

COURT-I
IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

APPEAL NO. 62 OF 2019 &
IA NOS. 270 & 1435 OF 2019

Dated : 30th September, 2019

Present: Hon'ble Mrs. Justice Manjula Chellur, Chairperson
Hon'ble Mr. S.D. Dubey, Technical Member

In the matter of:

Shri T. Gowranna		Appellant(s)
Vs.			
Karnataka Electricity Regulatory Commission & Ors.		Respondent(s)

Counsel for the Appellant(s) : Mr. Anand K. Ganesan
Ms. Swapna Seshadari

Counsel for the Respondent(s) : Mr. Shahbaaz Hussain
Mr. Fahad Khan for R-2

ORDER

Heard learned counsel for the Appellant and Respondents on interim relief. It is not in dispute that the Appellant entered into a PPA with Respondent Discom for supply of power from its 1 MW Solar Power Project situated at Molakalmur Taluk, Chitradurga District, state of Karnataka. In terms of PPA, the Appellant was required to achieve COD by 01.01.2017. Since the Appellant could not achieve COD, he requested for extension of scheduled COD by letter dated 16.12.2016. Apparently, BESCOM granted extension of 06 months from original COD which would end on 30.06.2017. It is not in dispute that actual COD was achieved on 24.06.2017 and power was supplied to BESCOM since then.

According to Appellant from bill dated 03.02.2018 they noticed that a sum of Rs. 10 Lakh was deducted on the ground of delay in achieving COD. According to Appellant COD was extended till end of June, 2017 and COD was achieved within that time. Therefore, there was no justification in deducting Rs. 10 lakh towards the penalty for delay in commissioning the project, by BESCOM.

However, in the Impugned Order, this fact was answered against the Appellant and the same is being challenged in this appeal. A stay was granted so far as the Impugned Order by this Tribunal on 28.02.2019.

In that view of the matter, as on today, there is a stay of Impugned Order and therefore in terms of stay by this Tribunal, this penalty for delay in commissioning of the project seems to be incorrect. So far as deduction of Rs. 10 lakh from charges for supply of power, there was extension of COD by BESCO and COD was achieved within that time. In between the end of extended COD and the impugned order, Respondent Discom did not have any right to deduct this Rs.10 lakh from monthly bills. However, on 03.02.2018, this amount seems to have been deducted which is prior to the Impugned Order. Therefore, the resultant situation would be as on today, there is no order for payment of penalty for delay in commissioning of the solar plant.

In that view of the matter, we direct the Respondent Discom to refund Rs. 10 lakh forthwith to Appellant. Meanwhile, Respondent Discom shall file reply to the main appeal. This order of refund is subject to result of final orders on merits in the appeal.

List the matter for hearing on **18.12.2019**

(S.D. Dubey)
Technical Member

kt/mkj

(Justice Manjula Chellur)
Chairperson