

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 286/MP/2018

- Subject : Petition under Section 79 of the Electricity Act, 2003 for execution of the Orders dated 14.3.2018 passed in Petition No. 13/SM/2017 and 16.3.2018 passed in Petition No. 1/MP/2017; and initiation of proceedings under Section 142 of the Electricity Act, 2003 against Tamil Nadu Generation and Distribution Corporation Limited.
- Petitioner : GMR Warora Energy Limited
- Respondent : TANGEDCO
- Date of hearing : **27.8.2021**
- Coram : Shri P.K. Pujari, Chairperson
Shri Arun Goyal, Member
Shri Pravas Kumar Singh, Member
- Parties present : Shri Vishrov Mukherjee, Advocate, GMRWEL
Ms. Anusha Nagrajan, Advocate, TANGEDCO
Ms. M.Hemalatha, Advocate, TANGEDCO
Ms. S. Poonkodi, TANGEDCO

Record of Proceedings

Case was called out for virtual hearing.

2. During the hearing, the learned counsel for the Petitioner made the following submissions:

- (a) The instant petition has been filed seeking enforcement of the Commission's order dated 14.3.2018 in Petition No. 13/SM/2017 and order dated 19.12.2017 in Petition No.229/MP/2016. The Respondent has filed Appeal No.289 of 2018 before APTEL challenging the Commission's order dated 16.3.2018 in Petition No. 1/MP/2017 and APTEL vide its order dated 5.12.2018 had directed the Respondent TANGEDCO to pay 80% of the bill raised by the Petitioner. No appeal has been filed by the Respondent against the order dated 14.3.2018 in Petition No. 13/SM/2017.
- (b) The total monthly dues payable by the Respondent to the Petitioner is Rs.100.59 crore (till June 2021) plus an amount of Rs.44.88 crore, which will become due on 4.9.2021. LPS (late payment surcharge) payable in respect of the dues above is Rs.106.22 crore. In addition, the amount payable by the Respondent in respect of the orders passed in Petition No. 13/SM/2017 and Petition No. 1/MP/2017 amounts to Rs. 45.35 crore and Rs.7.47 crore respectively, including LPS of Rs.30 crore towards the change in law claims;
- (c) The Respondent, in terms of the direction of the Commission vide interim order dated 6.3.2019, had made payment of Rs.16.01 crore. However, no



payments were made by the Respondent in compliance to the directions of the Commission vide ROP of the hearing dated 22.8.2019. The Commission may, therefore, direct any senior official of the Respondent to file affidavit clarifying (i) the steps taken for reconciliation of the dues with the Petitioner, (ii) the amount disbursed under the 'Atma Nirbhar Bharat Scheme', (iii) the entities to which amounts have been disbursed by the Respondent and the basis for the same and (iv) the reasons for non-compliance of the directions contained in ROP of the hearing dated 22.8.2019;

(d) The Commission may take a strict view for non-compliance of the directions of the Commission by the Respondent and may also direct the Respondent to make payment of the amounts due, including late payment surcharge, to the Petitioner, at the earliest.

3. On a specific query by the Commission as to whether payments were made by the Respondent in terms of the directions of APTEL, the learned counsel for the Petitioner clarified that though the Respondent had partially complied with the directions of APTEL, no payments have been made to the Petitioner since August 2019.

4. In response, the learned counsel for the Respondent submitted that the parties have been undertaking reconciliation exercise since 2020 and a communication has been addressed to the Petitioner recently along with calculations, the response of which is awaited from the Petitioner. She also submitted that after acceptance is received on the same, the payments will be released to the Petitioner.

5. On a further query by the Commission as to the total amount payable to the Petitioner, the learned counsel for the Respondent sought time to seek instructions. However, the learned counsel for the Petitioner clarified that a letter has been addressed to the Respondent on 23.8.2021, requesting finalisation of reconciliation and for release of payment of Rs.76.78 crore (approx).

6. On an observation by the Commission, in the backdrop of the prolonged process of reconciliation which is going on for more than a year now, about the possibility of an interim payment by the Respondent to the Petitioner subject to reconciliation, the learned counsel for the Respondent submitted that the Petitioner, during the reconciliation process, has not raised any demand or submitted any correspondence for interim payment or has filed any affidavit in this regard in the present proceedings. In response, the learned counsel for the Petitioner clarified that in view of the directions of the Commission vide ROP of hearing dated 22.8.2019, the Petitioner was not required to raise any demand or submit any correspondence for interim payments. The Commission observed that since the Petitioner has already raised bills on the Respondent, it was bound to comply with the directions of the Commission vide ROP dated 22.8.2019 and accordingly make payments to the Petitioner.

7. The learned counsel for the Respondent prayed that it may be granted two weeks' time to place on record the entire correspondences and series of events since August 2019 with regard to the reconciliation process between the parties and the matter may, thereafter, be listed for hearing. The request of the leaned counsel to place on record the additional information within two weeks was accepted.

8. The Commission, after taking note of the Respondents' non-compliance of the



directions contained in ROP dated 22.8.2019, directed the Respondent, TANGEDCO to deposit an amount of Rs.20 crore to the Petitioner, within 7 days from 27.08.2021 i.e. on or before 3.9.2021 and submit compliance on an affidavit, failing which, notice under Section 142 of the Electricity Act, 2003 will be issued to CMD of the Respondent, TANGEDCO.

9. In view of continuous non-compliance of the ROP dated 22.8.2019 by the Respondent TANGEDCO, the request of the learned counsel for the Respondent to grant at least two weeks' time for payment to Petitioner was not agreed to.

10. Petition shall be listed for hearing in due course for which separate notice will be issued.

By order of the Commission

Sd/-
(B.Sreekumar)
Joint Chief (Law)

