

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. : 701/MP/2020 along with I.A No. 72/2020

Subject : Petition under Section 79 of the Electricity Act, 2003 seeking declaration that the Transmission Service Agreement dated 28.8.2019, Transmission Connectivity Agreement dated 5.3.2019 and Long Term Access Agreement dated 28.8.2019 are rendered impossible to perform and thereby void and directions to restrain the Respondent from invoking the bank guarantees and return the same to the Petitioner (Interlocutory application for interim reliefs)

Date of Hearing : 4.6.2021

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

Petitioner : Shapoorji Pallonji Infrastructure Limited (SPICCP)

Respondents : Power Grid Corporation of India Limited (PGCIL)

Parties present : Mr. Suvijit Ghosh, Advocate, SPICCP
Ms. Mannat Waraich, Advocate, SPICCP

Record of Proceedings

The matter was called out for virtual hearing.

2. Learned counsel for the Petitioner submitted that the instant petition is filed seeking directions to restrain PGCIL from encashing the Bank Guarantees (BGs) submitted to PGCIL and return the same to the Petitioner.

3. The Petitioner submitted that due to the outbreak of COVID-19, the Petitioner terminated the Power Purchase Agreement (PPA) dated 22.11.2018 entered between Arina Solar Power Limited (SPV of Petitioner) and Solar Energy Corporation of India Limited (SECI). Upon termination of the PPA, the Petitioner filed Petition No. 605/MP/2020 before the Commission seeking return of Performance Bank Guarantees (PBG) which was submitted with SECI under the PPA. The Commission admitted the Petition and passed an interim order dated 20.8.2020 restraining SECI from encashing the bank guarantee submitted by the Petitioner till the next date of hearing. The said issue of termination of PPA is already pending before this Commission in Petition No. 605/MP/2020.



4. Learned counsel for the Petitioner submitted that the pursuant to the termination of PPA, performance under the Connectivity Agreement, Long term Access Agreement (LTAA), Transmission Service Agreement (TSA), Consultancy Agreement has been frustrated/ void as the very premise for entering these agreements were based on the PPA and the PPA has already been terminated. He submitted that the two Connectivity BGs dated 2.11.2018 and 24.5.2019 amounting to `5,00,00,000/- and `25,00,000/- have been submitted under the LTA to PGCIL. One BG is valid till 2022 and the other BG is valid till 30.6.2021 which shall be further extended. He further submitted that during the non-functioning of the Commission, the Petitioner had approached the APTEL for restraining PGCIL from encashing the BGs and APTEL in an interim order has already granted stay from encashing the said BG or taking any other steps which may be detrimental to the interest of the Petitioner till the pendency of the Petition before the Commission.
5. Learned counsel for the Petitioner submitted that PGCIL in the month of April has raised an invoice for `138 crore towards relinquishment charges from the Petitioner. He requested to allow to place on record the details of the same on affidavit.
6. After hearing the learned counsel for the Petitioner, the Commission admitted the petition and directed to issue notice to the Respondents. The Commission directed the Petitioner to serve a copy of the petition on the Respondent at the earliest.
7. The Commission observed that the interim protection granted by APTEL shall continue till further orders.
8. The Commission directed the Respondent to file its reply on affidavit by 30.6.2021 with an advance copy to the Petitioner, who may file its rejoinder, if any, by 12.7.2021. The Commission further directed the parties to comply with the directions within the timeline specified and observed that no extension of time shall be granted.
9. The Petition shall be listed for further hearing in due course for which separate notice will be issued.

By order of the Commission

sd/-
(V. Sreenivas)
Deputy Chief (Law)

