



Petition No. 1709 of 2021

BEFORE

THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION

LUCKNOW

(Date of Order: 28.07.2022)

PRESENT:

Hon'ble Shri Raj Pratap Singh, Chairman
Hon'ble Shri Kaushal Kishore Sharma, Member

IN THE MATTER OF Petition under Section 86(1)(b), (e) & (f) of the Electricity Act, 2003 read with Regulation 57 of UPERC (Conduct of Business) Regulations, 2019 for extension in Scheduled Commercial Operation Date ("SCOD") of Bunda and Prayagraj (previously Nawabganj) Solar Power Plants of the Petitioner for supply of 75 MW of Solar Photovoltaic Power to the Uttar Pradesh Power Corporation Ltd. under the Power Purchase Agreements dated 12.02.2019.

Tata Power Renewable Energy Limited (TPREL)

Corporate Centre, 34 Sant Tukaram Road,
Carnac Bunder, Mumbai – 400009

.....Petitioner

Versus

1. Uttar Pradesh Power Corporation Limited (UPPCL)

Shakti Bhawan, 14 Ashok Marg, Lucknow – 226001

2. U.P. New and Renewable Energy Development Agency (UPNEDA)

Vibhuti Khand, Gomti Nagar, Lucknow – 226010

3. Uttar Pradesh Power Transmission Corporation Limited (UPPTCL)

Shakti Bhawan, 14 Ashok Marg, Lucknow – 226001

.....Respondents

The following were present:

1. Ms. Nipun Sharma, Advocate, UPPCL
2. Shri. Nitish Gupta, Advocate, UPPCL



3. Shri. C.P. Maurya, AE, UPPCL
4. Shri. Puneet Chandra, Advocate, UPPTCL
5. Shri. Narendra Singh, UPNEDA
6. Shri. Venkatesh, Advocate, TPREL
7. Shri. Jatin Ghuliani, Advocate, TPREL
8. Shri. Abhay Kumar, Authorized Representative, TPREL

ORDER
(Date of Hearing - 21.07.2022)

1. Pursuant to last hearing dated 07.04.2022, the Commission vide Order dated 13.04.2022 adjourned the hearing with the direction to UPPTCL to file its reply within two weeks' time and the Petitioner to file the rejoinders to the Respondents replies within four weeks' time.

The matter came up for hearing today.

2. Hon'ble Supreme Court judgement dated 12.04.2018 in Civil Appeal No. 14697 of 2015, has concluded that in any adjudicatory function of State Commission, it is mandatory that there should be person of law as a Member of Commission.

"Conclusion:

114. In view of our observations above, we conclude as under:

i. Section 84(2) of the said Act is only an enabling provision to appoint a High Court Judge as a Chairperson of the State Commission of the said Act and it is mandatory to do so.

ii. It is mandatory that there should be person of law as Member of the Commission, which requires a person, who is, or has been holding a judicial office or is a person possessing professional qualifications with substantial experience in the practice of law, who has requisite qualifications to have been appointed as a Judge of the High Court or a District Judge.

iii. That in any adjudicatory function of the State Commission, it is mandatory for a member having the aforesaid legal expertise to be a member of the Bench.

iv. The Challenge to the appointment of the Chairman and Member of the Tamil Nadu State Commission is rejected as also the suo moto proceedings carried out by the Commission.

v. Our Judgement will apply prospectively and would not affect the orders already passed by the Commission from time to time.

vi. In case there is no member from law as a member of the Commission as required aforesaid in para 2 of our conclusion, the next vacancy arising in every State Commission shall be filled in by a Member of Law in terms of clause (ii) above."

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Therefore, considering the unavailability of the Member (Law) in today's quorum, the hearing was adjourned, the matter being adjudicatory in nature.

List the matter for next hearing 01.08.2022.


(Kaushal Kishore Sharma)
Member


(Raj Pratap Singh)
Chairman

Place: Lucknow
Dated: 28.07.2022

