

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Diary (Petition) No. 139/2021

- Subject : Petition under Section 79(1)(f) read with and Section 79(1)(k) of the Electricity Act, 2003 along with Regulation 111 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 seeking recognition of force majeure events impacting the implementation of the Project by the Petitioner and seeking appropriate reliefs with regard to extension of Scheduled Commissioning Date and stay of any coercive measures including stay of encashment of Performance Bank Guarantee.
- Date of Hearing : 28.5.2021
- Coram : Shri P. K. Pujari, Chairperson
Shri I. S. Jha, Member
Shri P. K. Singh, Member
- Petitioner : Mytrah Vayu (Sabarmati) Private Limited (MVSPL)
- Respondents : Solar Energy Corporation of India Limited (SECI) and Anr.
- Parties Present : Shri Basava Prabhu Patil, Sr. Advocate, MVSPL
Shri M. G. Ramachandran, Sr. Advocate, SECI

Record of Proceedings

Date is not fixed for the case. The matter was mentioned today by the learned senior counsel for the Petitioner through video conferencing.

2. Learned senior counsel for the Petitioner submitted that instant Petition being Diary No. 139/2021 has been filed, *inter alia*, seeking recognition of force majeure events impacting the implementation of the Project by the Petitioner, issuance of appropriate order/direction for extension of Scheduled Commercial Operation Date ('SCOD'), and stay of any coercive measures including stay of encashment of Performance Bank Guarantee. Learned senior counsel submitted that the Petitioner had approached the Dispute Resolution Committee ('DRC') constituted by Ministry of New and Renewable Energy, Government of India to resolve the issues pertaining to extension of SCOD as arose under the PPA. However, DRC had rejected its application on the ground of it being time barred and even prior to DRC's decision being made available to the Petitioner, SECI vide its letter dated 27.5.2021, while conveying the aforesaid decision of DRC, has stated that SECI is encashing the bank guarantee of approximately Rs. 33 crore as furnished under the PPA. In above background, learned senior counsel for the Petitioner requested for urgent listing of the said Petition.

3. Learned senior counsel for the Respondent, SECI submitted that SECI had issued a letter invoking the bank guarantee furnished under the PPA way back in the August, 2020, which was later withdrawn by SECI in view of the Petitioner approaching DRC for resolution of disputes. However, instead of approaching DRC within the period of 21 days as specified for, the Petitioner filed an Original Petition

No.8/2020 before the Appellate Tribunal for Electricity, which was thereafter withdrawn to approach DRC. The Petitioner did not even pay the requisite fees while approaching DRC and subsequently, DRC disallowed the application filed by the Petitioner on the ground of it being time barred. It was further submitted that there has been a considerable delay in the commissioning of the Project by the Petitioner and the bank guarantee is liable to be encashed due to default on the part of the Petitioner.

4. Learned senior counsel for the Petitioner further requested that till the time the matter is listed for hearing before the Commission, SECI may be directed not to take any coercive action against the Petitioner. In response, learned senior counsel submitted that SECI will not pursue its letter issued for invocation of bank guarantee till the next date of hearing. The submission made by the learned senior counsel for SECI was taken on record.

5. The Commission directed registry of the Commission to register the Petition (Diary No. 139/2021) and list the matter for hearing on 25.6.2021 to examine the interim prayer(s) of the Petitioner.

By order of the Commission
Sd/-
(T.D. Pant)
Joint Chief (Law)