

COURT-I

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)**

**APPEAL NO. 191 OF 2019 &
IA NOS. 917, 916, 919, 1046, & 1047 of 2019**

Dated: 20th August, 2019

**Present: Hon'ble Mrs. Justice Manjula Chellur, Chairperson
Hon'ble Mr. Ravindra Kumar Verma, Technical Member**

In the matter of:

**Pinnacle Renewable Energy Pvt. Ltd.Appellant(s)
Versus
Uttar Pradesh Electricity Regulatory Commission & Ors.Respondent(s)**

Counsel for the Appellant(s) : Mr. Sourav Roy
Mr. Ruchir Ranjan Rai
Mr. Harsh Anand
Mr. Gaurav Majumdar

Counsel for the Respondent(s) : Mr. C.K.Rai
Mr. Sachin Dubey for R-1

Mr. Raghvender Singh, Sr. Adv.
Md. Altaf Mansoor for R-2

Mr. Puneet Chandra for R-4

ORDER

1. On May 22nd, 2019 this Tribunal passed an order on IA No. 1047 of 2019 wherein the Respondent No.2 was directed to grant temporary connectivity from 33 kV Kanduni sub-station to the Solar Power Plant of the Appellant forthwith subject to-

- a) The tariff for such supply shall be at Rs.5.07 per KWH.

- b) From the LD amount, one-fourth shall be adjusted out of the remaining Bank Guarantee amounting to Rs. 1.20 crores.
- c) Another one-fourth shall be deposited within 3 months from to-day.
- d) Balance 50 % of LD amount shall be adjusted from the monthly bills raised by the Appellant i.e. deducting to an extent of 50% of the monthly bills.

It was also directed that the connectivity must be done in the presence of responsible person from NEDA and State Chief Electoral Officer by 11 am on 23.05.2019.

- 2. Though the connectivity has been granted. However, the Appellant have been made to give an undertaking that it will not raise any claim regarding deemed energy or otherwise if there is any deficiency in solar production during the rostering period, as this project is at Discom sub-station.

3. The counsel representing the Appellant submitted that the undertaking dated 23.05.2019 has been signed under duress and, therefore have prayed to declare this undertaking dated 23.05.2019 as void and non-binding. He submitted that if this undertaking dated 23.05.2019 is allowed then it will not be possible to evacuate the electricity generated by these plants for long hours when the evacuation feeder is subjected to rostering and would defeat the very purpose of installation of the plant for harnessing the solar energy besides adversely affecting the financial viability of the plant.

4. He also submitted that CERC (Indian Grid Code Regulations, 2010) prevail over all the States and the State of Uttar Pradesh is not immune to the said Grid Code to provide that all the power plant operating on renewable energy come under the category of 'Must Run' i.e. there cannot be any breakdown on the said power plant. The actions of the Respondent No.2 not only are defeating the orders of this Tribunal but are also defeating Grid Code Regulations, 2010.

5. The Appellant further submitted that the Respondent No.2 has not given any explanation for not intimating about the ongoing rostering in the State before the State Commission, when the temporary

connection was awarded to the project, and also this Tribunal when the order dated 22.05.2019 was being passed by this Tribunal. The Respondent has also not given the details of the solar projects that are exempted from roster policy both urban and rural.

6. It is also pertinent to note that the answering Respondent in its Affidavit has annexed the Power Supply Schedule from 01.01.2017 to 20.07.2019 wherein it has been mentioned that for the Districts of Bareilly, Barabanki amongst others are subjected to rostering whereas as per the information received from respective Discoms, no rostering is being done on the sub-stations at which the renewable energy plants are connected. He further submitted that contrary to the submissions made by the Respondent No.2 that M/s. Technical Associates, Dhruv Milkos Renewable Energy Pvt. Ltd., M/s. Accord Hydroair, Dante Solar Power, Pripus have been exempted from rostering, whereas the Appellant's Solar Power Plant is subjected to continuous rostering.
7. The Appellant has prayed as under:-

- A. Direct the Respondents to schedule and utilize the power being generated at the Solar Power Plant at the 33 kV sub-station;
and
 - B. Declare that the Undertaking dated 23.05.2019 given under duress by the Appellant is void and non-binding on the parties,
and
 - C. Pass such other order(s) and / or direction(s) as it may deem fit and proper in the facts and circumstances of the case in the interest of justice.
8. The learned counsel for the Respondent No.2 reiterated their earlier stand that the roster policy has been in existence for more than two years including the period when interim directions were granted on 22.03.2019. He did not give any explanation as to why this fact was not brought to the notice of either the State Commission or this Tribunal when the orders for granting temporary connectivity to the solar plant were issued. The Respondent No.2 also did not furnish the details of the solar plant that are exempted from roster policy both urban and rural.

9. After hearing the submissions made by the learned counsel for the Appellant and for the Respondent No.2, we are of the opinion that the undertaking dated 23.05.2019, given by the Appellant under duress, be declared as void and non-binding on the parties. The Respondent No.2 is hereby directed to schedule and utilize the power being generated at the solar power plant on the 33 kV sub-station and ensure that the feeder evacuating power from the plant is available all the time and is kept in healthy condition to facilitate evacuation of full output from the plant.

List the main appeal for hearing on **15.10.2019** along with Appeal No. 238 of 2019 & IA Nos. 929, 1003, 1026, 1027, 1036 & 1321 of 2019.

Pronounced in the Open Court on this **20th Day of August, 2019.**

(Ravindra Kumar Verma)
Technical Member

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(Justice Manjula Chellur)
Chairperson

REPORTABLE/NON-REPORTABLE

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