



Petition No. 1771 of 2021
BEFORE
THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
LUCKNOW

(Date of Order: 10.05.2022)

PRESENT:

Hon'ble Shri Raj Pratap Singh, Chairman
Hon'ble Shri Kaushal Kishore Sharma, Member
Hon'ble Shri Vinod Kumar Srivastava, Member (Law)

IN THE MATTER OF

Petition under Section 86(1)(b) read with Section 63 of the Electricity Act, 2003 and Regulation 57 of the UPERC (Conduct of Business) Regulations 2019 And Article 11 read with Article 13.5 And Article 4.5.3 of the Power Purchase Agreement dated 20.12.2019 executed between Solar Energy Corporation of India Limited and the Petitioners, seeking directions to Solar Energy Corporation of India for granting extension of timelines for completion of the project and restraining Solar Energy Corporation of India from invoking the Performance Bank Guarantees.

- 1. Renew Solar Power Private Limited (Renew Power)**
10th Floor, DLF Square Building, DLF Phase – II M Block,
Jacaranda Marg, Gurugram, Haryana – 122002
- 2. Auxo Sunlight Private Limited**
138, Ansal Chambers-II, Bhikaji Cama Place,
New Delhi – 110066
- 3. Renew Sun Power Private Limited**
138, Ansal Chambers-II, Bhikaji Cama Place,
New Delhi – 110066

.....Petitioner

Versus

- 1. Solar Energy Corporation of India Limited (SECI)**
D-3, 1st Floor, Wing -A, Prius Platinum Building,
District Centre, Saket, New Delhi - 110017



2. Uttar Pradesh Power Corporation Limited (UPPCL)

7th Floor, Shakti Bhawan Extnn,
14 Ashok Marg, Lucknow - 226001

.....Respondent

The following were present:

1. Shri. Apoorva Misra, Advocate, Renew Power
2. Shri. Divyanshu Bhatt, Advocate, UPPCL
3. Shri. Deepak Raizada, CE-PPA, UPPCL
4. Shri. Mahendra Singh, SE, UPPCL
5. Ms. Tanya Sareen, Advocate, SECI
6. Ms. Sikha Sood, Advocate, SECI

ORDER

(Date of Hearing - 05.05.2022)

1. Pursuant to last hearing dated 19.04.2022, the Commission vide Order dated 25.04.2022 allowed the Petitioner further one-week time to file the amended Petition for admission.

The Matter came up for hearing today.

2. During the Proceedings, Shri Apoorva Misra, Counsel of Renew Solar Power Private Limited submitted that the amended Petition has been filed.
3. Ms. Tanya Sareen, Counsel, SECI submitted that since the timeline, of 8 months by the Hon'ble High Court vide order dated 15.09.2021, to decide the prayer for grant of interim relief by the Regulatory Commission has already passed, it is not fit to restrain SECI towards the encashment of Performance Bank Guarantee dated 19.11.2019 amounting to Rs. 11.25 Crore in the matter.
4. Shri Apoorva Misra, Counsel of Renew Solar Power Private Limited vehemently opposed the argument of SECI's Counsel and stated that the judicial proceedings are still continuing before the Commission and no prejudice would be caused to SECI by not encashing BG which shall be kept alive till matter is finally decided by the Commission.
5. The Commission took note of Para (iv) of Hon'ble High Court Order dated 15.09.2021 in Writ Petition No. 20756 (MB) of 2021, which states as under:
"(iv) it is further directed that till the prayer for grant of interim relief is considered and decided by the Regulatory Commission, the respondent no. 2



shall not invoke and encash the bank guarantee, dated 19.11.20219 and they will also not take any coercive measures till then

We expect and hope that the petition itself shall be decided finally with expedition, say within a period of eight months from today"

6. It is clear from the above that the Hon'ble High Court has held and directed SECI to not to invoke and encash the Performance Bank Guarantee dated 19.11.2019 and also not to take any coercive action measure till the time the prayer of grant of interim relief is considered and decided by the Commission. The Hon'ble High Court expected that the matter shall be finally decided within 8 months from the date the order dated 15.09.2021. However, during proceedings, the Petitioner has sought to exit from the PPA and accordingly, the Petition would require amendment. The amended Petition has been filed and admitted by the Commission.
7. Therefore, the Commission directed SECI to maintain Status Quo regarding Para (iv) of the Hon'ble High Court order dated 15.09.2021 till such time the matter is adjudicated by the Commission. Further, the Commission took note of the submission made by the Petitioner that without prejudice to the rights of the Respondents, the Petitioner(s) has undertaken to keep the PBG's valid and subsisting during the pendency of the present Petition before this Commission. The Commission directs the Petitioner(s) to honour the undertaking and keep the PBG's valid till such time the matter is adjudicated by the Commission.
8. The Commission granted four-weeks' time to SECI and UPPCL to file their reply to the amended Petition and two weeks' time to the Petitioner for filing rejoinder.

List the matter for next hearing 14.06.2022.

(Vinod Kumar Srivastava)
Member

(Kaushal Kishore Sharma)
Member

(Raj Pratap Singh)
Chairman

Place: Lucknow

Date: 10. 05.2022

