



नई दिल्ली  
NEW DELHI

याचिका संख्या./ Petition No. 64/MP/2023

कोरम/ Coram:

श्री जिष्णु बरुआ, अध्यक्ष/Shri Jishnu Barua, Chairperson  
श्री आई. एस. झा, सदस्य/ Shri I. S. Jha, Member  
श्री अरुण गोयल, सदस्य/ Shri Arun Goyal, Member  
श्री पी. के. सिंह, सदस्य / Shri P. K. Singh, Member

आदेश दिनांक/ Date of Order: 16<sup>th</sup> of October, 2023

**IN THE MATTER OF:**

Petition under Section 79 of the Electricity Act, 2003 read with Regulation 14 and 15 of the CERC (Terms and Conditions of Recognition and Issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 and 2nd Amendment thereof along with supporting affidavit seeking allowance/approval for making application for RECs for the period September, 2021- February, 2022.

**AND IN THE MATTER OF:**

**Siddhayu Ayurvedic Research Foundation Private Limited (SARFPL)**  
Baidyanath Bhawan, Great Nag Road,  
Nagpur – 440024

**...Petitioner**

**Versus**

**1. National Load Dispatch Centre**  
B-9, 1<sup>st</sup> Floor, Qutub Institutional Area  
Katwaria Sarai, New Delhi- 110016

## 2. Maharashtra State Load Dispatch Centre

Kalwa, Thane- Belapur Road  
Airoli, Navi Mumbai- 400708

...Respondents

**Parties Present:** Shri Ashish Singh, Advocate, SARFPL  
Shri Anup Jain, Advocate, SARFPL  
Shri Kailash Chand Saini, NLDC  
Shri Gajendra Sinh Vasava, NLDC  
Shri Alok Mishra, NLDC  
Ms. Anjana Thakkar, Maharashtra SLDC  
Shri A. Pakhan, Maharashtra SLDC

### आदेश/ ORDER

The Petitioner, Siddhayu Ayurvedic Research Foundation Private Limited (SARFPL) is engaged in the business of generation of renewable energy (Wind) in the State of Maharashtra with a total installed capacity of 12.85 MW. The Petitioner has filed the petition under Section 79 of the Electricity Act, 2003 read with Regulations 14 and 15 of the Central Electricity Regulatory Commission (Terms and Conditions of Recognition and Issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 (“REC Regulations, 2010”) and the Central Electricity Regulatory Commission (Terms and Conditions of Recognition and Issuance of Renewable Energy Certificate for Renewable Energy Generation) (Second Amendment) Regulations, 2013 (“REC Amendment Regulations, 2013”) seeking allowance/approval for making application for 5557 Renewable Energy Certificates (RECs) for the period September 2021 to February 2022.

2. The Respondent No.1, National Load Dispatch Centre (NLDC) has been designated as the Central Agency by the Commission for the purposes of REC Regulations, 2010.
3. The Respondent No. 2, Maharashtra State Load Dispatch Centre (MSLDC) is an entity established under Sub-Section (1) of Section 31 of the Electricity Act, 2003.
4. The Petitioner has made the following prayers:
  - (a) *To admit the Petition as per the provision of Section 79 of the Electricity Act 2003*

*read with Regulation 14 and 15 of the CERC (Terms and Conditions of Recognition and Issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 and 2nd Amendment thereof; and/or*

- (b) To condone the delay and allow the Petitioner to either make fresh application or direct the MSLDC to issue the “Approved Energy Injection Report” for the months of November, 2021 to February, 2022 basis the already pending application; and/or*
- (c) To direct the NLDC to issue the RECs after due verification for the months of September, 2021 to February, 2022;*
- (d) To pass any other order/relief as the Hon’ble Commission may deem fit and appropriate under the circumstances of the case and in the interest of justice.*

### **Submissions of the Petitioner**

5. The Petitioner has submitted as under:

- a) The Petitioner sold its power under open access for the period September 2021- February 2022 and is an eligible entity to claim RECs in accordance with the REC Regulations, 2010 and REC Amendment Regulations, 2013. The Petitioner claimed ‘5557’ RECs for the period from September 2021- February 2022.
- b) The Approved Energy Injection Report (EIR) for the month of September 2021 and October 2021, was provided by MSLDC. However, the Petitioner was not able to claim RECs for the same within a period of 6 months from the date of the corresponding generation from NLDC. The internal management of the Petitioner went through reshuffling which led to an inadvertent oversight in making timely applications for claiming RECs as the nodal person responsible for this job was reshuffled and re-designated to carry out other jobs of the company.
- c) Further, an application to MSLDC was made by the Petitioner for the period November 2021 to February 2022 to issue the approved EIR so that the same can be submitted to NLDC for subsequent processing.
- d) On 29.11.2022, MSLDC rejected the application of the Petitioner stating the said application was time barred for claiming RECs for the period November 2021 to February 2022.
- e) The REC Regulations, 2010 and subsequent amendments thereof do not provide for a consequence in case, an eligible entity defaults in making an application within 6 months from the corresponding generation. The Regulations provide only a time frame for making the application but not the consequence, in case of an application

being made beyond the time frame. The consequence is provided in the Central Electricity Regulatory Commission (Terms and Conditions for Renewable Energy Certificates for Renewable Energy Generation) Regulations, 2022 (REC Regulations, 2022). The REC Regulations, 2010 and subsequent amendments thereof vests with the “*Power to Give Direction*” and “*Power to Relax*” provisions of the Regulations in specific facts and circumstances of a given case.

**Submission by MSLDC dated 05.06.2023**

6. MSLDC has submitted as under:
  - a) Prayers (a), (c) and (d) of the Petitioner are denied.
  - b) In response to prayer (b) it is submitted that MSLDC has received REC application for the months of November 2021 to February 2022 on 31.10.2022 along with proforma and EIR. As the application was received after the due date, the application was not processed and vide email dated 29.11.2022, MSLDC informed the Petitioner, accordingly.
  - c) MSLDC will follow the guidelines & directives of the Commission and will act accordingly.

**Hearing dated 19.07.2023:**

7. During the hearing held on 19.07.2023, the Petitioner submitted that the present Petition has been filed seeking approval for making the application for the grant of RECs for the period from September 2021 to February 2022. Both the Respondents, i.e. NLDC and MSLDC, expressed no objection to the consideration of the prayers made by the Petitioner. Considering the submissions of the parties, the Commission permitted the Petitioner to place on record the relevant orders/decisions in support of its case, if any, within a week and the matter was reserved for Orders.

**Analysis and Decision:**

8. We have heard the learned counsels for the Petitioner and the Respondents and have carefully perused the records.
9. The brief facts of the case are that the petitioner, SARFPL is engaged in the business of RE (Wind) Generation in Maharashtra with a total installed capacity of 12.85 MW. The Petitioner sold its wind power under open access for the period September 2021- February

2022 and is claiming 5557 RECs for the period September 2021- February 2022. MSLDC provided approved EIR for the month of September 2021 and October 2021, but the Petitioner was not able to claim RECs within a period of six (6) months from the date of corresponding generation from NLDC due to its internal management of reshuffling of portfolio of officials. The Petitioner has requested that RECs be issued for the above said months. Further, the Petitioner has made an application to MSLDC for November 2021 to February 2022 to issue the “Approved Energy Injection Report” but MSLDC rejected the application stating the said application was time barred for claiming RECs for the period November 2021 to February 2022. Therefore, the Petitioner pleaded with the Commission to allow it to either make a fresh application or to direct MSLDC to issue the “Approved Energy Injection Report” for the months of November 2021 to February 2022.

10. From the above, we note that the only issue involved is *whether the delay in application for issuance of RECs for the period from September 2021 to February 2022, may be condoned and whether the Respondent may be directed to issue equivalent RECs for the energy injected?*

11. The relevant provisions of Procedure for Issuance of Renewable Energy Certificates to the Eligible Entity by Central Agency (REC Issuance Procedures), 2010 stipulate 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.*

*.....”*

12. Further, Regulation 7(2) of the REC Regulations, 2010 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.”*

13. Further, the second amendment to the REC Regulations, 2010 provides as under:

*“4. Amendment of Regulation 7 of the Principal Regulations: (1) Clause (1) of the Regulation 7 shall be substituted as under: “**(1) the eligible entity 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.”*

14. From the above, the Commission observes that as per the mandate of the REC Regulations, 2010, its subsequent amendments 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 SLDC.

15. The Commission observes that the Petitioner has accepted the delay in submitting the application for issuance of RECs for the period September 2021 to February 2022. As submitted by the counsel of the Petitioner, the delay was caused by change in the internal management of the Petitioner’s company. The Petitioner has prayed for condoning the delay and for directing NLDC to issue RECs for the aforesaid period. The Respondent, NLDC has stated that it does not have any objection to the Petition filed by the Petitioner and that the

Commission may pass an appropriate Order in the matter. MSLDC submitted that *according to clause 5 of the CERC REC Regulations 2010, the Petitioner is an eligible entity for getting RE Certificates*. Further, MSLDC submitted that as it received the REC application along with proforma and Energy Injection Report (EIR) for the months of November 2021 to February 2022 after the due date and hence it cannot process the application.

16. In our view, *the delay in the application for issuance of REC is procedural in nature due to the reasons stated by the Petitioner and is not going to prejudice any of the stakeholders, including the Respondents.*
17. The relevant provisions of the *REC Regulations, 2010* stipulate as under:

***15. Power to Relax:***

*The Commission may by general or special order, for reasons to be recorded in writing, and after giving an opportunity of hearing to the parties likely to be affected may relax any of the provisions of these regulations on its own motion or on an application made before it by an interested person.*

18. The relevant provisions of *REC Regulations, 2022* stipulate as under:

***18. Power to Relax***

*The Commission may by general or special order, for reasons to be recorded in writing, and after giving an opportunity of hearing to the parties likely to be affected, may relax any of the provisions of these regulations on its own motion or on an application made before it by interested person(s).*

***19. Repeal and Savings***

*(1) Save as otherwise provided in these regulations, the REC Regulations, 2010 and all subsequent amendments thereto and Procedures thereof shall stand repealed from the date of coming into force of these regulations.*

*(2) Notwithstanding such repeal:*

*(a) anything done or any action taken or purported to have been done or taken or any accreditation or registration or permission granted or any document or instrument executed or any direction given under the repealed regulations shall, in so far as it is not inconsistent with the provisions of these regulations, be deemed to have been done or taken under the corresponding provisions of these regulations;*

19. From the above, we note that the REC Regulations, 2010 have been repealed by the REC Regulations 2022. By virtue of the saving clause, in terms of Regulation 19 (2) of the REC Regulations 2022, anything done or any action taken under the repealed REC Regulations 2010 shall be deemed to have been done or taken under the REC Regulations, 2022, It is pertinent to note that both the REC Regulations, 2010 and the REC Regulations, 2022 have



provisions for the power to relax and Power to give directions.

20. As per the principle laid down for the grant of RECs, if the Petitioner is engaged in the generation of electricity from renewable energy sources, it shall be eligible for issuance of RECs subject to the eligibility criteria. The main objective of the REC Regulations, 2010 is to promote the generation of renewable energy. Therefore, we are inclined to exercise the “Power to relax” under Regulation 15 of the REC Regulations, 2010 and under Regulation 18 of REC Regulations, 2022, in order to achieve the object of the regulations. Accordingly, we hereby relax Regulation 7(2) of the *REC Regulations, 2010* read with paragraph 4.1 (h) of the REC Procedures to enable the issuance of RECs to the Petitioner. As already decided above, the delay in the application for issuance of RECs is procedural in nature due to the reasons stated by the Petitioner and condoning the delay causes no harm to any of the stakeholders, including the Respondents.
21. Hence, the Commission condones the delay and relaxes the time limit for this case. Further, MSEDCL is directed to issue EIR, for the months of November 2021 in the pending applications before it and the NLDC is directed to issue the RECs for the months September 2021 to February 2022 after due verification and satisfying that a project meets all conditions and the Petitioner has submitted all required documents for issuance of RECs.
22. The Commission has condoned the delay and relaxed the time limit but in future, the Petitioner should follow the timelines strictly and avoid any delay. It is clarified that compliance with the provisions of the REC Regulations and the Detailed Procedure shall continue to be prerequisites for consideration of the applications for the issue of RECs.
23. The Petition No. 64/MP/2023 is disposed in terms of the above.

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(पी. के. सिंह)  
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