

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 287/MP/2019

Subject : Petition invoking Regulation 1.5(iv) read with Regulation 5.2(u) and Regulation 6.5(11) of the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010 for enforcement of 'must run' status granted to solar power projects and Regulation 111 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 seeking direction to State Load Dispatch Centre to stop issuing backing down instructions to the Petitioners.

Date of Hearing : 23.6.2022

Coram : Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member

Petitioners : Wardha Solar (Maharashtra) Private Ltd. (WSMPL) and Anr.

Respondents : Karnataka State Load Despatch Centre (KSLDC) and 3 Ors

Parties Present : Shri Amit Kapur, Advocate, WSMPL
Ms. Poonam Verma, Advocate, WSMPL
Ms. Gayatri Aryan, Advocate, WSMPL
Shri Ankitesh Ojha, Advocate, WSMPL
Shri Shahbaaz Husain, Advocate, KPTCL
Ms. Stephania Pinto, Advocate, KPTCL
Shri Rajeev Lochan, WSMPL
Shri M. R Krishna, WSMPL
Shri Dipak Kumar, WSMPL

Record of Proceedings

Case was called out for virtual hearing.

2. At the outset, learned counsel for the Petitioner submitted that the Respondent Nos. 1 & 4 have moved an application for adjournment and as such the Petitioners do not have any objection towards the said request. However, the learned counsel pointed out that despite clear direction to file its additional affidavit along with data relating to backing down instructions issued to the Petitioners by 11.4.2022, the Respondent, KSLDC has yet not filed any such affidavit. Learned counsel further submitted as under:

(a) The issue raised in the instant Petition has already been settled in terms of the judgment of Appellate Tribunal for Electricity ('APTEL') dated 2.8.2021 in Appeal No.197 of 2019 in the matter of National Solar Energy Federation of India

v. TERC and Ors., wherein APTEL had taken the cognizance of the similar backing down instruction being issued by Tamil Nadu SLDC and considering the loss caused to solar developers on account of illegal and arbitrary curtailment, APTEL has held that the solar power developers are entitled for compensation.

(b) In the said case, APTEL had directed POSOCO to conduct an independent inquiry and submit a report to APTEL indicating whether there was intentional curtailment of scheduling of power by TN SLDC or whether it was on account of grid safety measure taken by TN SLDC. In this regard, the reliance was placed on the paragraph 115 and paragraph 116 of the said judgment.

(c) APTEL at paragraph 135 of the judgment has also observed that the analysis made by POSOCO was based on the grid parameters, margin available for backing down of conventional energy sources and the status of drawal by the State from the central grid and that these parameters are apt for deciding whether the backing down is for the purpose of grid security or on commercial reasons.

(d) Similar approach may also be adopted by the Commission in the instant case and POSOCO may be directed to carry out similar independent inquiry and submit a report to the Commission by the next date of hearing.

3. Learned counsel for the Respondent No. 1 submitted since the additional affidavit required compilation of data from large number of substations, filing of the affidavit got delayed. However, the Respondent has already served the copy of its additional affidavit on the Petitioner yesterday and be permitted to upload the same on e-filing portal. The Counsel also requested that the portal of the Commission be opened to enable the Petitioner to file the affidavit.

4. After hearing the learned counsel for the parties, the Commission felt it appropriate to allow the Respondent No. 1 to submit the details. The Commission also noted the suggestion of the Petitioners for an independent inquiry by POSOCO and accordingly, ordered as under:

(a) The Petitioner to implead POSOCO as party to the Petition and to file revised memo of parties within a week;

(b) The data furnished by the Respondent No.1 KSLDC will be provided to POSOCO;

(c) POSOCO shall conduct an independent inquiry into whether the backing down/curtailment of generation in the case of the Petitioners was on account of grid safety/security or for any other purpose and submit its report to the Commission within four weeks;

(d) The parties shall cooperate and assist POSOCO in conducting the aforesaid inquiry and shall furnish all the data required by POSOCO in this regard.

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

By order of the Commission

**Sd/-
(T.D. Pant)
Joint Chief (Law)**