

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Diary No. 494/2022

Subject : Petition under Section 79 of the Electricity Act, 2003 read with Section 11(2), along with Regulation 111-113 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 seeking quashing of impugned letters dated 23.11.2022 and 30.11.2022 issued by TANGEDCO qua discontinuation of power procurement, contracted under long-term on pass through basis w.e.f. 1.12.2022, in contravention to the Directions issued by the Ministry of Power, Government of India.

Date of Hearing : 1.12.2022

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

Petitioner : Coastal Energen Private Limited (CEPL)

Respondents : Tamil Nadu Generation and Distribution Co. Ltd. (TANGEDCO) and Anr.

Parties Present : Shri Basava Prabhu Patil, Sr. Advocate, CEPL

Record of Proceedings

The matter was mentioned today by the learned senior counsel for the Petitioner citing urgency in the matter.

2. Learned senior counsel submitted that the present Petition has been filed, *inter-alia*, seeking quashing of the letters dated 23.11.2022 and dated 30.11.2022 whereby the Respondent No.1, TANGEDCO has arbitrarily and unlawfully proposed to discontinue the procurement of 558 MW RTC power on pass through basis at the Energy Charge Rate (ECR)/benchmark tariff notified by the Respondent No.2, Ministry of Power, Government of India (MoP). Learned senior counsel for the Petitioner mainly submitted the following:

(a) Despite the directions issued by MoP under Section 11 of the Electricity Act, 2003 in subsistence till 31.12.2022, TANGEDCO vide its letter dated 23.11.2022 proposed to discontinue the procurement of the power on pass through basis as per the said directions with effect from 1.12.2022 and instead to procure the power as per the provisions of the PPA.

(b) Such discontinuation of the procurement by TANGEDCO w.e.f. 1.12.2022 is in violation of the direction of MoP which obligates the imported coal-based power plants and respective PPA holders to continue the power supply arrangement till 31.12.2022 at the ECR/benchmark tariff as fortnightly issued by the MoP.

(c) Based on the representation of TANGEDCO for procurement of power under Section 11 regime, the Petitioner has already made huge investment, in advance, towards sourcing the coal from outside the country, in order to ensure uninterrupted supply from 1.12.2022 till 31.12.2022.

(d) Moreover, the Petitioner company is already undergoing the corporate insolvency resolution process and facing severe financial stress. Such abrupt & sudden withdrawal of power procurement by TANGEDCO under Section 11 regime when the Petitioner has already made the investment towards procuring the imported coal would lead to severe financial loss to the Petitioner leading to shut-down of its plant.

(e) In response to TANGEDCO's letter dated 23.11.2022, the Petitioner, vide its letter dated 24.11.2022, had brought the above aspects to the notice of TANGEDCO. However, TANGEDCO, without considering the response of the Petitioner, further issued a letter dated 30.11.2022 reiterating the withdrawal of power procurement w.e.f. 1.12.2022.

(f) In the above circumstances, the Petitioner has filed the present Petition for quashing of the letters dated 23.11.2022 and dated 30.11.2022 issued by TANGEDCO and direction to TANGEDCO to procure the contracted power of 558 MW under long-term on pass through basis as per the directions of MoP under Section 11 of the Act. The Petitioner is also urging for an ad-interim stay on the operation of the letters dated 23.11.2022 and dated 30.11.2022 issued by TANGEDCO.

3. After hearing the learned senior counsel for the Petitioner, the Commission observed that the directions issued by MoP under Section 11 of the Electricity Act, 2003 are in subsistence till 31.12.2022 and any action of the Respondent shall be subject to final outcome of the case. Accordingly, the Commission directed to list the matter on 12.12.2022 at 2.30 P.M in view of the prayers made by the Petitioner.

By order of the Commission

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