

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.306/MP/2022 along with IA No. 20/2023

Subject : Petition under Section 19 of the Electricity Act, 2003 read with Regulation 20 of the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of Trading Licence and other related matters) Regulations, 2020 inter-alia seeking punitive action against and revocation of trading license of Kreate Energy (I) Pvt Ltd.

Date of Hearing : **23.2.2024**

Coram : Shri Arun Goyal, Member
Shri P. K. Singh, Member

Petitioner : Uttarakhand Power Corporation Limited (UPCL).

Respondents : Kreate Energy (I) Private Limited (KEIPL) and Ors.

Parties Present : Shri Amartya Ashish Sharan, Advocate, UPCL
Shri Gopal Jain, Senior Advocate, KEIPL
Adarsh Tripathi, Advocate, KEIPL
Shri Ajitesh Garg, Advocate, KEIPL

Record of Proceedings

It is a proceeding under Section 19 of The Electricity Act 2003 read with regulation 20 of the CERC(procedure, terms and conditions for grant of trading licence and other related matters) 2020 for a punitive action along-with revocation of trading licence of the respondent no.. At the Outset, the learned counsel for the Petitioner submitted that the Petitioner has filed a Case being Complaint Case No. 4415/ 2021 under Section 138 of the Negotiable Instrument Act, 1881 ('NI Act') in Civil Court i.e. Magistrate Court Dehradun against Respondent No.1 and the Petitioner has pressed for interim compensation under Section 143A of the NI Act. It is pointed out that the cheque amount includes the amount claimed in this instant petition. Learned counsel further submitted that the Civil Court vide its interim order dated 11.1.2024 directed Respondent No.1, to pay 5% of the cheque amount i.e. Rs. 25,00,000/- as interim compensation within 60 days from the date of issuance of the order.

2. Learned senior counsel for Respondent No.1 submitted that as per direction of the Commission, the Respondent No.1 has already paid Rs.3 crore to the Petitioner. In response to a specific query of the Commission regarding the liquidation plan for the payment of the balance amount, learned senior counsel for Respondent No.1 submitted that the Respondent vide its reply dated 15.2.2024 has submitted the liquidation plan for making the payment of the balance principal amount of Rs. 21.98 crore by the end of December, 2024.

3. In rebuttal, learned counsel for the Petitioner opposed the liquidation plan as submitted by the Respondent No.1 and submitted that the balance outstanding amount be paid on or before five months (in five instalments) instead of December,

2024 and requested to direct the Respondent No. 1 to resubmit the liquidation plan. Learned counsel further pointed out that the current liquidation plan is only related to the principal amount and Late Payment Surcharge (LPS) amount of Rs.34 crore is yet to be paid by the Respondent No.1. Learned counsel sought liberty to file its rejoinder.

4. In response, the learned senior counsel for Respondent No.1 submitted that the Petitioner has imposed LPS upon the Respondent in a complete whimsical and wrongful manner. Learned senior counsel further added that the issue in dispute between the parties is purely commercial in nature and such questions can be duly identified and answered by way of arbitration to save the precious time and resources of this Commission. Learned senior counsel submitted that Respondent No.1 has filed an IA under Section 8 of the Arbitration and Conciliation Act, 1996 to refer the present dispute to arbitration for speedy redressal and resolution between the parties on the issue of the LPS.

5. Considering the submissions made by the learned senior counsel and learned counsels for the parties, the Commission directed as under:

(a) The Petitioner to file its rejoinder to the reply of Respondent No.1 within a week;

(b) The Petitioner to file its reply on the IA filed by the Respondent No. 1 within a week with a copy to the Respondent No.1, who may file its rejoinder, if any, within a week thereafter; and

(c) The Petitioner shall submit the outcome of the case pending before the Magistrate Court of Dehradun, in a timely manner.

6. The Petition along with IA shall be listed for the hearing on **26.3.2024**.

By order of the Commission

Sd/-

(T.D. Pant)

Joint Chief (Law)