

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

Dated : 12.11.2019

Present:

Shri Shambhu Dayal Meena	..	Chairman
Shri H.M. Manjunatha	..	Member
Shri M.D. Ravi	..	Member

OP No.46/2018

BETWEEN:

Shri B. Nagaraj,
S/o B. G.Basavarajappa,
Aged about 42 years,
Bukkambudhi Village,
Devareddy Halli Post,
Challakere Taluk,
Chitradurga District – 577 529.

.. **PETITIONER**

[Represented by Shri A.V. Narasimha Reddy, Advocate]

AND:

- 1) State of Karnataka,
Department of Energy,
2nd Floor, Vikasa Sudha,
Bengaluru -560 001.
Represented by its Secretary.
- 2) Bangalore Electricity Supply Company Limited,
C.O&M Division, Hiriyyur,
Chitradurga-577 598.
Represented by Executive Engineer.

- 3) Bangalore Electricity Supply Company Limited,
Corporate Office,
K.R. Circle,
Bengaluru – 560 001.
Represented by General Manager (DSM).
- 4) Bangalore Electricity Supply Company Limited,
Corporate Office,
K.R. Circle,
Bengaluru – 560 001.
Represented by Managing Director.

.. **RESPONDENTS**

*[Respondent-1 represented by Sri G S Kannur, Advocate,
Respondents-2,3 & 4 represented by Just Law, Advocates]*

ORDERS

- 1) This Petition is filed by the Petitioner under Section 86(1)(f) of the Electricity Act, 2003, praying to:
- “(a) Declare that the action of Respondent No.2 Company in terminating the PPA dated 17.12.2015 is illegal;
- (b) Set-aside the termination notices dated 08.09.2016 and 29.05.2017 at Annexure – G & N respectively;
- (c) Issue of direction to the Respondents to procure supply from the Petitioner’s plant as per PPA dated 17.12.2015;
- (d) Pass any other Order/s deem fit in the facts and circumstances of this Petition.”
- 2) Some of the material facts/events, may be stated as follows:

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- (a) This Commission had determined the tariff of Rs.9.56 per unit, by Generic tariff Order dated 10.10.2013, for the Solar Roof Top Photo Voltaic (SRTPV) Projects, and the capacity of the SRTPV Systems was limited to a maximum of one MW. Subsequently, the Government of Karnataka issued the Solar Policy dated 22.05.2014 for the period from 2014 to 2021 and fixed a target for achieving the installation of 400 MW capacity of grid connected SRTPV Systems during the said period. In pursuance of the same, the Bangalore Electricity Supply Company Limited (BESCOM) (the Respondent herein) launched the SRTPV Scheme on 07.11.2014, to encourage the grid connected SRTPV Systems on the roof tops of the consumers' existing buildings.
- (b) The Petitioner, a farmer, desirous of installing the SRTPV System on the roof of the existing poultry farm, entered into Power Purchase Agreement (PPA), dated 17.12.2015 with the Respondent- BESCOM for installation of one MW capacity SRTPV System on the premises with RR No.BKP-567. The tariff agreed was Rs. 9.56 per unit. The Commission approved the PPA vide letter dated 12.2.2016. After verifying all the relevant records, the Respondents 2 and 3 issued the letter of approval dated 15.4.2016, wherein it was mentioned that the approval was valid for a period of 180 days from the date of PPA and the SRTPV system had to be commissioned within such

time. The Petitioner entered into the Project Development Agreement dated 07.05.2016 and MoU dated 11.05.2016 with the Developer, viz., M/s. TECSO Pvt. Ltd., Vadodara – 391110 Gujarat, for establishment of the SRTPV Systems. The Petitioner contended that, although he had completed the installation of the SRTPV System within the stipulated time, the Executive Engineer (Ele), C, O&M Division, BESCOM, Hiriyur (hereinafter referred to as the EE, BESCOM, Hiriyur), issued the Official Memorandum (OM) dated 08.09.2016, cancelling the PPA.

- (c) As against the OM dated 08.09.2016 cancelling the PPA, the Petitioner preferred Writ Petition No. 51457/2016 before the Hon'ble High Court of Karnataka at Bengaluru. The Petitioner obtained an Interim Order on 27.09.2016, staying the operation of the OM dated 08.09.2016 and further directing the Respondents to continue the PPA dated 17.12.2015.
- (d) The WP was allowed on 16.03.2017, setting aside the OM dated 08.09.2016 and directing the concerned Officer of the Respondent (BESCOM) to issue Show Cause Notice to the Petitioner, for the alleged contravention and to pass Orders after obtaining replies of the Petitioner. Accordingly, Show Cause Notice dated 13.04.2017 was issued to the Petitioner to which he replied on 08.05.2017. After receipt of the reply from the Petitioner, the EE, BESCOM, Hiriyur,

issued Order dated 29.05.2017, holding that the replies were not acceptable and the PPA dated 17.12.2015, executed by the Petitioner, stood cancelled.

- (e) After obtaining the Interim Order of Stay, staying the operation of the OM dated 08.09.2016 and directing to continue the PPAs dated 17.12.2015, the Petitioner approached the Chief Electrical Inspector to Government (CEIG), for obtaining approvals of the drawings. The CEIG asked further clarification from the EE, BESCO, Hiriya, regarding the action taken on the directions issued in the Writ Petition. As already noted, the EE, BESCO, Hiriya, cancelled the PPA, again, on 29.05.2017.
- (f) Though the Petitioner has not specifically stated regarding the Order dated 07.11.2017, passed by this Commission "*in the matter of: Tariff Order for SRTPV Plants violating the norms specified for implementation of the SRTPV Plants*", we may take note of it, for understanding the further events stated by the Petitioner. Under this Order, the Commission had granted certain reliefs to the consumers of SRTPV Systems, who had entered into PPAs under the Generic Tariff Orders dated 10.10.2013 and 02.05.2016, and in which the PPAs had been cancelled due to delay in commissioning of the Projects and for other reasons, such as violations of norms, etc.

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- (g) Subsequent to passing of the above-said Order dated 07.11.2017, the Petitioner addressed letter dated 22.11.2017 to the EE, BESCO, Hiriya and Managing Director of the Respondent (BESCO), requesting for synchronization of the SRTPV System and also to take suitable steps for the revival of the PPA. In pursuance of such request, the SRTPV System was synchronized, after executing a fresh PPA dated 15.12.2017, at the tariff of Rs.5.20 per unit. The Petitioner obtained the approval of electrical installations pertaining to the SRTPV System from the CEIG, under letter dated 28.12.2017.
- (h) The fresh PPA, with the tariff of Rs.5.20 per unit, was submitted to this Commission for approval. The Commission approved the fresh PPA vide letter dated 1.1.2018, subject to modification of the tariff, at the rate of Rs.3.57 per unit and directed the parties to enter into a modified PPA. Accordingly, the Petitioner has entered into the modified PPA dated 18.01.2018, agreeing to supply the Solar energy at the tariff of Rs.3.57 per unit.
- (i) The SRTPV System of the Petitioner was commissioned on 18.01.2018, pursuant to the letter of the Commission dated 17.01.2018.
- (j) The Petitioner has filed the present Petition before this Commission on 08.05.2018.

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- 3) The Petitioner has urged the following grounds in support of the reliefs sought for:
- (a) Time was not the essential factor for completing the installation of the SRTPV System, as the PPA does not contain any term, fixing the time, within which the installation works of the SRTPV System were to be completed. The imposition of 180 days' time for completion of the works, as per the approval dated 15.04.2016, issued by the EE, BESCOM, Hiriyur, is invalid. The BESCOM's Circular dated 17.11.2015, allowing the extension of time for commissioning of the SRTPV System, on payment of certain amount, would show that time was not essence for commissioning the SRTPV System.
- (b) The Petitioner has completed the works of the SRTPV System within the time stipulated and there was no delay in completing the works, as per the approval for installation of the SRTPV plant, dated 15.04.2016. The EE, BESCOM, Hiriyur, has cancelled the PPA, as per the OM dated 08.09.2016 much earlier to the time allowed for completion of the works of the SRTPV System.
- (c) The cancellation of the PPAs is illegal and arbitrary. None of the officials of the Respondent (BESCOM) had actually visited the spot and inspected the SRTPV System. The officials of the Respondent (BESCOM) themselves had given the Feasibility Report and had

found that the space on the roof top was sufficient. There was no extension of the existing buildings or construction of new buildings, for installation of the SRTPV System.

(d) The reasons stated in the Show Cause Notice dated 13.04.2017, and the Order dated 29.05.2017 for cancellation of the PPA, are baseless.

(e) Therefore, the Petitioner has prayed for allowing the Petitions.

4) Upon Notice, the Respondents have appeared through their Counsel. The 1st Respondent-State of Karnataka has not filed any written objections. The Respondents 2 to 4 (BESCOM and its officers) have filed Statement of Objections. The execution of the PPAs, the exchange of several correspondences between the parties and filing of the Writ Petition by the Petitioner and the subsequent events, are not disputed by the Respondents 2 to 4. The gist of the Objections may be stated as follows:

(a) the SRTPV System should have been completed and synchronized, within 180 days from the date of execution of the PPA, i.e., within 16.06.2016 as per the Guidelines issued by the Respondent and as informed to the petitioner in the letter of approval dated 15.04.2016;

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- (b) The SRTPV System of the Petitioner was not in consonance with the clarification issued by the Government vide letter dated 17.08.2016 about the structure of building on which SRTPV system can be installed;
- (c) During inspection of the premises on 24.08.2016, it was observed that there were several violations, as the poultry shed was not in accordance with the standards mentioned in the above letter dated 17.08.2016 and Articles 1.1 & 1.6 of the PPA;
- (d) The petitioner is not entitled to the tariff of Rs.9.56 per unit, as there is delay in commissioning of the SRTPV system, and the Commission has informed the Respondent this aspect in the letter dated 27.09.2016;
- (e) The petitioner was not diligent in implementing the project, as he had entered into EPC contract on 07.05.2016, only one month before the scheduled commissioning date and could not complete the works within the stipulated time;
- (f) The petitioner is entitled to the tariff as per the Order dated 07.11.2017, and not to any higher tariff as he has violated the SRTPV norms/guidelines. The petitioner has voluntarily executed the PPA at the tariff of Rs.3.57 per unit and is estopped from questioning the orders of cancellation of the PPA;
- (g) The purpose of installing SRTPV systems by the Solar Policy under net metering was to see that the consumer met his power

requirement by self consumption and injects surplus power into the grid of the distribution licensees; the petitioner has installed the SRTPV system with business motives with no intention of self consumption, thereby defeating the purpose of the Solar Policy.

The Respondents have denied the adverse allegations made against them and have prayed for dismissal of the Petition.

- 5) The Petitioner has filed Rejoinder and Written Arguments, denying the contraventions, alleged against him, by the Respondents.
- 6) We have heard the learned Counsel for the parties. The following issues would arise for our consideration:
 - (1) Whether time was not the essential factor for completion of the works of the SRTPV System, as claimed by the Petitioner?
 - (2) Whether the works of the SRTPV System were completed, or could have been completed, within the stipulated period, for commissioning of the said System?
 - (3) Whether the Respondents have made out sufficient grounds for cancellation of the PPA dated 17.12.2015, executed by the Petitioner?
 - (4) Whether the Petitioner is entitled for any relief(s)? If so, to what relief(s)?
 - (5) What Order?

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

8) **ISSUE No.(1)**: *Whether time was not the essential factor for completion of the works of the SRTPV Systems, as claimed by the Petitioner?*

(a) The Petitioner has contended that, time was not the essential factor for completion of the works of the SRTPV System as the PPA does not contain any specific clause stipulating the time within which the SRTPV System had to be completed. Therefore, he has further contended that, imposition of any time limit, by way of any letter by the Respondent (BESCOM), would not be valid and not binding on the Petitioner. He has relied upon the Respondent (BESCOM)'s Circular dated 17.11.2015, which allowed for extension of time, upto a maximum of twelve months, after the expiry of the initial 180 days, for completion of the works of the SRTPV Systems, on payment of certain charges. The Respondent has contended that the SRTPV Guidelines provide for the time lines and the letter of approval dated 15.0

4.2016 also contained the time limit.

(b) Though the contention of the Petitioner appears to be attractive, the same is not acceptable and correct, for the reasons narrated below:

(i) The PPA cannot be read in isolation of the Guidelines issued for installing the SRTPV Systems. Both parties have not produced a complete set of the Guidelines issued by the Respondent (BESCOM) regarding installation of the SRTPV Systems. The complete set of the Guidelines consists of Formats 1 to 17. The Guidelines relating to the consumers is at Format-16 and Guidelines relating to the Officers of BESCOM is at Format-17. The standard Format of the PPA, approved by this Commission, is at Format-12. Formats 1 to 8 relate to the various stages, from filing of the application till synchronization of the SRTPV Systems. As per the guidelines, a detailed procedure is set out for establishing the SRTPV Systems, which included filing of an application - on line or off line, paying the requisite registration fees, scanning of applications, revenue verification & submission of technical feasibility report, obtaining of approval for installing the SRTPV System in Format No.5 for LT installations up to 50 kWp and in Format No.6 for HT installations of above 50 kWp, submission of Work Completion Report in Format No.7, along with all the necessary documents and thereafter, the inspection of safety procedure by the Assistant Executive Engineer, BESCOM or the Chief Electrical Inspector, as the case may be. Therefore, it is clear that, after filing the application for installing the SRTPV System by the applicant, a Technical Feasibility has to be conducted by the Respondent and

this Report is essential. Thereafter, approval for installing the SRTPV System would be issued by the Respondent to the applicant in Format-5 or Format-6, as the case may be. These Formats specifically contain a term that the SRTPV System should be completed within 180 days from the date of issuance of such Format-5 or Format-6, as the case may be, in default, the approval given for installation of the SRTPV System would stand cancelled. The stage of execution of the PPA would arise subsequent to the issuance of the Technical Feasibility Report. If the Project is not technically feasible, there is no question of proceeding further;

(ii) The Respondent (BESCOM) had submitted the draft Guidelines to this Commission, for approval, vide its letter bearing No.BESCOM/BC-51/3584/2013-14/661-65, dated 31.07.2014. The draft standard PPA was one of the Formats included in the draft Guidelines, submitted to the Commission. After scrutiny of the Guidelines, including the draft standard PPA, this Commission, in principle, approved the draft Guidelines with certain modifications and intimated that the draft standard PPA for the installation of the SRTPV systems would be sent, after finalization. The Commission also suggested to incorporate the timelines for grant of different approvals in the Guidelines, so as to ensure the speedy implementation of the SRTPV Systems. The in-principle approval was

sent by this Commission, by letter bearing No.S/03/1/892, dated 27.08.2014. Later, the standard format of the PPA was finalized vide order dated 16.09.2014 by the Commission.

(iii) The above facts clearly indicate that, the standard PPA is a part of the Guidelines for installation of the SRTPV Systems and should be read along with the timelines prescribed in the other Formats. The Petitioner, as well as all other applicants who applied for approval for installing the SRTPV Systems, were aware of the existence of the Guidelines and its contents. The Respondent (BESCOM) had published the said Guidelines on its Website, and is still available. Thus, the standard format of the PPA only supplements the Guidelines, and should be read along with the other terms and conditions contained in the Guidelines.

(iv) This Commission, by the Order dated 02.05.2016, had determined the generic tariff for the SRTPV Systems. The said Generic Tariff Order makes it clear that, the PPAs entered into with the tariff determined under the Generic Tariff Order dated 10.10.2013, in respect of a SRTPV System, would be governed by the lesser tariff, as determined in the Generic Tariff Order dated 02.05.2016, in case the SRTPV System was not commissioned within the stipulated time, and further that, there should not be any extension of time for commissioning the SRTPV system, after the

Effective Date of the said Order. Therefore, subsequent to the generic Tariff Order dated 02.05.2016, for any delay in commissioning of the SRTPV System, there cannot be any extension of time, for any reason, for commissioning of the SRTPV System and if there is any delay it should be governed by the lesser tariff.

(v) The Circular dated 17.11.2015, issued by the Respondent (BESCOM), states that, the Corporate Office had received many letters, requesting for extension of the time limit, for installation of the SRTPV Systems, since the processing of loans would take much time and the present 180 days' time for completion was not sufficient, thereby, the Processing Committee discussed this issue on 16.09.2015 and decided to extend the time limit after collecting certain re-registration fees, from six months to twelve months, as indicted in the said Circular. The Commission is of the considered view that the Respondent (BESCOM) could not have issued such Circular. The Respondent (BESCOM) has obtained the approval for the Guidelines, wherein the timeframe was fixed for installation of the SRTPV Systems, allowing 180 days for commissioning, from the date of the issuance of either Format-5 or Format-6. Therefore, the Respondent (BESCOM) cannot issue the Circular, for extension of time without the approval of this Commission. It can be noted that, any such extension of time for commissioning, was affecting the

applicability of the tariff, if there was delay in commissioning the SRTPV Systems, as per the time limit granted earlier. It can also be noted that, the Circular dated 17.11.2015 was withdrawn by the Respondent (BESCOM), as per its OM dated 18.05.2016. The issuance of such Circular is beyond the powers of the BESCOM and cannot be relied upon, for any reason.

(c) For the above reasons, we are of the considered opinion that, achieving the time limit was an essential factor, with regard to the completion of the works of the SRTPV System, though such a term was not contained specifically in the PPA. Therefore, we answer Issue No.(1), in the negative.

9) **ISSUE No.(2)**: *Whether the works of the SRTPV System were completed, or could have been completed, within the stipulated period, for commissioning of the said System?*

(a) The Petitioner has contended that, he had completed the installation works of the SRTPV System, within 180 days from 15.04.2016, the date on which the approval for installing the SRTPV Systems was issued by the EE, BESCOM, Hiriyur. The Respondents (BESCOM) have denied that the Petitioner completed the installation works of the SRTPV System, as contended by the Petitioner. Further, they have contended that, the installation works of the SRTPV System should have been completed within 180 days

from 17.12.2015, the date of execution of the PPA. The learned counsel for the Respondents (BESCOM) submitted that Format-6, i.e., approval for installation of the SRTPV System, should be issued, soon after the receipt of the Technical Feasibility Report and before executing the PPA, as stipulated in the Guidelines; that in this case, as the PPA was executed much earlier, the time of 180 days should be from the date of the PPA. It is submitted by the Respondent that, in the letter dated 15.04.2016 granting approval for installing the SRTPV System, it was mentioned that the approval would be valid for 180 days '*from the date of PPA and the SRTPV system had to be commissioned within such period*'. Therefore, the Respondent has denied that the approval letter contained a stipulation that the SRTPV system had to be commissioned within 180 days '*from 15.04.2016*'. It is submitted that, as per the Guidelines and the approval letter, the installation works of the SRTPV System should have been completed within 180 days, from the date of the PPA, i.e., within 16.06.2016. The submission of the learned counsel for the Respondents (BESCOM) is correct, as can be seen from the approval letter dated 15.04.2016. Therefore, works of the SRTPV System should have been completed within 180 days from the date of execution of the PPA. The Petitioner could not have completed the works of the SRTPV System, within 180 days from the date of the PPA, as can be seen from the pleadings.

(b) Even assuming that the Petitioner was entitled to 180 days from the date of approval, i.e., from 15.04.2016, one can say that the Petitioner had not completed the major portion of the installation works of the SRTPV System, within that timeframe. He had entered into the Project Development Agreement on 07.05.2016 and the MoU with the Project Developer TECSO Private Limited, Vadodara-391 110, Gujarat, on 11.05.2016. The Petitioner has stated in the Petition that, subsequent to the Project Development Agreement, the Project Developer raised the Invoices. The Petitioner has produced copies of the said Invoices along with the Petition. It is not clarified by the Petitioner, as to on what dates the items indicated in the Invoices were actually delivered at the work spot, and as to when they were installed. In the Rejoinder filed by the Petitioner, he has stated that, the SRTPV system was installed with 41 days remaining out of the 180 days' period. As per the Show cause Notice issued by the EE, BESCO, Hiriyur, dated 13.04.2017, on the date of inspection by the Respondent (BESCO)'s officials on 24.08.2016/ 25.08.2016, the installation works of the SRTPV System had not yet commenced. In the letter dated 14.03.2018 of the Corporation Bank addressed to the Petitioner about the over dues in loan account, it is stated that the loan was disbursed by the bank on 09.06.2017. It is stated in the letter of the petitioner dated 22.11.2017 that the Work had been completed and a request was

made by the petitioner to the Respondent for synchronization of the project. The work completion report is dated 28.12.2017. The safety approval was granted by the CEIG on 28.12.2017. From these dates and events, it can be inferred that the major portion of the project work was executed between 09.06.2017 and 28.12.2017. Hence, it can be said that the Petitioner could not have completed the project within 180 days from 15.04.2016.

- (c) The Format-6, viz., approval for installing the SRTPV System, narrates the different items of works to be carried out by the Applicant. The Format-7, viz., Work Completion Report, requires the mentioning of the actual completion of the different items of works. The final step, after the Work Completion, is the inspection of the SRTPV System by the AEE of the Respondent (BESCOM) or the Electrical Inspectorate, as the case may be. In the present case, though the PPA was cancelled on 08.09.2016, the Petitioner obtained Interim Orders of Stay in the Writ Petition on 27.09.2016, as noted earlier, staying the operation of the cancellation of the PPA and directing the continuation of the PPA. Subsequently, again, the PPA was cancelled on 29.05.2017. Therefore, one can say that, except for about three weeks, the PPA was in force, from 17.12.2015 to 29.05.2017, but the Petitioner had not completed the installation works of the SRTPV System and had not filed the Work Completion

Report, during this period. Considerable portion of the works towards commissioning of the SRTPV System were taken up in the months of November and December, 2017, to take protection from the Order dated 07.11.2017 passed by this Commission.

(d) For the above reasons, we hold that, the Petitioner had not completed the installation works of the SRTPV System, within the stipulated period, for commissioning of the said System. Therefore, we answer Issue No.(2), in the negative.

10) **ISSUE No.(3)**: *Whether the Respondents have made out sufficient grounds for cancellation of the PPA dated 17.12.2015, executed by the Petitioner?*

(a) We shall consider whether, the Petitioner had misrepresented the area of the roof top available for installing the one MW capacity SRTPV System. The Respondent (BESCOM) has contended that, the poultry farm on which the Petitioner intended to install the solar panels is in violation of the norms stipulated in the clarification/letter dated 17.08.2016 issued by the Government. The summary of the Inspection Report is produced by the Respondent at ANNEXURE-R2. In the Order of EE, BESCOM, Hiriur dated 29.5.2017 cancelling the PPA, it is stated that the roof area is extended to install the solar panels. In the Rejoinder, the Petitioner has denied this aspect. It was for the petitioner to produce cogent evidence to establish that sufficient space of existing roof top was available for installing SRTPV

system as claimed by him. He has not produced proper evidence to establish that sufficient area of roof top was available at the time of making the application for installing the SRTPV system. Further, the Petitioner had not challenged the cancellation of the PPA as per Order dated 29.05.2017 passed by EE, BESCO, Hiriya and on the other hand, requested for synchronizing the project in his letter dated 22.11.2017. This would show that the petitioner has accepted the cancellation of PPA as per the Order dated 29.5.2017 of EE, BESCO, Hiriya. This would also suggest that there was violations of norms/guidelines by the petitioner which must have compelled him to accept the cancellation of PPA. Hence, sufficient grounds are made out for cancellation of the PPA.

(b) For the above reasons, we answer Issue No.(3), in the affirmative.

11) **ISSUE No.(4)**: Whether the Petitioner is entitled for any relief(s)? If so, to what relief(s)?

(a) This Commission has passed the Order bearing No.KERC/S/F-31/Vol-382/1285, dated 07.11.2017, "*In the matter of: Tariff Order for SRTPV Plants violating the norms specified for implementation of the SRTPV Plants.*" The reasons for passing this Order are stated in Paragraphs-5 and 6 of the recitals of the said Order, as follows:

"5. In the meanwhile, it was brought to the notice of the Commission that a huge number of PPAs, execute in respect of the SRTPV Projects have been terminated or

in the process of being terminated for reasons like not commissioned within stipulate time, extension of the roof area of the existing building in violation of the terms of the PPA/sanction order or the roof on which the SRTPV plant is installed is not a building, as specified by the State Government, etc. It was also brought to the notice of the Commission that such consumers have come forward to commission the SRTPV plants at the rates different from that agreed in the PPAs.

6. The Commission notes that the commissioning of the affected SRTPV plants, involving large investments by respective consumers would be in the larger public interest. These SRTPV plants not being commissioned within the stipulated time cannot, however, now be made eligible for the tariff fixed under the relevant Order of the Commission, though the limit on installed capacity could be made as applicable under the relevant Order."

(b) The relevant operative portions of the said Order, stated at Paragraphs- a. to d. thereof, are as follows:

"a. A consumer having executed a PPA with any ESCOM in respect of his/her proposed SRTPV plant in terms of the Commission's Order dated 10.10.2013 but, having such a PPA cancelled for the delay in commissioning of the Project within the stipulated period, shall be allowed to commission the Project and shall be entitled for the revised tariff, as in the Commission's Order dated 02.05.2016 subject to he/she entering into a fresh PPA and commissioning the Project on or before 31.12.2017.

b. A consumer having executed a PPA with any ESCOM, in respect of his/her proposed SRTPV plant in terms of the Commission's Order dated 02.05.2016, but having such PPA cancelled for

delay in commissioning of the Project within the stipulated time period, shall be allowed to commission the Project at the tariff of Rs.3.57 per unit being the notified APPC FY18 for the term of the PPA, subject to he/she entering into a fresh PPA and commissioning the Project on or before 31.12.2017.

- c. *A consumer having executed PPA with any ESCOM in respect of his/her proposed SRTPV plant in terms of the Commission's Order dated 10.10.2013 or 02.05.2016 but, having such a PPA cancelled for reasons other than non-commissioning of the plant within the stipulated period shall have the option to commission the SRTPV plant with the capacity as in the original PPA and shall be entitled to a tariff of Rs.3.57 per unit, being the notified APPC for FY18 for the term of the PPA, subject to he/she entering into a fresh PPA and commissioning the Project on or before 31.12.2017.*
- d. *In respect of the plants, in all above cases, all the technical and operational conditions/ specifications shall be applicable, as per the relevant Orders, Regulations and the Code."*

(c) In this case, it is found that, the PPA was cancelled, not merely for the delay in commissioning of the SRTPV system, but also for the violations, such as, the roof on which the SRTPV System was installed, was not a building, as specified by the Government of Karnataka, etc. The Petitioner had come forward to commission the SRTPV System, at the rates as specified in the said Order dated 07.11.2017. In pursuance of the same, PPA is executed on 18.01.2018 and the

SRTPV System was commissioned. It is found that, the SRTPV System had violated the norms/guidelines, as noted above. Therefore, the Petitioner is entitled to a tariff of Rs.3.57 per unit only. As already noted, the Petitioner has already executed the PPA, afresh, agreeing to supply energy at the tariff of Rs.3.57 per unit, for the Delivered Energy. Therefore, the Petitioner is not entitled to any of the reliefs, sought for.

(d) For the above reasons, we answer Issue No.(4), accordingly.

12) **ISSUE No.(5):** *What Order?*

For the foregoing reasons, we pass the following:

ORDER

The Petition is hereby dismissed.

Sd/-
(SHAMBHU DAYAL MEENA)
CHAIRMAN

Sd/-
(H.M. MANJUNATHA)
MEMBER

Sd/-
(M.D. RAVI)
MEMBER