

**BEFORE THE KARNATAKA ELECTRICITY REGULATORY COMMISSION**

No. 16 C-1, Miller Tank Bed Area, Vasanth Nagar, Bengaluru- 560 052

**Dated : 19<sup>th</sup> December, 2018**

**Present:**

Shri M.K. Shankaralinge Gowda .. Chairman  
Shri H.D. Arun Kumar .. Member

**O P No. 111/2017**

**BETWEEN:**

Shri Ravi B.T.,  
S/o Late B.S. Thimmappa,  
No.22, 'Smruthi',  
Channeshwara Nagar,  
Near Ayyappaswamy Temple,  
(Eshwarnagar)  
RANEBENNUR – 581 115.

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**PETITIONER**

*[Represented by S.A. Partners, Advocates]*

**AND:**

- 1) The State of Karnataka,  
By Chief Secretary to Government,  
Vikasa Soudha,  
Dr. B. R. Ambedkar Veedhi,  
Bengaluru – 560 001.
- 2) The State of Karnataka  
By its Secretary to Government  
Energy Department,  
Vikasa Soudha,  
Dr. B. R. Ambedkar Veedhi,  
Bengaluru – 560 001.

- 3) Hubli Electricity Supply Company Limited,  
Represented by its Managing Director,  
Navanagar, P.B. Road,  
Hubballi – 580 025.

.. **RESPONDENTS**

*[Respondent-3 represented by Indus Law, Advocates]*

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### **ORDERS**

- 1) The Petitioner has filed this petition under Section 86(1)(f) of the Electricity Act, 2003, praying to direct the 3<sup>rd</sup> Respondent to synchronize the SRTPV project and pay the tariff as per the PPA at Annexure-B and pass any other appropriate order or direction of consequential reliefs as deemed fit.
- 2) The facts of the case and grounds urged in support of the prayers as submitted in the Petition, may be summed up, as follows:
- a) The Petitioner had filed an application dated 18.02.2016 for installation of Solar Roof Top Photovoltaic (SRTPV) system of 25 kW on the roof top of his house. The Petitioner entered into a Power Purchase Agreement (PPA) with the 3<sup>rd</sup> Respondent on 22.3.2016 at the tariff of Rs.9.56 per kWh. As per the Format-5 dated 19.02.2016 issued by the 3<sup>rd</sup> Respondent, the Petitioner had to complete the project on or before 18.08.2016.
- b) Subsequent to completion of the project within the stipulated period, the Petitioner intimated the concerned authority that the project has been completed and requested him to inspect the site for grant of approval for

synchronization of the project. The Additional CEIG granted safety approval on 16.08.2016. The Petitioner submitted a detailed request letter dated 16.08.2016 requesting inspection and synchronization of the plant, which was not entertained by the concerned authorities at the Ranebennur Division. Hence, the Petitioner approached the Respondent-3 with a representation dated 17.08.2016 giving details of completion of the project and requesting the Managing Director to direct the concerned to synchronize the project.

c) In spite of the Petitioner intimating that he had completed the project and had submitted the safety report of the Additional Chief Electrical Inspectorate, none of the officers from the 3<sup>rd</sup> Respondent visited the site nor accorded approval for commissioning of the project.

d) Though the Petitioner has completed the project within the stipulated time, by availing loan and investing his own funds, the 3<sup>rd</sup> Respondent has not issued order for synchronization of the Petitioner's plant.

e) Hence, the Petitioner has filed this petition.

3) The Petitioner, vide memo dated 07.09.2017, has produced the copies of legal notices dated 14.10.2016 and 17.10.2016 issued to the AEE, Ranebennur and the General Manager of HESCOM respectively, letter of the General Manager dated 25.10.2016 and letter dated 03.03.2017 of the Petitioner's Advocate.

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- 4) On issuance of Notice, the Respondent-3 appeared through its counsel and filed Statement of Objections. Respondents-1 and 2 remained unrepresented. The objections of Respondent-3 may be stated as follows:
- (a) The Petition, seeking for a direction to synchronize the Project and pay tariff at the rate agreed under the PPA dated 22.03.2016, is baseless. The Petitioner himself being at fault and not having commissioned the Project within the stipulated time, has no locus to file the present petition.
- (b) The PPA was governed by the HESCOM, Ranebennur Division. All the correspondences, approvals and/or applications were made to the said Division. The HESCOM, Ranebennur Division is the concerned authority in the present case, and hence, the objections to the petition are filed on behalf of HESCOM, Ranebennur Division.
- (c) The Petitioner had informed the concerned authorities of Ranebennur Division about the completion of the project only on 23.5.2018 and never earlier. The concerned Engineer of Ranebennur Division appeared before the Commission and submitted that the said Division was never intimated of the project being ready for commissioning by the Petitioner. Thus, any allegation to the effect that the Respondent has not responded, or failed in visiting the site, or was slack in granting the approval, are all false and baseless. There was no intimation / letter notifying the completion of the Project.

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- (d) The Petitioner failed to file any document, evidencing the completion of the project, nor was any extension of time sought by the Petitioner for the submission of the documents. No document, as mentioned in the Format-5 approval has, till date, been handed over to the Respondent.
- (e) After the completion of 180 days from the grant of approval, the Respondent issued a letter dated 18.08.2016 to the Petitioner calling upon him to file the necessary documents. But, the Petitioner failed to do so. Thereafter, the Official Memorandum dated 20.08.2016 was issued treating the approval granted to the Petitioner and the PPA as cancelled. All these were communicated to the Petitioner, but there was no response or follow up of any kind by the Petitioner. In the terms of the approval, after the lapse of 180 days, the approval as well as the PPA of the Petitioner stand cancelled.
- (f) Upon completion of the project, the Petitioner had to file completion report as per Format-6 C with the Respondent and only then synchronization of the project can take place. However, till date no completion report as per Format-6C has been filed with this Respondent. Even in the alleged Format-6C (Annexure-F), no endorsement of service on this Respondent has been annexed. The service of the alleged Format-6C is disputed.
- (g) The document in Annexure-G (letter to MD ,dated 17.08.2016) does not fulfill all the conditions mentioned in Format-5 and hence cannot be relied upon for asserting that the project has been completed.

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- (h) When the General Manager (Tech.), HESCOM sought for details of the project, it was intimated by the Ranebennur Division, that due to failure of the Petitioner in filing any of the necessary documents / reports / completion of the project within 180 days of the grant of the approval, the approval granted to the Petitioner was terminated.
- (j) The Respondent-3 had responded to the legal notice issued by the Petitioner intimating the counsel of the Petitioner that the approval of the Petitioner had been cancelled for the failure on the part of the Petitioner to give the work completion report in format 6-C. The Petitioner has deliberately not disclosed the above facts, or letters issued by this Respondent to the Petitioner and is seeking to blame the Respondent for the failure on his part.
- (k) Though Solar Roof Top Photovoltaic plants have been encouraged by the Government of Karnataka and the Respondent, the same has to be done in compliance of the rules prescribed and the conditions imposed thereunder. Failure of doing so will lead to the rejection of the approval granted.
- (l) The allegations that the Petitioner had organized funds and completed the project before 18.08.2016, that the Petitioner issued a detailed request letter to this Respondent on 16.08.2016, which was not entertained by the Respondent; and that the Petitioner had to approach several authorities are denied.

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- (m) Other than a letter dated 17.08.2016 allegedly issued to the 3<sup>rd</sup> Respondent, the Petitioner has not produced any other document to show the completion or follow up with the Respondent authorities.
- (n) The Respondent has, therefore, requested that appropriate orders may be passed in the above petition, in the interest of justice and equity.
- 5) During arguments, the learned counsel for the Petitioner, submitted that the Petitioner had submitted Format-6C on 16.08.2016 to the concerned Division requesting for synchronization of the project but the authorities did not accept the same. Hence, he addressed the letter dated 17.08.2016 to the Managing Director requesting for a direction to the concerned to synchronize the plant. The learned counsel for the Respondent submitted that no document was submitted by the Petitioner to the Ranebennur Division before 23.5.2018 and that the said Division was not aware of the correspondences made by the Petitioner to the MD, HESCOM.
- 6) We have heard the learned counsel for both parties and perused the records. The following would Issues, arise for our consideration:
- (1) Whether the Petitioner has proved that the SRTPV Project was ready for commissioning, within the period of 180 days, to be eligible for the tariff agreed in the PPA dated 22.03.2016?
  - (2) If not, what should be the tariff applicable to the Petitioner's plant?

- (3) What Order?
- 7) After hearing the learned counsel for the parties and the pleadings and other material placed on record, our findings on the above issues are as follows:
- 8) **ISSUE No.(1):** *Whether the Petitioner has proved that the SRTPV Project was ready for commissioning, within the period of 180 days, to be eligible for the tariff agreed in the PPA dated 22.03.2016?*
- 9) **ISSUE No.(2):** *If not, what should be the tariff applicable to the Petitioner's plant?*

As the above two issues are inter-linked, we deal with them together.

- (a) It is the case of the Petitioner that, he had completed the work of installation of the SRTPV plant of 25 kW capacity on the roof of his house within the stipulated time of 180 days from the date of approval given by the Respondent-3 in Format-5 on 19.2.2016 and that he had approached the O&M Division, Ranebennur, to submit the Work Completion Report, in Format-6 C, on 16.08.2016, with a request to synchronise the plant, but the same was not accepted by the concerned Engineer, stating that the permission of the Managing Director would be required to synchronize the plant.
- (b) In the Format 6 C, the Petitioner has mentioned that the meter testing was done by the MT Division of HESCOM on 04.08.2016, but the copy of such meter testing report is not produced with the Petition. The Petitioner has filed a copy of the safety report of the Additional CEIG dated 16.08.2016, to



indicate that the project was ready within the 180 days' period. However, the Petitioner has not produced any proof of actual receipt of Format 6C along with its enclosures by the AEE(Elecl), O&M Division, Ranebennur. The Petitioner has produced a copy of letter dated 17.08.2016 addressed to the MD of HESCOM at Annexure F, stating that the project was completed on 08.08.2016 and a request was made to the office of the CEIG to grant safety approval; that the same was granted but the concerned officers of Ranebennur Division informed that the plant could not be synchronized without the permission of the MD, HESCOM. The Petitioner had requested the MD in the letter dated 17.08.2016 to direct the concerned to synchronise the plant to the grid. The Petitioner had issued legal notice dated 14.10.2016 to the AEE, Ranebennur Division and legal notice dated 17.10.2016 to the General Manager of HESCOM in the matter. In the legal notices, he had specifically stated that he had gone to the AEE's office to submit the work completion report on 16.08.2016 along with all relevant documents but was told that the plant could not be synchronized without the approval of the MD. He has alleged that despite this, no action was taken by the Respondent in the matter.

- (c) The AEE, Ranebennur Division, who has filed the Objections on behalf of Respondent-3 has denied the submission of work completion report by the Petitioner in Format 6C. He has stated that on 18.08.2016 a letter was addressed by him to the Petitioner, stating that no documents have been submitted within 180 days and that the application would be rejected, after

the period of 180 days. He has also stated that on 20.08.2016, an Official Memorandum was issued terminating the PPA, as the Petitioner had not submitted any documents within the period of 180 days.

- (d) We note that, the 180 days' period from the date of Format 5 ends on 18.08.2016. The meter is stated to have been tested on 04.08.2016, but not substantiated by production of a copy of the report. The CEIG safety approval, which is the last step in the implementation of the SRTPV plant was granted on 16.8.2016, within the 180 days' period. In the safety approval dated 16.08.2016, the work completion report dated 10.08.2016 is referred to. The Petitioner has alleged that despite submitting all the papers, the concerned Engineers of Ranebennur division did not synchronise the plant and hence, he requested the Managing Director, HESCOM, to issue suitable directions in the matter. The AEE of Ranebennur sub-division has stated that no papers were received and a letter dated 18.08.2016 was sent to the Petitioner calling upon to produce the documents and OM dated 20.08.2016 was issued cancelling the PPA. The counsel for Respondent during his oral submissions has argued that the fact of issuance of legal notice by the Petitioner and replies by the HESCOM authorities to such notice has not been brought out in the petition. We note that, while the Petitioner has on 7.9.2017, filed the copies of the legal notices issued by him and the replies received, he has not denied the fact of receipt of the O.M. dated 20.08.2016 cancelling the PPA, which is admitted in his legal notices dated 14.10.2016 and 17.10.2016. We also found that only on 03.03.2017, the Petitioner has

been advised by his advocate, who had issued notices to the Respondent, that the Petitioner needs to approach the Commission for redressal of the dispute relating to the Petitioner's SRTPV project. Thus, there is delay on the part of the Petitioner in filing the petition seeking relief.

- (e) We also note that, the Commission had passed an Interim Order on 18.01.2018, directing the Respondent-3 to synchronize the Plant if the Petitioner approaches it. On the subsequent dates of hearing, the learned counsel for the Respondent-3 informed that, the Plant was not synchronized. The concerned Engineer was summoned and he submitted that, the sanctioned load of the Petitioner was lesser than the capacity of the SRTPV Plant and hence, sought time to file Objections. In the objections filed subsequently, it is submitted that the Petitioner has informed the HESCOM authorities at Ranebennur only on 23.05.2018 about completion of the project. We are unable to accept such explanation for non-compliance of the Commission's direction. The Respondent could have promptly brought to the notice of the Commission, the non-production of any documents by the Petitioner as also the issue of installed capacity of the Petitioner's SRTPV plant being beyond his sanctioned capacity, that prevented synchronization of the Petitioner's plant, instead pointing them only on 05.06.2018 during hearing of the case.

- (f) Therefore, we hold that the Petitioner's plant ought to have been synchronized by the Respondent within a reasonable time after 18.01.2018. Accordingly, the Petitioner's plant would be eligible for the tariff of Rs.6.61

per unit as applicable during that period, in terms of the Commission's Order dated 02.05.2016. Further, considering the facts and circumstances of the case, we declare that the capacity restriction imposed in the Order dated 02.05.2016 would not be applicable to the Petitioner's plant.

(j) Therefore, we answer Issue Nos.(1) & (2) as above.

10) **ISSUE No.(3):** *What Order?*

For the foregoing reasons, we pass the following;

**ORDER**

- (a) The SRTPV Plant of the Petitioner shall be synchronized with the grid, within a period of 15 (fifteen) days from the date of this Order;
- (b) The Petitioner is entitled to a tariff of Rs.6.61 (Rupees Six and Paise-Sixty one) only per unit, from the date of synchronization of the Plant, for the term of the PPA dated 22.03.2016; and
- (c) The petition is disposed of accordingly.

sd/-

(M.K. SHANKARALINGE GOWDA)  
CHAIRMAN

sd/-

(H.D. ARUN KUMAR)  
MEMBER