



नई दिल्ली
NEW DELHI

याचिका संख्या./ Petition No. 78/MP/2019

कोरम/Coram:

श्री पी. के. पुजारी, अध्यक्ष/ Shri P. K. Pujari, Chairperson
श्री आई. एस. झा, सदस्य/ Shri I. S. Jha, Member
श्री अरुण गोयल, सदस्य/ Shri Arun Goyal, Member
श्री प्रवास कुमार सिंह, सदस्य/ Shri Pravas Kumar Singh, Member

आदेश दिनांक/ Date of Order: 16th of October, 2021

IN THE MATTER OF:

Petition filed under Section 79(1)(k) of the Electricity Act, 2003 and Regulation 2(1)(d) read with Regulation 27 and 111 of the Central Electricity Regulatory Commission (Conduct of Business Regulations) 1999, and Regulations 3, 7 & 14 and 15 of Central Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 seeking condonation of delay in complying with the procedure for issuance of renewable energy certificates (RECs) and to direct the Respondent to issue the certificates to the Petitioner.

AND IN THE MATTER:

Shri Ambalika Sugar Private Limited,
Post-Gate No.392, Ambikanagar,
Baradgaon Sudrik, Karjat,
Ahmednagar, Maharashtra -414403

...Petitioner

Versus

National Load Despatch Centre (NLDC),
B-9, Qutab Institutional Area, Katwaria Sarai,
New Delhi-110016

...Respondent

Parties Present: Shri Matrugupta Mishra, Advocate, SASPL
Ms. Ritika Singhal, Advocate, SASPL
Shri Vignesh Srinivasn, Advocate, SASPL
Shri Kailash Chand Saini, POSOCO
Shri Gajendra Sinh Vasava, POSOCO

आदेश/ ORDER

The Petitioner, M/s Shri Ambalika Sugar Private Limited is engaged in the business of manufacturing sugar and owns a renewable energy generating station at Ahmednagar, Maharashtra that is registered under REC (renewable energy certificate) mechanism. The Petitioner has filed the petition under Section 79(1)(k) of the Electricity Act, 2003 and Regulation 2(1)(d) read with Regulation 27 and 111 of the Central Electricity Regulatory Commission (Conduct of Business Regulations) 1999, and Regulations 3, 7 & 14 and 15 of Central Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 (in short, 'the REC Regulations') seeking issuance of Renewable Energy Certificates for the energy generated from its renewable energy generating station during the month of February 2018.

2. The Petitioner has made the following prayers:
 - (a) *To condone the delay in applying for issuance of Renewable Energy Certificates due to it for energy injected in the month of February 2018 and consequently direct the Respondent to issue the same.*
 - (b) *Pass any other order(s) as deemed fit, necessary and appropriate in favour of the Petitioner.*

Submissions of the Petitioner

3. The Petitioner has submitted that it owns a bio-fuel cogeneration based renewable energy generating station with installed capacity of 15 MW. It has registered 5.587 MW capacity under REC mechanism vide registration number MH0NSAMBLA001R020616.
4. The Petitioner has further submitted that:
 - a) it had signed an agreement dated 24.06.2013 with Shivshakti Urja Private Limited ('facilitator') for providing advice and assistance to the Petitioner in matters of

accreditation and re-accreditation, registration of facilities in accordance with the REC Regulations for issuance and sale of RECs along with preparation of all necessary documentation, and providing assistance to the Petitioner in the application process for grant of RECs;

- b) it had approached the facilitator to send to the Respondent (NLDC), the physical copy of their energy injection reports ('EIR') for February 2018 certified by the Maharashtra State Load Despatch Center ('MSLDC'), along with the letter dated 30.07.2018 requesting for issuance of RECs. The physical application along with MSLDC verified EIR were dispatched to the Nodal Officer, REC by the Petitioner;
- c) EIR for the month of February 2018 was certified by MSLDC and was processed by the facilitator and filed along with the application for issuance of RECs only on 5th September 2018. Thus, there was a delay of five days in sending the applications for issuance of RECs to NLDC;
- d) the delay in filing EIR along with applications for issuance of RECs was caused due to inadvertent oversight on the part of the facilitator in processing the applications and submitting them before NLDC. As per the agreement with the facilitator, the generator was dependent on the facilitator for guiding it through the process of accreditation, registration and issuance of the certificates. As such, the delay was beyond the control of the Petitioner;
- e) due to delay in applying for issuance of RECs by five days, NLDC refused to process the applications, thus leading to non-issuance of eligible RECs and subsequent lapse.
- f) it made various representations before NLDC explaining the fact that delay was occasioned due to oversight on the part of the facilitator and that it had otherwise complied with all procedures under the REC mechanism, but that only due to delay by the facilitator, the applications for issuing the certificates could not be made on time.

- 5. The Petitioner has submitted that it had generated a total of 2459 MWh of eligible energy for February 2018 entitled to an equivalent amount of RECs and each REC was to be traded for Rs.1100/- in the relevant period of September 2018, when the certificates could have been first traded. The Petitioner would suffer a financial loss if the RECs are not issued by NLDC.

Analysis and Decision

- 6. The Petition came up for hearing on 23.07.2021. During the hearing held on 23.07.2021, the

Petitioner submitted that the present Petition has been filed seeking condonation of delay of 5 days in complying with the procedure for issuance of RECs for the energy injected in the month of February 2018 and consequently, seeking direction to the Respondent, NLDC to issue the same. The Representative of NLDC submitted that NLDC does not have the powers to relax the requirement of filing of applications within the stipulated period but would not have any objection if the Commission decides to consider the prayer of the Petitioner.

7. We have heard the Petitioner and the Respondent and have carefully perused the records.
8. The brief facts of the case are that the Petitioner is engaged in business of manufacturing sugar. It also owns a bio-fuel cogeneration based renewable energy generation station of 15 MW out of which 5.5587 MW is registered as an eligible project (non-solar) under the REC mechanism. The Petitioner had engaged the facilitator for providing advice and assistance in matters of accreditation, re-accreditation and registration in accordance with the REC Regulations, and for issuance and sale of RECs. There was a delay of 5 days in submitting EIR for February 2018 for issuance of RECs and, therefore, NLDC (Central Agency as per the REC Regulations) refused to process the application of the Petitioner and did not issue RECs due to this delay.
9. The only issue involved is *whether the delay of 5 days in filing the application for issuance of RECs for the month of February 2018 may be condoned and whether the Respondent may be directed to issue equivalent RECs for the energy injected.*
10. The relevant provisions of *Procedure for Issuance of Renewable Energy Certificates to the Eligible Entity by Central Agency* (in short, “the REC Issuance Procedures”) stipulates as under:-

“3. STEP-WISE DESCRIPTION OF THE PROCEDURE

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 Authorized Signatory (iii) Commissioning Certificate for RE Generator, only for issuance for the first month after registration. The application shall be accompanied with the details of payment of the applicable fee & charges towards issuance of certificates as determined by CERC from time to time. While making application for issuance of RECs, the Applicant (Eligible Entity) shall quote the unique Registration Number assigned to it by Central Agency at the time of 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.*

3.3. Step - 3: *After conducting the preliminary scrutiny, the Central Agency shall intimate in writing to the Applicant for submission of any further information or clarification, if necessary, to further consider the application for issuance of Renewable Energy Certificates or reject the application.*

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.
.....”*

11. Further, Regulation 7(2) of the REC Regulations provides as under:

“7. Denomination and issuance of Certificates

(1) The eligible entity other than distribution licensee shall apply to the Central Agency for certificates within six months from the corresponding generation from eligible renewable energy projects:

Provided that the application for issuance of certificates may be made on 10th, 20th and last day of the month

(1A) The eligible distribution licensees shall apply to the Central Agency for Certificates within three months from the date of obtaining the certification, as provided in clause (1A) of the Regulation 5, from the concerned Appropriate Commission

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

(3) The Certificates shall be issued by the Central Agency within fifteen days from the date of application by the eligible entities.

(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 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.”

12. From the above, the Commission observes that as per mandate of the REC Regulations and the REC Issuance Procedures, the eligible entity has to make Web Based Application for issuance of REC as per the details given in the Energy Injection Report and has to also submit the same information in physical form with the Central Agency (NLDC) within six months. The Central Agency has to verify the application in terms of the Energy Injection Reports issued by the concerned State Load Despatch Centre.
13. The Commission observes that the Petitioner has accepted the delay of five days in filing the application for issuance of RECs for the month of February 2018. The delay was caused due to inadvertent oversight of the facilitator (SUPL) and the Petitioner has prayed for condoning the delay and for directing NDLC to issue RECs for the month of February 2018. The Respondent, NLDC has stated that it has no objection if the Commission considers the prayer

of the Petitioner.

14. In our view, the delay of five days in submitting the application is procedural in nature and causes no harm to any of the stakeholders, including the Respondent. Accordingly, we hereby condone the delay of five days in submitting the application for issuance of RECs and direct the Respondent NLDC to process the case of the Petitioner for grant of RECs for the month of February 2018 after due verification.
15. We also direct the Petitioner to comply with the provisions of the REC Regulations, 2010 and the procedures made thereunder, in future.
16. The Petition No. 78/MP/2019 is disposed of in terms of the above.

Sd/-
(प्रवास कुमार सिंह)
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(आई. एस. झा)
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