief Electrical Inspector, Govt. of Karnataka for the testing and calibration of the ABT meter.
20. On 13.07.2017, the Petitioner received the final approval from Chief Electrical Inspector with respect to ABT meter.
21. On 12.02.2018, the Petitioner requested NLDC for issuance of pending REC from March, 2016 onwards.
22. NLDC issued REC for the period from July, 2017 onward. The Petitioner has not been issued REC for the period from April, 2016 to June, 2017 corresponding to 4.5 MW by NDLC. Hence the Petition.

Submissions of the Petitioner

23. The Petitioner has submitted that it received 'Certificate of Accreditation' for 10 MW on 28.05.2013 and was registered as an 'Eligible Entity' under REC mechanism on 08.08.2013. It was receiving the RECs under REC mechanism for the electricity generated from the generating station since 08.08.2013. However, on 30.03.2016, the Commission notified Fourth Amendment in REC Regulations.
24. The Petitioner has submitted that on 09.06.2016, SLDC informed that as per the Fourth Amendment in REC Regulations, only 4.5 MW capacity of the Project was eligible for the issuance of RECs and directed it to send a revised application seeking RECs for the remaining installations for the period of March 2016. It submitted that request to SLDC for the reduction of capacity for RECs eligibility and also requested SLDC for the grant of new

accreditation certificate for the reduced capacity on 15.06.2016. On 30.06.2016, SLDC directed it for installation of separate ABT meter for the eligible installation, and thereafter apply for new accreditation. It requested HESCOM for approval on new proposed location for ABT meter. However, it received final approval from Chief Electrical Inspector with respect to ABT meter on 13.07.2017. It requested the Respondents for pro-rata issuance of RECs on 12.08.2016 & 20.09.2016 & 15.11.2016 but there was no response from the Respondents. On 12.02.2018, it again requested the Respondents for issuance of pending REC from March, 2016 onwards. However, NLDC issued RECs only for the period from July, 2017 onward.

25. The Petitioner has submitted that the onus of the installation of ABT meters lies with the Respondent No. 3. The Petitioner can merely request the Respondent No.3 for the same, which the Petitioner did, in the present matter. The Petitioner has complied with all the directions that were issued to it by the various authorities and the delay that occurred in installation of ABT meter cannot be attributed to the Petitioner. The Petitioner has submitted that the total generation from 10 MW was available for the period of April 2016 to June 2017. This total generation can be pro-rated to the extent of 4.5 MW for issue of RECs.
26. The Petitioner has submitted that Appellate Tribunal in *Simran Wind Power Private Ltd. & Ors vs. Central Electricity Regulatory Commission & Anr.* in Appeal No. 156 of 2013 and 248 of 2013 vide judgment dated 28.11.2014, while dealing with procedural issues under the REC has held as under:

“30. The regulations have to be interpreted and applied in light of the object to promote the renewable generators and not in a restrictive manner to deprive the generators of any benefit that may be available to them. In other words, any beneficial legislation need to be interpreted and applied keeping in mind the object to be achieved and not to nullify the basic intent of legislation.

31. The registration process is merely procedural with a view to verify and confirm whether the substantive conditions mentioned above have been fulfilled or not. That apart, the Respondent No. 2 – NLDC has no discretion whatsoever to refuse registration to any generator who fulfils the substantive conditions. In other words, the generator who fulfils the substantive conditions of sale of electricity at APPC rate, not taking promotional or concessional measures etc., is entitled to claim Renewable Energy Certificates from the date of commissioning. But fulfilment is not from the date of registration, but from when the generation of electricity commence. In the

circumstances, there is no justification for denying the entitlement of Renewable Energy Certificates to the generators from the date when the generation commences or for postponing the entitlement to the Renewable Energy Certificates after the date of registration.”

27. The Petitioner has submitted that it is a well settled principle of law that procedural law and procedural aspects are meant to be subservient to the substantive law and cannot take away the rights of the parties under the substantive law. Reference in this regard may be made to the decision of the Hon'ble Supreme Court in the case of *Saiyad Mohammad baker El-Edross v Abdulhabib Hasan Arab (1998) 4 SCC 343*, wherein it has been held as under –

“8. A procedural law is always in aid of justice, not in contradiction or to defeat the very object which is sought to be achieved. A procedural law is always subservient to the substantive law. Nothing can be given by a procedural law what is not sought to be given by a substantive law and nothing can be taken away by the procedural law what is given by the substantive law.”

28. The Petitioner has submitted that all the substantive conditions laid down in the REC Regulations for grant of RECs have been fulfilled by the Petitioner. The only difficulty arose in terms of getting the ABT meter installations completed so that the Petitioner could apply for REC for the reduced capacity in line with the Fourth Amendment Regulations 2016.

29. The Petitioner has submitted that the dispute which has arisen needs to be decided by the Commission in exercise of its powers under Regulations 14 & 15 of the REC Regulations, which read as under:-

“14. Power to give directions:

The Commission may from time to time issue such directions and orders as considered appropriate for the implementation of these regulations and for the development of market in power for Renewable Energy Sources.

15. Power to Relax:

The Commission may by general or special order, for reasons to be recorded in writing, and after giving an opportunity of hearing to the parties likely to be affected may relax any of the provisions of these regulations on its own motion or on an application made before it by an interested person.”

30. The Petitioner has submitted that it has paid the requisite court fees for filing the present petition and the present petition is within the jurisdiction of the Commission under Section 66 and Section 79 of the Electricity Act, 2003 read with the provisions of the REC Regulations.

Submissions of the Respondent No. 1

31. The Respondent No.1 has submitted that the present petition involves adjudication upon a short issue i.e. whether RECs can be issued for the period when actual energy generated is not ascertainable or verifiable?
32. The Respondent No.1 has submitted that in exercise of powers conferred under sub-section (1) of Section 178 and Section 66 read with clause (y) of sub-section 2 of Section 178 of the Electricity Act, 2003 the Commission, brought into force the REC Regulations. Subsequently, the Commission issued a notification dated 29.01.2010, and designated the Respondent as the 'Central Agency' under Regulation 3(1) of the REC Regulations.
33. The Respondent No.1 has submitted that neither the REC Regulations nor the aforesaid procedure vests any discretionary power on the answering Respondent to relax, extend or condone the delay insofar as the compliance with any of the provisions contained *therein* are concerned. On the other hand, the language of the REC Regulations and the Procedure for Issuance of Renewable Energy Certificates to the Eligible Entity by Central Agency (hereinafter also referred to as the 'REC Issuance Procedure') makes it abundantly clear that the provisions contained *therein* are mandatory in nature and entail strict compliance on the part of an eligible entity as well as the 'Central Agency' i.e. Respondent.
34. The Respondent No.1 has submitted that Regulation 7 of the REC Regulations stipulates the manner in which denomination of RECs is to be calculated and thereafter, issued to an eligible entity, wherein it is amply clear that denomination of RECs to be issued is based upon the precise units of electricity generated from any given RE plants, that has been duly accounted for in the Energy Accounting System as per the Indian Electricity Grid Code or the State Grid Code, as the case may be.

35. The Respondent No.1 has submitted that by way of the aforesaid Regulations read with REC Issuance Procedure it has been entrusted with the responsibility of scrutinising the said application for the purpose of ascertaining whether all conditions mentioned in the REC Issuance Procedure are being complied with by the eligible entity.
36. The Respondent No.1 submitted that the aforesaid Regulation read with the REC Issuance Procedure stipulate a scheme whereby the eligible entity is obligated to follow the steps in the REC Issuance Procedure therein and only once the Central Agency is satisfied that the eligible entity has duly complied with the conditions, can it issue the certificates. Further it is amply clear that denomination of RECs to be issued is based upon the precise units of electricity generated from any given RE plant that has been duly accounted for in the Energy Accounting System as per the Indian Electricity Grid Code or the State Grid Code, as the case may be.
37. The Respondent No.1 has placed its reliance on the judgement of the full bench of the Hon'ble Supreme Court in *Commissioner of Central Excise, New Delhi v Hari Chand & Ors, (2011) 1 SCC 236*, which categorically provides that for the purpose of claiming an exemption or concession, stipulated conditions which are mandatory in nature must be obeyed/fulfilled/complied with in its entirety.
38. The Respondent No.1 has submitted that the answering Respondent is obligated to issue RECs as per the actual generation of energy which is duly verified/certified at end of the SLDCs. In the event of non-availability of such verifiable data/reading at the hand of the answering Respondent or the SLDC, issuance of RECs is impossible and beyond the plain reading of the Regulations. Respondent has rightly and in strict compliance with the REC Regulations and REC Issuance Procedure has not issued RECs to the Petitioner for the period from April, 2016 to June, 2017.

Submissions of the Petitioner by the way of Rejoinder

39. The Petitioner has reiterated the facts stated in the Petition. Therefore the same are not being reproduced here for the sake of brevity. Additionally, the Petitioner has submitted that even though the installation process of the ABT meters were completed in July, 2017, it was not

impossible to determine the average energy generated prior to the installation of the ABT meter.

40. The Petitioner has reiterated the fact that ABT meter is only to compute the exact quantum of power from the 4.5 MW eligible unit. Thus for the period from April 2016 to June, 2017, the average generation attributable to the 4.5 MW eligible unit from July 2017 to April 2018 can be taken. Or in the alternative, the total generation from 10 MW is available from the period of April 2016 to June, 2017. This total Generation can be pro-rated to the extent of 4.5 MW for the REC aspect. Therefore, merely because the ABT meter installation was completed in July, 2017, the REC for the period from April, 2016 to June, 2017 cannot be denied by NLDC.
41. The Petitioner has submitted that main purpose of the REC Regulations is to ensure that only such persons who comply with the substantive Regulations of not taking any concessional benefits should get the REC. The procedural aspects cannot override this substantive provision of the REC Regulations. This principle has been upheld by the Commission in the order dated 02.03.2017 in Petition no. 308/MP/2015 in case of *Nu Power Renewable Private Ltd. & Anr v National Load Despatch Centre & Anr.* and in the order dated 09.11.2017 in Petition No. 141/MP/2017 in the case of *Rai Bahadur Seth Shreeram Narsingdas Private Ltd vs National Load Despatch Centre (NLDC) & Ors.*

Analysis and Decision:

42. We have heard the learned counsels for the Petitioners and the Respondents and have carefully perused the records.
43. The brief facts of the case are that the Petitioner owns and operates a Captive Small Hydro (Non Solar) plant with a capacity of 10.8 MW in the State of Karnataka. The Project received Accreditation for 10 MW on 28.05.2013 and was registered as an 'Eligible Entity' under REC mechanism on 08.08.2013. On 30.03.2016 the Commission notified Fourth amendment to REC Regulations due to which out of the 10 MW capacity of the Petitioner's project, only 4.5 MW remained eligible to participate under the REC mechanism since this capacity of 4.5 MW had been commissioned on 01.09.2012 i.e. between 29.09.2010 and 31.03.2016. The

Petitioner was receiving RECs for the entire 10 MW. However, on 09.06.2016, Respondent No. 2 informed the Petitioner that as per the Fourth Amendment to REC Regulations, only 4.5 MW capacity of the project was eligible for the issuance of REC, and directed the Petitioner to send a revised application seeking the REC for the remaining installations for the period of March, 2016. The Petitioner sent request to Respondent No.2 for the reduction of capacity for REC eligibility and also requested SLDC for the grant of new accreditation certificate for the reduced capacity. Respondent No. 2 directed the Petitioner to install separate ABT meter for the eligible installation, before applying for new accreditation certificate. The Petitioner submitted application to Respondent No. 3 for the new ABT meter along with various approvals with location and calibration and testing on the various dates. The Petitioner also requested Respondent No. 2 for issuing the REC on pro rata basis as the installation of new meter will take time. Final Approval with respect to ABT meter was accorded on 13.07.2017. Thereafter, the Respondent No. 1 issued the RECs for the period from July 2017 onwards. However, the RECs for the period from April, 2016 to June, 2017 were not issued. Hence the Petitioner filed the petition seeking direction to Respondents for issuance of RECs for the period from April, 2016 to June, 2017.

44. Per contra, the Respondent No. 1 (NLDC) has submitted that that it has been designated as the “Central Agency” under Regulation 3(1) of the REC Regulations. However neither the REC Regulations nor the REC Issuance Procedure vests any discretionary power on the Respondent No. 1 to relax, extend or condone the delay insofar as the compliance with any of the provisions contained therein are concerned. The Respondent No.1 further submitted that provisions mentioned in the REC Regulations and the REC Issuance Procedure framed thereunder must be strictly followed while issuing RECs to an eligible entity. The Respondent No.1 has submitted that it is an admitted fact that final approval with respect to the ABT meter installed by the Petitioner was granted only on 13.07.2017. Thus, no precise reading as regards energy generated from the eligible unit i.e. 4.5 MW plant of the Petitioner is available for the period in question viz. April, 2016 to June 2017. Therefore no injection report has been issued/certified by the Respondent no. 2 for the aforesaid period. In event of non-availability of such verification data/reading at the hand of the Respondents, issuance of RECs is impossible and beyond the plain reading of the REC Regulations.

45. From the submissions of the parties, the following issues arise before this Commission:
46. *Issue No 1: Whether the procedural delay in the installation of ABT meter should be condoned and Whether the Petitioner is entitled to REC for the period from April, 2016 to June 2017 during which the exact computation of power generation with respect to 4.5 MW unit capacity was not available due to which the injection report was not issued? and*
47. *Issue No. 2: Whether Respondents be directed to issue the RECs to the Petitioner from April 2016 to June 2017?*
48. No other issues were pressed or claimed.
49. We discuss the issues one by one:
50. *Issue No 1: Whether the procedural delay in the installation of ABT meter should be condoned and Whether the Petitioner is entitled to REC for the period from April, 2016 to June 2017 during which the exact computation of power generation with respect to 4.5 MW unit capacity was not available due to which the injection report was not issued?*
51. The Petitioner has submitted that it owns and operates a Captive Small Hydro (Non Solar) plant with a capacity of 10.8 MW and the Project received Accreditation on 28.05.2013 and was registered as an 'Eligible Entity' for REC mechanism for 10 MW on 08.08.2013. After the Fourth Amendment in the REC Regulations notified on 30.03.2016, it remained eligible for REC only for 4.5 MW capacity unit. As per direction of Respondent 2, Petitioner applied to Respondent 2 for separate ABT meter and final approval on the same was accorded only in July, 2017. It has complied with all the directions that were issued to it by various authorities and the delay that occurred due to late installation of ABT meter cannot be attributed to it. As such it is eligible for RECs for the period April, 2016 to June 2017. Per Contra, the Respondent No.1 has submitted that the final approval with respect to the ABT meter installed by the Petitioner was granted only on 13.07.2017. As such no RECs can be issued to the Petitioner for want of precise reading of the energy generated from the eligible unit i.e. 4.5 MW plant and want of the injection report issued/certified by the Respondent no. 2 for the aforesaid period.

52. The Commission observes that Regulations 7(2) & 7(4) of the Central Electricity Regulatory Commission (Terms and Conditions for Recognition and Issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 stipulates as under:

“(2) The Certificates shall be issued to the eligible entity after the Central Agency duly satisfies itself that all the conditions for issuance of Certificates, as may be stipulated in the detailed procedure, are complied with by the eligible entity.

(4)The Certificates shall be issued to the eligible entity on the basis of the units of electricity generated from renewable energy sources and injected into the Grid [or deemed to be injected in case of self consumption by eligible [captive generating plant]13] 14 and duly accounted in the Energy Accounting System as per the Indian Electricity Grid Code or the State Grid Code as the case may be, and the directions of the authorities constituted under the Act to oversee scheduling and dispatch and energy accounting, or based on written communication of distribution licensee to the concerned State Load Dispatch Centre with regard to the energy input by renewable energy generators which are not covered under the existing scheduling and dispatch procedures.”

53. Relevant Provisions of *Procedure for Issuance of Renewable Energy Certificates to the Eligible Entity by Central Agency* are extracted below: -

“3. STEP-WISE DESCRIPTION OF THE PROCEDURE

The basic procedure for issuance of Renewable Energy Certificates to the Eligible Entities includes the following steps:

3.1. Step-1: An application for issuance of Renewable Energy Certificate shall be made by the Eligible Entity to the Central Agency. The eligible entity shall apply for Issuance of REC on the Web Based Application as per the details given in the Energy Injection Report (EIR issued by the SLDC / Recommendation of SERC for issuance of RECs) and shall also submit the same information in physical form with the Central Agency. The online application shall be acceptable by the Central Agency only if complete in all respect. The physical application for issuance of certificate shall include (i) Energy Injection Report (EIR) for RE projects /Recommendation of SERC for issuance of RECs for distribution licensee, and shall be made in the specified format (FORMAT-3.1: “Application for Issuance of Renewable Energy Certificates to the Eligible Entities”/FORMAT-3.1.1 for distribution licensee) (ii) Print out of online application duly signed and stamped by Authorised Signatory (iii) Commissioning Certificate for RE Generator, only for issuance for the first month after registration.

3.2. Step - 2: After receipt of physical application for issuance of renewable energy

certificates from the Eligible Entity, the Central Agency shall undertake a preliminary scrutiny within 6 working days to ensure that the Application Form is complete in all respect along with necessary documents and applicable fees and charges. As part of preliminary scrutiny, the Central Agency shall satisfy that the following conditions are fulfilled by the RE generators or distribution licensee, as the case may be: a) The application is made in the format specified by the Central Agency from time to time. b) The status of Accreditation of the Eligible Entity with the State Agency has not expired. The status of Registration of the Eligible Entity with the Central Agency has not expired. c) The duly certified EIR/ Recommendation of SERC for issuance of RECs is attached for the same period for which application is made towards issuance of Renewable Energy Certificate by the Eligible Entity. d) The application is accompanied with fees & charges.

...

3.4. Step - 4: *While considering any application for issuance of Renewable Energy Certificate, the Central Agency shall verify and ascertain availability of following information:*

- a) Verification of the time period for which the Central Agency may have already issued Renewable Energy Certificates to the concerned Eligible Entity.*
- b) Verification of Renewable Energy Certificates claimed by the Eligible Entity from the duly certified Energy Injection Reports by the concerned State Load Despatch Centre in respect of concerned Eligible Entity.*
- c) Details of fee & charges made for issuance of certificates.*
- d) Confirmation of Compliance Auditor report, if any.*

3.5. Step - 5: *The Central Agency shall issue Renewable Energy Certificates to the Eligible Entity only after confirming, the claims made by the Eligible Entity, with the duly certified EIR forwarded by the SLDC/ Recommendation of SERC for issuance of RECs. In case of any discrepancy, in the EIR enclosed by the Eligible Entity along with Application and regular EIR received by Central Agency from concerned State Load Despatch Centre, the information contained in regular EIR furnished by concerned State Load Despatch Centre shall be considered as final and binding for the purpose of issuance of Renewable Energy Certificates. However, in case energy units reported under EIR by concerned State Load Despatch Centre exceed that claimed by Eligible Entity for same period then, Central Agency shall seek necessary clarification from concerned State Load Despatch Centre before issuance of the Renewable Energy Certificates. The denomination of each REC issued would be as per the CERC REC Regulations and amendments thereof, and 1 REC would be taken as equivalent to 1 MWh of electricity generated from renewable energy source and injected or deemed to be injected (in case of self-consumption by eligible captive power producer) into the grid. It is clarified that any fractional component of energy as per the Energy Injection Report can be accumulated and would be considered for issuance of RECs as per the CERC REC Regulations.*

3.7. Step-7: *In case the Eligible Entity is not fulfilling any of the conditions*

mentioned under Step-5 and fails to provide necessary information/clarification in the matter within stipulated timeframe, the Central Agency may reject the application and shall intimate to the Eligible Entity, in writing, the reasons for rejecting the application for issuance of RE certificates.”

54. From the above, the Commission observes that as per mandate of the REC Regulations and the REC Issuance Procedure, the eligible entity has to apply for issuance of REC on the Web Based Application as per the details given in the Energy Injection Report (EIR issued by the SLDC / Recommendation of SERC for issuance of RECs) and shall also submit the same information in physical form with the Central Agency. Central Agency has to verify the application in terms of the Energy Injection Reports by the concerned State Load Despatch Centre in respect of concerned Eligible Entity fee & charges made for issuance of certificates and compliance auditors report if any.
55. The Commission observes that in the instant case, the Petitioner was registered as an ‘Eligible Entity’ under REC mechanism on 08.08.2013 for 10MW and was receiving RECs for the entire 10MW. Pursuant of notification of Fourth amendment to REC Regulations, out of 10 MW capacity, only 4.5 MW remained eligible to participate under the REC mechanism. The Petitioner requested the Respondents for the reduction of capacity for REC eligibility and also for the grant of new accreditation certificate. Respondent No. 2 directed the Petitioner to install separate ABT meter for the eligible installation, before applying for new accreditation certificate. However, there was a procedural delay in the installation of the ABT meter by the Respondents and finally the approval was received on 13.07.2017. The Petitioner has submitted that the total generation 10 MW was available for the period of April 2016 to June 2017. However, the Respondents have refused to issue RECs for the want of precise reading of the energy generated from the eligible unit i.e. 4.5 MW plant and for want of the injection report issued/certified by the Respondent No. 2 for the aforesaid period. The Petitioner continuously pursued the matter with Respondents for pro-rata issuance of REC pending the installation of ABT meter which was though under process but was in the hands of Respondent No. 3.
56. The Commission observes that as per the principle laid down for grant of RECs, if there is generation of electricity from renewable energy sources for self-consumption and from plants

commissioned between the period from 29th September 2010 and 31st March 2016 then it shall be eligible for dealing in RECs. The Commission observes that it is admitted fact that the Petitioner has commissioned 4.5MW during 29.09.2010 and 31.03.2016 and further the Petitioner has made available total generation from 10 MW of renewable energy for the period mentioned from April, 2016 to June 2017. Further, since there was delay in approval of ABT meter, no precise reading of the energy generated from the eligible unit i.e. 4.5 MW plant is available and hence the injection reports are not available. However, the main objective of REC Regulations is to promote the generation of renewable energy. In the circumstances discussed above the Commission is of the view that delay in approval of the ABT meter is a procedural delay and beyond reasonable control of the Petitioner and should be condoned. Hence, the Commission in exercise of its power under Regulations 14 (*Power to give Directions*) & 15 (*Power to Relax*) of the REC Regulations condones the delay in making application and issuance of holds that the Petitioner is eligible for the RECs for the period from April 2016 to June, 2017 in respect to the Petitioner.

Issue No. 2: Whether Respondents be directed to issue the RECs to the Petitioner from April 2016 to June 2017?

57. In the light of discussion held in Issue No. 1 above, the Commission holds that M/s Gokak Power & Energy Limited (the Petitioner) is entitled for RECs from April 2016 to June 2017 as per terms and conditions of The Central Electricity Regulatory Commission (Terms and Conditions for Recognition and Issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 as stipulated above and the Respondents are directed accordingly. Further, since there is no precise or the energy injection reports for the aforesaid period the Commission directs the Respondents to issue the RECs on pro-rata basis since the Petitioner has made available total generation from 10 MW of renewable energy for the period from April, 2016 to June 2017.

58. Accordingly, the Petition No. 292/MP/2018 is disposed of.

Sd/-

श्री आई. एस. झा
सदस्य

Sd/-

डॉ एम के अय्यर
सदस्य

Sd/-

श्री पी के पुजारी
अध्यक्ष