



नईदिल्ली

NEW DELHI

याचिका संख्या. /Petition No.: 180/MP/2020

कोरम/ Coram:

श्रीपी. के. पुजारी, अध्यक्ष/ Shri P. K. Pujari, Chairperson
श्रीअरुण गोयल, सदस्य/ Shri Arun Goyal, Member
श्रीपी. के. सिंह, सदस्य / Shri P. K. Singh, Member

आदेश दिनांक/ Date of Order: 08th of December, 2021

IN THE MATTER OF:

Petition seeking directions against the Respondent, National Load Despatch Centre in the matter of issuance of the Renewable Energy Certificates to the Petitioner for the specified period.

AND IN THE MATTER OF:

Regulation 24 read with Regulation 111 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 and Regulations 14 and 15 of the Central Electricity Regulatory Commission (Terms and Conditions for Recognition and Issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010

AND IN THE MATTER OF:

Section 79 of the Electricity Act to promote co-generation and generation of electricity from renewable sources of energy

AND IN THE MATTER:

TATA MOTORS LIMITED,
Bombay House, 24 Homi Mody Street,
Mumbai 400 001

...Petitioner

Versus

National Load Despatch Centre (NLDC),
Power System Operation Corporation Limited,
B- 9, Qutab Institutional Area, Katwaria Sarai,
New Delhi – 110016

...Respondent

Parties Present: Ms. Dipali Sheth, Advocate, TML
Ms. Priya Pandey, Advocate, TML
Shri Shubham Mehta, Advocate, TML
Shri Kailash Chand Saini, POSOCO
Shri Alok Kumar, POSOCO

आदेश/ ORDER

The Petitioner, M/s Tata Motors Limited is engaged in generation of renewable energy from wind resources. The Petitioner owns and operates 21.95 MW Wind energy generating stations in Maharashtra. The Petitioner has filed the petition under Section 79 of the Electricity Act 2003 read with Regulations 14 & 15 of the Central Electricity Regulatory Commission (Terms and Conditions of Recognition and Issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 (hereinafter referred to as 'REC Regulations') seeking issuance of Renewable Energy Certificates (RECs).

2. The Respondent, National Load Despatch Centre (NLDC) has been constituted as per the Ministry of Power (MOP) notification, in 2005. Under Regulation 3 of the REC Regulations the Commission, vide its Order dated 20th January, 2010 nominated NLDC as the Central Agency, to perform the functions under clause (2) Regulation 3 of the said REC Regulations, 2010 and as the Central Agency, NLDC is empowered to issue RECs.
3. The Petitioner has made the following prayers:

a. Direct the Respondent to issue the RECs for the Relevant Period to the Petitioner at the earliest for all its projects:

Sr. No.	Name of Wind Power Project	Installed Capacity (MW) / Site	Registration Number and Date of Registration	Period of non-issuance of RECs
1	Tata Motors Ltd. -1	7.35 MW at Satara	MH0NSTMLPN001R30712 DATED July 3, 2012	April 2015 to October 2015 and December, 2015 to March 31, 2016
2	Tata Motors Ltd. -2	7.35 MW at Satara	MH0NSTMLPN002R30712 DATED July 3, 2012	April 2015 to October 2015 and December, 2015 to March 31, 2016
3	Tata Motors Ltd. -3	5.25 MW at Satara	MH0NSTMLPN003R30712 DATED July 3, 2012	April 2015 to October 2015 and December, 2015 to March 31, 2016
4	Tata Motors Ltd. -4	1.00 MW at Supa	MH0NSTMLPN004R30712 DATED July 3, 2012	April 2015 to October 2015 and November 5, 2015 to March 31, 2016
5	Tata Motors Ltd. -5	1.00 MW at Supa	MH0NSTMLPN005R30712 DATED July 3, 2012	April 2015 to October 2015 and November 5, 2015 to March 31, 2016

b. Pass such other order(s) as the Hon'ble Commission may deem just in the facts of the present case.

Submissions of the Petitioner

4. The Petitioner has submitted as under:
- It owns and operates 21.95 MW Wind energy generating stations in Maharashtra. The project is under captive use.
 - It has obtained accreditation from the State Agency and registration from the Central Agency and RECs were issued to them by NLDC from time to time.
 - There was delay on the part of MSEDCL with respect to the grant of open access (OA) permissions to the Petitioner for FY 2015-16.
 - As the OA permissions for the period from April 2015 to October 2015 were wrongfully withheld by MSEDCL, it filed petition No. 88 of 2016 dated 26.06.2016 before MERC against the wrongful withholding of OA permissions by MSEDCL for the period from April 2015 to October 2015 amongst other reliefs.
 - The Petition was heard by MERC and vide Order dated 18.12.2017, MERC directed MSEDCL to grant OA to the Petitioner for captive use of its wind energy from April 2015 to October 2015 and to issue credit notes for the energy injected during this relevant period.

- f) Pursuant to the MERC Order, MSEDCL issued OA permissions dated 31.01.2018 for self-use to the Petitioner for the period from April 2015 to October 2015 vide reference No. MTOA/Wind/ Self Use/No. 02185 to 02189.
- g) Further, MSEDCL also belatedly granted OA permissions for the period from 05.11.2015 to 31.03.2016 vide OA permissions dated 21.03.2016 bearing reference Nos. 08819 to 08823. The statutory fees for issuance of RECs were also paid on 27.06.2016.
- h) Vide two (2) letters dated 02.11.2016 and three (3) letters dated 26.12.2016, the petitioner wrote to NLDC seeking issuance of RECs for the period from 05.11.2015 to 31.03.2016. Despite having complied with all the requirements for the issuance of RECs the Petitioner has till date not received copies of RECs for the period from 05.11.2015 to 31.03.2016.
- i) On receipt of such OA permissions, Credit Reports, REC Proforma and Energy Injection Reports from MSEDCL, the Petitioner vide its letters dated 07.10.2016, 18.11.2016, 08.05.2018 and 14.01.2019 immediately approached SLDC for issuance of the Energy Injection Reports. Such Energy Injection Reports were issued later viz. 25.10.2015, 15.12.2016, 12.11.2018, 25.02.2019 and 27.02.2019.
- j) Without credit notes/energy injection reports , application for issuance of the RECs is not possible. It is submitted that immediately on receipt of such energy injection reports, the Petitioner attempted to file the application for issuance of RECs. However, the online system does not accept online application for energy injected for a period prior to six (6) months.
- k) The application for the allotment of the RECs could not be made for no fault of the Petitioner but on account of gross defaults of MSEDCL and delay in issuance of Energy Injection Reports.
- l) The delay, if any, on its part with respect to applying for RECs should be condoned by the Commission as there was delay in issuance of OA permission by MSEDCL pursuant to pending litigation before the MERC in which the Order was passed only on 18.12.2017 in Case No.88 of 2016. Consequently, the Petitioner submitted that it could not obtain Energy Injection Reports from SLDC. Without having received the Energy Injection Reports, it could not apply for RECs.

5. The Respondent has not filed any reply in the matter.

Analysis and Decision

6. We have heard the Petitioner and the Respondent and have carefully perused the records. The brief facts of the case are that the Petitioner owns and operates Wind Power Plant in Maharashtra. The Petitioner has stated that owing to delay on the part of MSEDCL with respect to grant of open access permission to the Petitioner for the financial year 2015-16, the Petitioner could not submit its application for issuance of RECs within the stipulated period of six months from the corresponding generation from its renewable energy project.
7. Open access permission to the Petitioner for the period from April 2015 to October 2015 was withheld by MSEDCL, thereby requiring the Petitioner to file Petition No. 88/2016 before MERC. MERC vide its Order dated 18.12.2017 directed MSEDCL to grant open access to the Petitioner for captive use of its wind energy for the aforesaid period and to issue credit notes for energy injected during the said period.
8. Similarly, for the period from 05.11.2015 to 31.03.2016, MSEDCL granted open access permission to the Petitioner belatedly on 21.03.2016. On receipt of the open access permissions, credit reports, REC proforma and EIRs from MSEDCL, the Petitioner approached SLDC, Maharashtra for obtaining/ certification of EIRs as required for the issuance of RECs. However, by the time such EIRs were received by the Petitioner, the stipulated period of six months had already elapsed.
9. The Petitioner has submitted that delay with respect to applying for RECs ought to be condoned as it was not intentional and was due to delay in issuance of open access permission by MSEDCL.
10. During the hearing held on 03.09.2021, NLDC submitted that the applications of the Petitioner for issuance of RECs had been rejected as they were beyond the stipulated period of six months from the corresponding generation from the renewable energy project of the Petitioner.
11. From the submissions of the parties, the following issue arises before the Commission for consideration:

Whether the Petitioner is entitled to be granted RECs for the period April 2015 – March 2016 on the basis of the Energy Injection Reports issued by the SLDC/MSEDCL?

12. In the light of the submission of the parties, it is necessary to examine the relevant provisions of the REC Regulations, 2010 and “*Procedure for issuance of Renewable Energy Certificates to the Eligible Entity by Central Agency*” (Detailed Issuance Procedures).

13. Regulation 7 of the REC Regulations stipulates as under:

“

7. Denomination and issuance of Certificates

(a) The eligible entities shall apply to the Central Agency for certificates within six months after corresponding generation from eligible renewable energy projects:

Provided that the application for issuance of certificates may be made on fortnightly basis that is, on the first day of the month or on the fifteenth day of the month.

.....”

14. Clause 7.1 with respect to timelines in the *Detailed Issuance Procedures* stipulates that:

“7.1 The RE Generator as an Eligible Entity shall apply for issuance of renewable energy certificates within six (6) months from the month in which renewable energy was generated and injected into the electricity grid....”

15. We observe from the above that the Energy Injection Reports have to be filed within six (6) months of generation and injection of RE power into the grid. These provisions do not vest any discretion in the Central Agency to accept the application for grant of REC in relaxation of the provisions of the Regulations.

16. On perusal of the sequence of events leading to the grant of Energy Injection Reports to the Petitioner, we are of the view that delay in issue of Energy Injection Reports was not attributable to the Petitioner. The Petitioner was pursuing the available legal remedy which resulted in the delay in grant of Energy Injection Report. On receipt of ‘Open Access’ permission, the Petitioner immediately approached SLDC/MSEDCL for issuance of the energy injection reports/credit notes. Thereafter, the Petitioner attempted to file the application for issuance of RECs with NLDC. However, the online system did not accept online application for energy injected for a period beyond six (6) months, and as such they were unable to apply for the RECs online. In our view, denial of RECs on the ground of submission of the applications beyond the stipulated period in the present case will go against the objective and spirit of promoting renewable energy generation.

17. The Commission has been vested with the power to relax any provisions of the REC Regulations to give relief to the affected parties.

18. Regulation 15 of the REC Regulations, 2010 provides as under:

“15. Power to Relax:

The Commission may be 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 or its own motion or on an application made before it by an interested person”.

19. The Commission in exercise of powers under Regulations 15 of the REC Regulations hereby relaxes the requirement of six (6) months for making the application as stipulated in terms of Regulation 7 of REC Regulations and Clause 7.1 of the Detailed Issuance Procedures and NLDC is hereby directed to accept the applications of the Petitioner along with the Energy Injection Reports issued by SLDC/MSEDCL and issue RECs for the concerned period of April 2015-March 2016 after due verification of the documents. It is clarified that this order is being passed in the backdrop of peculiar facts and circumstances and not to be quoted as a precedent. 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 issue of RECs.

20. Accordingly, Petition No. 180/MP/2020 is disposed of.

Sd/-
पी. के. सिंह
(सदस्य)

Sd/-
अरुण गोयल
(सदस्य)

Sd/-
पी. के. पुजारी
(अध्यक्ष)