

No. N/50/2018

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**BEFORE THE KARNATAKA ELECTRICITY REGULATORY COMMISSION,  
No.16, C-1, Millers Tank Bed Area, Vasanth Nagar, Bengaluru-560 052.**

**Dated:16.02.2021**

**Present**

<b>Shri Shambhu Dayal Meena</b>	<b>: Chairman</b>
<b>Shri H.M. Manjunatha</b>	<b>: Member</b>
<b>Shri M.D. Ravi</b>	<b>: Member</b>

**OP No. 20/2018**

**BETWEEN:**

Shishyla Educational Trust (R),  
Having its Administrative Office at  
No.23, II Floor, Pamadi Towers,  
1<sup>st</sup> Main Road, Gandhinagar,  
Bengaluru-560 009.  
(Represented by its Secretary)

**... PETITIONER**

[Petitioner represented by Sri Sridhar Prabhu,  
Navayana Law Offices, Advocates]

**AND:**

Bangalore Electricity Supply Company Limited,  
A Company incorporated under the  
Companies Act, 1956  
having its Registered Office  
at K.R. Circle,  
Bengaluru-560 001.  
(Represented by its Managing Director)

**... RESPONDENT**

[Respondent represented by Sri Sriranga.S, Just Law Advocates]

**ORDER**

1. This is a petition filed under Section 86 (1) (f) of the Electricity Act, 2003

praying for the following reliefs:

- a) Call for records;
- b) Declare the Communication that 27.11.2017 produced at Annexure-P1 is non est in the eye of law and hence not binding on the Petitioner and the Respondents; consequently,
- c) Set aside the letter dated 11.01.2018 issued by the Respondent produced at Annexure-P2;
- d) Direct the Respondents to synchronise the remaining 589.44/kWp of the petitioner project and grant the Commissioning Certificate;
- e) Direct the Respondent to pay tariff of Rs.9.56 per kWh as more fully detailed in the Power Purchase Agreement at Annexure-P6;
- f) Direct the Respondent to pay the dues till date;
- g) Pass such other order or orders, as may deem appropriate in the facts and circumstances of the case.

2. The brief facts set out in the Petition are as under:

- a) The Petitioner owns 30770 sq. mtrs roof top area situated at P.B No.4 P B Road, Davangere, in response to a scheme announced by the Respondent, approached Respondent (BESCOM) requesting for installation of 1000 kwp Grid Connected Solar Roof Top PV Power Generation System on Net Metering Basis. The petitioner submitted

application form in format-1 along with Certificate for not availing Subsidy from MNRE and Revenue Report in Format-3.

- b) The Respondent based on the application of the petitioner, submitted technical feasibility report (Annexure-P4) to the Assistant Executive Engineer (Ele) of Respondent to take necessary action.
- c) Petitioner and Respondent entered into a Power Purchase Agreement dated 11.12.2015 (Annexure-P5).
- d) The tariff payable under the PPA is set out in Article 6.1 accordingly, the Petitioner is entitled to receive the tariff of Rs.9.56 per kWh as determined by Commission for the term of the agreement. The said agreement is for term of 25 years as per Article 9.1. of the PPA.
- e) The Respondent by its letter dated 11.12.2015 (Annexure-P6) has submitted the documents for needful action to the Superintending Engineer (Ele), O & M Circle, BESCO, Davangere and the Assistant Executive Engineer (Ele), O & M City Sub-Division-1, BESCO, Davangere for installing 1 MW SRTPV system.
- f) The Respondent by its letter dated 16.01.2016 (Annexure-P7) has informed the petitioner stating that KERC has accorded approval to PPA on 01.01.2016.
- g) The Respondent by its Official Memorandum letter dated 19.03.2016 (Annexure-P8 collectively) granted approval for the petitioner project and directed to commission the project within 180 days from the date

of the said letter failing which the approval will be treated as cancelled. As per the said letter petitioner was obligated to commission the project within 18.09.2016 (180 days from 19.03.2016) which is not a pre-condition of the PPA dated 11.12.2015. It is submitted that the Respondent has issued a Certificate dated 19.03.2016.

- h) The Chief Electrical Inspector to Government of Karnataka, by its letter dated 24.03.2016 (Annexure-P9) has approved the drawings pertaining to electrical Installation of 487 kWp Solar RPTV system and accorded approval to take up work through Class-1 Licensed Electrical Contractor.
- i) It is submitted that the petitioner by its letter dated 28.03.2016 (Annexure-P10) has requested for enhancement of transformer of 315 KVA to 1200 KVA and the Petitioner is ready to pay the estimated cost.
- j) The Chief Electrical Inspector to Government of Karnataka, by its letter dated 30.03.2016 (Annexure-P11) approved the electrical safety pertaining to electrical Installation of 487 kWp Solar RPTV system.
- k) The Respondent by its Official Memorandum letter dated 18.05.2016 (Annexure-P12) has informed/directed ESCOMs not to grant extension of time for completion of installation work and the same is withdrawn with immediate effect.

- l) The Petitioner by its letter dated 25.05.2016 (Annexure-P13) has requested the Additional Chief Electrical Inspector Bengaluru, North to approve the dismantling of SRTPV of 67.71 kWp installed on the roof of Girls Hostel, at GM Institute of Technology. The Petitioner further requested the Respondent to accord approval for installing SRTPV of  $(419.68+589.44)=1009.12$  kWp.
- m) The Chief Electrical Inspector to Government of Karnataka, by its letter dated 27.05.2016 (Annexue-P14) approved the drawings pertaining to Electrical Installation of 580.71 kWp SRPTV system.
- n) The Respondent by its letter dated 28.05.2016 (Annxure-P15 collectively) stated that the synchronization test conducted found satisfactory and it has successfully synchronized with the BESCOM grid. The Respondent has issued certificate of Commissioning and synchronizing of 487 kWp of SRTPV system on 28.05.2016.
- o) The Chief Electrical Inspector to Government of Karnataka, by its letter dated 07.12.2016 (Annexure-P16) approved the electrical safety pertaining to electrical Installation of 566 kWp Solar RPTV system.
- p) The Respondent by its letter dated 26.12.2017 (Annexure-17) informed the Petitioner to enter into fresh PPA at a revised tariff of Rs.3.57 per unit purportedly based on letter dated 27.11.2017 of the Commission.

- q) The Secretary of the Commission by its letter dated 27.11.2017 has informed the Respondent stating that it may execute fresh Power Purchase Agreement with Petitioner at the tariff of Rs.3.57 per unit for the term of the PPA for the reduced capacity of 486 kWp.
- r) Consequently, the Respondent by its letter dated 11.01.2018 has informed the Petitioner stating that as per the agreed/fixed price of Rs.3.57 per unit the Petitioner is required to send the Audited monthly bills for the period from 28.05.2016 to 31.12.2017.
- s) The Petitioner by its letter dated 29.01.2018 (Annexure-P18) has requested Executive Engineer, O & M Division, BESCO, Davanagere that he is entitled to the tariff of Rs.9.56 per unit under net metering scheme as per PPA. However, the Respondent has issued fresh Revised billing format for the period from 28.05.2016 to 31.12.2017 with a reduced tariff of Rs.3.57 per unit, which was not accepted by the Petitioner. The Petitioner further requested not to release any bills in future at the tariff rate of Rs.3.57 per unit as the same is being challenged by the Petitioner before KERC.
- t) The Respondent by its letter dated 08.02.2018 (Annexure-P19) has forwarded the Petitioner's letter dated 29.01.2018 to its General Manager (DSM) requesting to process the SRTPV bills as per reduced tariff.

- u) The Petitioner started to generate power and supplied the power generated to the Respondent. The Respondent has issued revised bills from 28.05.2016 to 31.12.2017 (Annexure-P20) at the rate of Rs.3.57 per unit.
- v) The administrative letter issued by the Commission without providing an opportunity of hearing to the affected parties are non-est in the eye of law. Therefore, this Commission, as quasi-judicial body, could not have authorised to issue unilateral letters, to its Secretariat, that too without hearing the petitioner herein, particularly, in view of the specific ruling by the Hon'ble High Court of Karnataka in the case of CLEAN SOLAR POWER (HIRYUR) PRIVATE LIMITED Vs. KERC & Others (WP No.27799/2016 & 46729/2016) dated 14.12.2016. Therefore, the Respondent ought to have ignored the letter dated 27.11.2017 issued by the Secretary of the Commission. The letter dated 27.11.2017 is neither a judicial pronouncement nor issued by Chief Executive of the Commission, the Chairman, as per Section 84 (4) of the Electricity Act, 2003. Hence, any letter issued by an officer of the Commission is non est in the eyes of law. Consequently, any letter issued by BESCO, based on such directive, is non est too.

3. Apart from the above, the Petitioner urged the following grounds:

- a) The tariff agreed in the PPA dated 11.12.2015 is Rs.9.56 per kwh as determined by the Commission for the term of 25 years of the PPA and the Petitioner is entitled for the same.
  - b) The PPA signed between the parties does not envisage the commissioning of the project within 6 (Six) months from signing of the PPA. Further, it is important to note that there is no provision to apply any other tariff in substitution of the tariff already agreed under the PPA and this condition, read with the fixed tariff stipulated in the PPA, implies that Commissioning Date is not the criterion for the tariff.
  - c) The Petitioner approached Respondent office on various occasions requesting the Respondent for synchronising/commissioning the remaining 589.44 kWp of the Petitioner project, but under one pretext or the other the Respondent delayed the processing and did not commission the project.
  - d) The Respondent relying on the letter dated 27.11.2017 of the Commission at later stage cannot ask the Petitioner to enter into fresh PPA and reduce the tariff to Rs.3.57 per unit instead of Rs.9.56 as agreed between the parties as in PPA dated 11.12.2015.
4. Upon issuance of Notice, the Respondent appeared through its Counsel and filed Statement of Objections denying each para of the petition. Further the Respondent contended as under:

- a) On 27.11.2015, the Petitioner had filed an application with the Respondent for setting up a 1000 kWp SRTPV plant. On 05.12.2015, the Respondent issued a report stating that Petitioner's proposed SRTPV plant is feasible.
- b) The Respondent vide letter dated 08.11.2017 sought clarification from the Commission with respect to tariff applicable to the SRTPV plants that are partly commissioned. This Commission vide letter dated 27.11.2017 was pleased to clarify that the Petitioner is entitled to a tariff of Rs.3.57 per unit for its SRTPV plant with a reduced capacity of 486 kWp subject to execution of a fresh PPA. The Respondent vide letter dated 26.12.2017 communicated the same to the Petitioner in regard to execution of fresh PPA at Rs.3.57 per unit.
- c) The Petitioner vide letter dated 29.01.2018 accepted a tariff of Rs.3.57 per unit subject to the same being adjudicated by this Commission. Therefore, on 15.03.2018 the Petitioner filed the present petition.
- d) In response to the contentions urged by the Petitioner, BESCO stated that the Petitioner was required to commission the plant within 180 days from the date of execution of PPA. Even as per the SRTPV guidelines of the Respondent, for SRTPV applicants having existing buildings, the time prescribed is 180 days. The said Policy of the Respondent is in public domain and is available and known to all. Therefore, the Petitioner was required to commission the project on or before 20.06.2016. Further, the

Commission in its order dated 02.05.2016 has clearly stated that for PPA's executed at the tariff of Rs.9.56 per unit the time shall not be extension beyond 180 days. Hence, the Petitioner's prayer for payment at the tariff of Rs.9.56 per unit is untenable and opposed to the order of this Commission.

- e) The Petitioner has failed to commission the plant with the contracted capacity of 1000 kWp within the stipulated timeframe. The Petitioner has commissioned 487 kWp on 28.05.2016 but failed to commission the remaining capacity of 589.44 kWp. It is pertinent to note that the Petitioner was granted approval by the Chief Electrical Officer in respect to 589.44 kWp after the scheduled commissioning date (20.06.2016).
- f) The Petitioner has commissioned initially 487 kWp capacity instead of 1000 kWp contracted capacity agreed to in the PPA. The Petitioner has violated the terms of the PPA by not installing the agreed capacity stipulated in the PPA. This very aspect has been dealt with by the Commission in OP No.149 of 2017 Tadissha Reddy Vs. HESCOM, (Annexure-R2) wherein such a practice has been deprecated.
- g) It would be of relevance to note that this Commission vide order dated 07.11.2017 (Annexure-R3) was pleased to clarify that SRTPV projects that are not commissioned in terms of the PPA, are only eligible for tariff of Rs.3.57 per unit. Therefore, the Petitioner is only entitled to a tariff of

Rs.3.57 per unit for the energy injected from its SRTPV plant with capacity of 487 kWp.

- h) It is pertinent to note that as per Article 7.1 of the PPA, the Petitioner had to install a meter for measuring Solar Power Generation. In addition to the same, the Petitioner was required to install a SRTPV meter to measure the solar energy being generated was clearly intimated to the Petitioner by the Respondent vide letter dated 19.03.2016 (Annexure-R1 to IA No 1 of 2018 filed by the Respondent). The Respondent in the above mentioned letter has clearly stated the Petitioner had to install energy meter to measure the solar generation with suitable capacity, at its own cost. The meter measuring solar generation is essential to determine the energy generated from SRTPV plants.
- i) Instead of complying with the necessary requirements within the timeframe, the Petitioner has installed the meter for measuring generation only in the month of September 2018. The said meter is also not in keeping with the requirements specified in the PPA and SRTPV guidelines. The PPA mandates installing one solar generation meter at the point of inter-connection to the distribution system, but the Petitioner has installed Four Solar generation meters contrary to terms of the PPA. Therefore, the Petitioner has violated the terms of the PPA.
- j) In compliance with the direction of this Commission, a joint inspection was carried out in the presence of representatives of the Petitioner and

the Respondent on 20.08.2019 & 21.08.2019. As per the synchronization certificate dated 28.05.2016 the Petitioner has synchronized 487 kWp capacity of SRTPV plant. However, during the inspection on the above stated dates it was found that the Petitioner has installed 418.16 kWp Solar Panels on 6 BLOCK (on each building 110.41 kWp, 78.08 kWp, 119.56 kWp, 43.92 kWp, 66.49 kWp) as against the certified/stated to have commissioned & synchronized a capacity of 487 kWp. It was also noticed that the Petitioner has installed 110.10 kWp Solar Panels on Civil block & Bus shelter which has been constructed by using steel like structures, which are in violation of building norms stated in Government Circular dated 17.08.2016. Therefore, the Petitioner has flaunted all the norms specified and has acted in gross violation of the terms of the PPA as well as the SRTPV Guidelines.

- k) The Petitioner has fraudulently installed and commissioned additional modules in addition to the capacity already synchronized by the Respondent. From the perusal of the Petitioner's Consumption details (Annexure-R4) it is evident that the Petitioner has unauthorizedly connected the additional Solar Panels to the grid. The average Consumption of energy by the Petitioner before the installation of SRTPV plant for the period 01.05.2015 to 28.05.2016 is 54,794 units. Considering the CUF at 19%, the total monthly solar energy that can be generated from SRTPV plant with a capacity of 487 kWp was about

68,500 units. After deducting energy used for self-consumption (54,795 units- 68,500 units), ideally, the Petitioner ought to have exported 13,705 units of energy, which is 21% of the total solar energy generated. Only for the period between June 2016 and December 2016, the Petitioner has injected 21% of the total energy generated. However, during the period from December, 2016 to July 2020, the Petitioner has fraudulently injected more than 100% of the energy generated. Further to reinforce his argument the Respondent has stated that the Solar generation meter installed recorded generation of 41,399 units during the month of September 2018, whereas exported energy as 79,750 units. The fact that the Petitioner is injecting energy beyond the capacity of 487 kWp state to have been commissioned proves beyond doubt that the Petitioner has installed additional modules and is unauthorisedly injecting energy from its plants to the Grid. The Petitioner is not entitled for any payment for energy injected from additional panels installed fraudulently as the PPA does not contemplate such sale and injection at all.

- l) Insofar as the Petitioner's prayer for commissioning of the balance capacity of SRTPV plant of 589.44 kWp is concerned, the Respondent stated that if the Commission approves the commissioning of the said plant, the Respondent is willing to commission and purchase power from the Petitioner's plant subject to execution of new PPA for total capacity of 1000 kWp as per the Generic Tariff Order dated 01.08.2019

and 15.09.2017. The commission vide above mentioned orders has allowed installation of multiple SRTPV units in phased manner at 90% of the tariff determined in the Generic Tariff Order dated 01.08.2019 i.e., Rs.2.763 per unit (90% of the present tariff of Rs.3.07 per unit). As the Petitioner has installed plant in phased manner, it is entitled to a tariff of Rs.2.763 per unit as per the Generic Tariff Order dated 01.08.2019 and 15.09.2017.

m) With regard to the contention of the Petitioner that the letter dated 27.11.2017 issued by the Secretary of the Commission is non est in eye of law, that as per Clause 7 of KERC (General & Conduct) Regulation 2000, the Secretary, who is the Principal Officer of the Commission, exercises his powers and performs his duties under the control of the Chairman of the Commission and assists the commission in performing its duties. Therefore, the Secretary has issued the above mentioned letter in exercise of powers specified under the Regulation. From the perusal of the letter, it is clear that Secretary vide said letter has only communicated the decision of the Commission. Hence, contention of the Petitioner that the said letter is unilateral and ought to have been issued after hearing the Petitioner is untenable and denied.

n) Therefore, the Respondent prays for dismissal of the petition.

5. We have heard the Learned Counsel for parties. The Petitioner has filed written arguments, reiterating the contentions raised in the petition.

6. From the above pleadings and rival contentions raised by the parties, the following issues arise for our consideration:

**Issue No.1:** Whether the partial implementation of SRTPV System is allowed as per the terms of the PPA or the guidelines issued for installation of SRTPV System?

**Issue No.2:** Whether the Petitioner proves that partial implementation of SRTPV System claimed by it is commissioned within the time allowed?

**Issue No.3:** Whether the Respondent proves that the Petitioner has unauthorizedly injected more than 100% of the energy that could be generated from the installed capacity?

**Issue No.4:** Whether the Respondent proves that the Petitioner has violated the terms and conditions of the PPA?

**Issue No.5:** Whether the Petitioner can be allowed to Synchronize the reaming 566 kWp Capacity SRTPV System?

**Issue No.6:** To which reliefs the Petitioner is entitled to?

**Issue No. 7:** What Order?

7. After considering the submission of the parties and the material on record, our findings on the above issues are as follows:

8. **Issue No.1:** Whether the partial implementation of SRTPV System is allowed as per the terms of the PPA or the guidelines issued for installation of SRTPV System?

a) It is not in dispute that the Petitioner and the Respondent have executed the PPA dated 11.12.2015 for establishing/installation of

SRTPV System 1000 kWp capacity on the roof-top of the premises situated at P.B-4, P.B. Road Davangere. There is no provision in the PPA for the Petitioner to implement SRTPV System in parts. If the parties to the PPA were agreed for implementing of the project in parts, there would not have been any impediment to include such clause in the PPA dated 11.12.2015. Knowing fully well the terms and conditions of the SRTPV System Petitioner has executed the PPA for 1000 kWp capacity.

b) According to Annexure-P15 the Petitioners SRTPV System of 487 kWp was Synchronized on 28.05.2016. We have perused the consumer guidelines (on net metering basis) issued by the Respondent. There is no provision to implement the project in parts. Even the Petitioner has not brought to the notice of the Commission of any such provision to allow partial implementation of SRTPV System. Hence, we are of the considered opinion that implementation in parts of SRTPV System is not allowed under the terms of the PPA and guidelines issued for installation of SRTPV System. Hence, we answer issue No.1 in the negative.

9. **Issue No. 2:** Whether the Petitioner proves that partial implementation of SRTPV System claimed by it is commissioned within the time allowed?

- a) The Petitioner has contended that he owns 30,770 sq. meter Roof Top area and applied for 1000 kWp capacity SRTPV project. According to the synchronize certificate dated 28.05.2016 (Annexure-P15) the Petitioner initially implemented the project partially i.e. 487 kWp.
- b) According to Annexure-P13 dated 25.05.2016 addressed to CEIG Bengaluru the Petitioner has stated as under:

“(1) to (4) .....

(5) we are later noted that 67.71 kWp Solar Rooftop installation at Girls Hostel is not in RR No.DHT-42 but covered under RR No. MSEH-40439.

(6) SRTPV System installation approval of 419.68 kWp (487.39 kWp - 67.71 kWp) will be applicable under the RR No.DHT-42.)

(7) We submitted Drawings for 419.68 + 589.44=1,009.12 kWp for approval covered under RR No. DHT-42 with a sanctioned installation of 1,000 kWp.

We would now request you to kindly allow dismantling of 67.71 kWp installed in Girl's Hostel and consider 419.68 (487.39-67.71) Solar Rooftop Installation Approval against your approval Letter No. CEIG/ACE/E1-1/AE1-1/39956-60/15-16 dated 30.03.2026.

We also request you to kindly accord approval of 589.44 kWp SRTPV Installation Drawing submitted vide our letter No. GMIT/BESCOM/Solar/May dated 14 May 2016 for total installation of 1,009.12 (419.68+589.44) kWp covered under RR No. DHT-42 for proceeding for installation work.

*We will submit fresh Drawings considering Girl's Hostel SRTPV Installation covered under RR No. MSAEH-40439 for Power Purchase Agreement of 500 kWp Installations in Phase-II soon it is ready."*

- c) The above said admission by the Petitioner clearly shows that the Petitioner was required to implement only 419.68 kWp instead of 487 kWp. However, the Petitioner implemented the SRTPV System to the extent of 487 kWp. The Commission ordered for submission of Joint Inspection Report to know the factual status of the project. The Joint Inspection Report has been conducted on 20.08.2019 and 21.08.2019 in the presence of Officials of the Petitioner & Respondent. The Joint Inspection Report shows that on the date of inspection the capacity of SRTPV System plant was only 418 kWp. The Respondent also took the same plea in his Statement of Objection (para 15). Moreover, the Petitioner has not filed any Objections to the joint inspection report and rejoinder to the Statement of Objections. Therefore, it goes to show that the Petitioner admits that it has implemented the Project to the extent of 419.68 kWp and not 487 kWp as claimed in the petition. But the Petitioner has not Stated the date on which he applied for reduction of capacity before CEIG Bengaluru and the date on which the CEIG Bengaluru approved the reduction of capacity and the date on which the Petitioner actually reduced the excess capacity. Therefore, one cannot say the date on which 419.68 kWp SRTPV System

was synchronized. It was for the Petitioner to establish on which date, it obtained rectified CEIG report and thereafter on which date it dismantled the solar panels installed on the roof of Girls Hostel. As per Article 9.3 of the PPA, the Respondent should have issued notice on breach of the terms of the PPA. But no such notice is issued & the same was admitted by the Respondent counsel at the time arguments. Even the Petitioner also not raised this contention in the pleadings.

d) The Petitioner's own admission and Joint Inspection Report unequivocally establishes that the Petitioner has even failed to implement its SRTPV System to the extent of synchronized capacity. The Respondent also not denied the Synchronization Certificate dated 28.05.2016 (Annexure-P15) but in the Statement of Objection denies the 487 kWp capacity and admits that only 419 kWp as commissioned. This statement also admitted by the Petitioner in Annexure-P13. In view of these facts and circumstances the Petitioner proved the synchronization to the extent of 419 kWp within the allowed time.

e) Hence, we hold issue No.2 in the affirmative.

10. **Issue No. 3:** Whether the Respondent proves that the Petitioner has injected more than 100% of the energy that could be generated from the installed capacity?

a) The Respondent in its Statement of Objection has contended that the Petitioner has fraudulently installed and commissioned additional

modules in addition to the capacity already Synchronized by the Respondent. To support this claim, the Respondent relies on Petitioner's consumption detail during the months of June 2015 to May 2016 as in Annexure-4, that is the period prior to the partial synchronization of SRTPV project. Further, the Respondent has pleaded that the Petitioner has un-authorizedly connected the additional solar panels to the grid as evident from the average consumption of energy per month by the Petitioner before installation of SRTPV plant for the period from 01.05.2015 to 28.05.2016 was 54,795 units and considering CUF at 19%, the total monthly solar energy generated from SRTPV plant with a capacity of 487 kWp would be 68,500 units. After deducting energy used for self-consumption (68,500 units-54,795 units), the Petitioner ought to have exported 13,705 units of Energy, which is about 21% of the total solar energy generated. For the period between June 2016 and December 2016, the Petitioner has injected 21% of the total energy generated. Further the Respondent contended that, from the December 2016 to July 2020, the Petitioner is injecting more than 100% of the energy required to be generated. For instance, the Solar generation meter installed during September 2018, records Solar generation of 41,399 units during month of September 2018 whereas exported energy shown was 79,750 units. Therefore, it is contended that the Petitioner is injecting in excess of normative average energy to be generated with the synchronized capacity. It proves

beyond doubt that the Petitioner has installed additional modules and is unauthorizedly injecting energy from its plant. The Respondent to support this contention relied on Annexure-R5.

- b) We have perused Annexure-R5. It clearly shows that the Petitioner has injected almost twice the energy that could be generated by the Synchronized SRTPV System capacity of 487 kWp. However, we have found as noted in issue No.2 that the actual capacity installed was 419 kWp but not 487 kWp as shown in the Certificate of Synchronization dated 28.05.2016 (Annexure-P15). This has not been properly defended or answered by the Petitioner. If the Annexure-R4 and R5 are not correct the Petitioner ought to have filed the objections to the same by way of rejoinder, but the Petitioner not doing so, has admitted the contents of Annexure-R4 and R5.
- c) The joint inspection report show that the Petitioner has fixed solar panels on buildings which are not synchronized. Therefore, the only inference that can be drawn by the Commission, is that the Petitioner has injected the energy generated from the panels installed on the buildings, which were not synchronized and certified as synchronized.
- d) The above said Statement of the Respondent shows that the Petitioner has injected energy from the additional modules installed in addition to the energy injected from the capacity already synchronized by the Respondent. Contents of Annexure-R4 & R5, are not denied by the

Petitioner by filing rejoinder, and there by the Petitioner admits that it installed additional modules and injected more than 100% energy that could have been generated from the installed capacity of 419 kWp.

e) Hence, we answer issue No.3 in the affirmative.

11. **Issue No. 4:** Whether the Respondent proves that the Petitioner has violated the terms and conditions of the PPA?

a) The Respondent has taken plea in Statement of Objections at para 14 that the Petitioner has installed 4 (Four) solar generation meters instead of single solar meter as required under the PPA and thereby violated the terms of the PPA. Further, in para 15 the Respondent contended that the Petitioner has installed 110.10 kWp solar panels in Civil Block and Bus shelter which has been constructed by using steel like structure, which are in violations of building norms stated in Government Circular dated 17.08.2016, flaunted all specified norms and has acted in gross violation of the terms of PPA as well as the SRTPV guidelines.

b) The Petitioner applied for installation of 1000 kWp grid connected Solar Rooftop PV power generation system and after submission of Feasibility Report by the Respondent, the Petitioner and Respondent entered into Power Purchase Agreement on 11.12.2015 for the above capacity.

- c) We have already noted that the Petitioner has implemented the Project in part and there is no such provision in the PPA for partial synchronized.
- d) The Respondent took a specific contention that the Petitioner has installed 4 (it ought to be 5 in view of Joint Inspection Report) Solar meter instead of single meter as per Article 7.1 of the PPA dated 11.12.2015 which reads as under:

*7.1 The parties shall arrange to shift the existing meter to the generation side of SRTPV to measure solar power generation and install Bi-directional meter (whole current/CT operated) for recording export and import of energy at the point of interconnection to the distribution system. The Bi-directional meter shall comply with the Central Electricity Authority (Installation and operation of meters) Regulations, 2006.....*

- e) Joint Inspection Report conducted on 20.08.2019 & 21.08.2019 clearly shows that the Petitioner installed 5 Solar meters in different Blocks as shown in the Layout sketch of SRTPV System prepared during joint inspection report instead of single solar meter as per Article-7 of the PPA.
- f) According to the Petitioner it agreed to put-up 1000 kWp grid connected Solar Rooftop PV power generation system on net metering basis. It is not in dispute that petitioner has not implemented

the project as a whole and it implemented in parts and further the solar meters were not fixed as per Article-7 of the PPA.

g) Therefore, we conclude that the Petitioner has failed to install SRTPV project as agreed in the PPA and it is evident from Annexure-P15, joint inspection report and the Petitioner's own admission in the petition. In view of the above reasons we are of the opinion that the Petitioner has violated terms and conditions of the PPA and SRTPV guidelines.

h) Hence, we answer issue No.4 in the affirmative.

12. **Issue No. 5:** Whether the Petitioner can be allowed to synchronize the remaining 566 kWp capacity of SRTPV System?

a) The Petitioner in para 28 of the petition has stated that, he approached the Respondent on various occasions regularly for synchronizing the remaining capacity of the SRTPV System, but the Respondent went on delaying the commissioning the said remaining capacity. It may be noted that the Petitioner obtained CEIG approval dated 07.12.2016 (Annexure-P16) for the remaining 566 kWp capacity. Therefore, it can be said that, this Petitioner of the SRTPV System was ready for synchronization of remaining capacity of the project. The Respondent in its objections has denied that the Petitioner has approached the Respondent on various occasions with regard to Commissioning of remaining part of SRTPV plant. From the records it

can be noted that, the Petitioner has not produced written communication for having approached the Respondent requesting for commissioning the remaining part of SRTPV System. One can expect that the Petitioner should have sent written communication requesting for commissioning the remaining part of SRTPV System. The Respondent in its objections at para 17 has stated that the Respondent is willing to purchase the power at Rs.2.763 per unit (90% of the present Tariff of Rs.3.07 per unit) as per the Generic Tariff Order dated 01.08.2019 and 15.09.2017 on the condition that the Petitioner executing a fresh PPA for the total Capacity 1000 kWp, in case the Commission directs for Synchronization of the balance Capacity of 589 kWp.

- b) The Petitioner is a register trust running Educational Institutions. It has spent the amount for installation of remaining part of the SRTPV System which is not yet synchronized. Therefore, we are of the considered opinion that this remaining part can also be allowed to be commissioned subject to the Petitioner signing a fresh PPA.
- c) The Respondent in its Statement of Objections (Para-17) has stated that if the Commission approves the commissioning of remaining capacity of 589.44 kWp of the plant, the Respondent his willing to purchase power from the Petitioner's plant subject to execution of new PPA for total capacity of 1000 kWp only as per Generic Tariff Order

dated 01.08.2019 and 15.09.2017. The Commission noted that the Petitioner invested huge amount in installing the solar energy plants on the buildings and CEIG also approved the same. Therefore, there is no impediment to approve the synchronization of remaining capacity of 589.44 kWp. Solar energy is pollution free and environmental friendly. Hence the Generation of solar energy is to be encouraged.

d) The Petitioner obtained CEIG report on 07.12.2016 (Annexure-P16) in respect of remaining 566 kWp SRTPV System. Therefore, one can say that the commissioning of this part of SRTPV system would be after 6 (Six) months. Therefore, admittedly there would be delay in Commissioning this portion of the SRTPV system beyond time allowed and hence, the commissioning is allowed at the reduced tariff.

e) Hence, we answer issue No.5 in the affirmative.

13. **Issue No. 6:** To which reliefs the Petitioner is entitled to?

a) As per the finding on issue No. 2, it can be said that the Petitioner has commissioned the part (419 kWp) of SRTPV System within the time allowed. Admittedly the remaining part (566 kWp as per CEIG report dated 07.12.2016) is not yet Commissioned. Even if it was commissioned soon after obtaining CEIG report dated 07.12.2016 (Annexure-P16) there would have been delay in commissioning the project. Therefore, we are of the opinion that to meet ends of justice the tariff of Rs.5.20 per unit may be allowed for the entire capacity of

SRTPV System of the Petitioner as per the Generic Tariff Order dated 02.05.2016 on the condition that the Petitioner rectifies the mistake committed in installing Solar meter at different places. Earlier this Commission had sent letter dated 27.11.2017 (Annexure-P1) intimating that the Petitioner was entitled to a reduced tariff of Rs.3.57 per unit for the reduced capacity of 486 kWp as per the Commission's Order dated 07.11.2017. We have perused the file bearing No. KERC/S/F-31/Vol-264 in which the letter dated 27.11.2017 was issued after processing the request of the Respondent. It is noted in the said file that the part commissioning of SRTPV System would cover under Para-C of this Commission's order dated 07.11.2017. Therefore, the Commission issued a letter dated 27.11.2017 (Annexure-P1). We have perused order dated 07.11.2017. Para-C of that order is applicable when the PPA was terminated. In the present case the Respondent has not terminated the PPA at any time. Therefore, we are not inclined to apply Para-C of the order dated 07.11.2017.

- b) At present the generation of solar energy is being evacuated and consumed in each building block there itself and the excess solar energy if any, is being exported and the same is recorded in the Bi-directional meter. As per the terms of the PPA, the solar generation meter should record the gross solar generation and such meter shall be placed by the side of Bi-directional meter. Therefore, the

Petitioner has to make necessary and suitable change in the wiring system, so that the gross solar energy shall be recorded in the solar generation meter and thereafter consumed.

- c) It is noted that the Petitioner has usually injected the energy more than 100% of the energy that could have been generated from the officially commissioned capacity, as found in issue No.3. It is also noted that the actual capacity now synchronized is only 419 kWp but not 487 kWp. The average consumption of the petitioner was 54,795 units as per Annexure-R4 & R5, prior to Synchronizations of 419 kWp SRTPV System. Therefore, after Synchronization of 419 kWp SRTPV System the petitioner is to be billed for the balance energy as per the clause 8 of the PPA. This billing system should continue till the gross solar meter is placed by the side of bi-directional meter making necessary and suitable change in the wiring system so as to record gross solar energy generation. After carrying out the above corrections and on executing a fresh PPA for a Tariff of Rs.5.20 per unit and Synchronization of the entire capacity of 985 kWp (419+566), the petitioner can be allowed for the net energy injected into the grid at Rs.5.20 per unit. The petitioner has executed the PPA on 11.12.2015. The entire capacity is not yet commissioned. The tariff has been considerably reduced from time to time. Therefore, the

term of the PPA, now to be executed may be restricted to 20 years from the date of synchronization of the entire capacity.

d) Hence we answer this issue accordingly.

14. **Issue No. 7:** What Order?

For the above reasons, we proceed to pass the following:

**ORDER**

The petition is partly allowed, as follows:

- a) The part of SRTPV System of 566 kWp capacity shall be Synchronized along with the existing 419 kWp capacity already synchronized on fulfilling following conditions:
  - i. The Solar Generation meter should be placed by the side of existing Bi-directional meter, after, effecting necessary and suitable change in the wiring system so that the gross generation of solar energy, shall be recorded in the solar generation meter and thereafter, solar energy be consumed.
  - ii. After carrying out the correction in the wiring system and on installing the solar energy meter, the fresh PPA for the entire capacity of 985 kWp shall be executed by the Petitioner at a tariff of Rs.5.20 per unit on net metering basis for the energy injected in to the grid, within two months from the date of this order.

iii. The rights and liabilities of the parties shall be adjusted as per the clause 8 of the PPA with tariff as approved in this order.

b) The fresh PPA shall be executed within two months from the date of this order.

c) The remaining inconsistent reliefs prayed by the Petitioner are hereby rejected.

sd/-  
(SHAMBHU DAYAL MEENA)  
Chairman

sd/-  
(H.M. MANJUNATHA)  
Member

sd/-  
(M.D. RAVI)  
Member