

No.N/279/2018

BEFORE THE KARNATAKA ELECTRICITY REGULATORY COMMISSION**No. 16 C-1, Miller Tank Bed Area, Vasanth Nagar, Bengaluru- 560 052****Dated : 25.02.2020****Present:**

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

OP No.119/2018**Between:**

Syed Shafthulla Sakhaff,
S/o Late S.K. Syed Murtuza Sakhaff,
Major, 242, Syed Wadi,
Channapatna,
Ramanagar District-562 160.

... **PETITIONER**

(Represented by Smt. Poonam Patil, Advocate)

AND

1. Bangalore Electricity Supply Company Limited,
A Company incorporated under Companies Act,1956,
Corporate office at K.R.Circle,
Bangalore.560 001.
(Represented by its Managing Director)

2. The Assistant Executive Engineer, (Ele),
C, O & M Sub-Division, BESCO,
Channapatna,
Ramanagar District-571 160.

... **RESPONDENTS**

[Represented by Just Law, Advocates]

ORDERS

1. This is a petition filed under Section 86 (1) (f) of the Electricity Act, 2003, praying for the following reliefs:

a) Hold and declare that the Petitioner is entitled to a tariff of Rs.9.56/kwh [as fixed under the Power Purchase Agreement (PPA) dated 23.01.2016] towards the energy being supplied to the Respondent No.1 and that the said tariff is payable from 15.6.2016 [date of Chief Electrical Inspector of Government (CEIG) approval] for the entire term of the PPA.

IN THE ALTERNATIVE

b) Direct the Respondents to jointly and severally pay the Petitioner a sum of Rs.1,93,10,400/- (One crore, ninety-three lakhs, ten thousand and four hundred only) along with interest at 18% p.a. from 15.06.2016 (the date of CEIG approval) till the date of realisation and;

c) Grant such other and further reliefs as deemed fit in the facts and circumstances of the case, in the interest of justice.

2. The facts mentioned by the Petitioner are:

- a) The Petitioner applied for installation of 30 KWP capacity Solar Rooftop Photo voltaic (SRTPV) power plant at his Beedi factory premises on the RR No.13419 in Channapatna Taluka of Ramanagar District. An approval dated 29.01.2016 was granted by the Respondent for installation of the SRTPV plant. The time limit to complete the project was stipulated to be within 180 days from the date of approval and thus the Petitioner was required to complete the project on or before 27.07.2016.
- b) A power purchase agreement in respect of the above mentioned SRTPV plant for RR No.13419 was signed between the parties on 23.01.2016. The tariff fixed under the PPA was Rs.9.56/kwh.
- c) Immediately on obtaining approval of the project, the Petitioner approached Banks to fund the project. The petitioner also placed order for equipment for the solar plant for an amount of Rs.28,50,000/-. The Petitioner was sanctioned loan to the extent of Rs.18,00,000/- by State Bank of India, Bangalore, of which he availed a loan of Rs.15,00,000/-.
- d) After completing the project, the petitioner submitted the work completion report to the Respondent on 24.03.2016 as per Annexure-F, barely in a period of only 54 days from the date of approval.

- e) The Respondent failed to comply with the procedural requirement of granting CEIG approval till June 2016. After repeatedly following up with the Respondent No.2, the Petitioner was asked to remit the Inspection fee on 23.05.2016 and the same was paid on the very same day i.e., on 23.05.2016. The CEIG approval was granted only on 15.06.2016.
- f) After obtaining the CEIG approval belatedly, the Petitioner was harassed to procure service for his installation. The Petitioner personally visited the office of Respondent No.2 on multiple occasions and requested for servicing the installation at the earliest so as to enable the petitioner to commission the plant immediately. However, the Respondents failed to respond to the Petitioner for reasons best known to them. When the Respondent No.2 failed to respond, the Petitioner sought intervention of Respondent-1 and of this Commission. Copies of the communication dated 15.12.2016 issued by the Respondent No.1 BESCO, and communication dated 29.12.2017 issued by this Commission are produced as Annexure H & H1 respectively.
- g) The Petitioner was waiting to hear from the Respondents on servicing the installation and further approvals. The Respondents called upon the Petitioner and asked him to sign a new PPA in respect of the same premises, but on a different meter, bearing RR No.13420. The Petitioner was shocked at the callous approach of

the Respondents but kept pursuing with them for adhering to the terms of the earlier PPA. However, the Respondents hastily approached the Petitioner and got his signature on a PPA on 23.03.2017 for RR No.13420 at tariff of Rs.6.61 per unit. The Petitioner was not given any opportunity or option but was forced to sign the said PPA under the undue influence of the Respondents. The Respondents have further made false statements in the PPA about the Petitioner requesting them for the subsequent PPA and also about the cancellation of the earlier PPA. The Respondents have not sent any cancellation order nor have they intimated the Petitioner about the cancellation till date. No procedure, which is followed ordinarily in case of SRTPV projects, was followed by the Respondents in respect of the second PPA; no formal approval letter was issued, no work completion report was obtained by the Respondents and neither the CEIG inspection was carried out and consequently no CEIG approval has been issued in respect of RR No.13420 of the subsequent PPA, revealing misrepresentation and malpractice. The subsequent PPA dated 23.03.2017 records that the earlier PPA dated 23.01.2016 has been cancelled w.e.f. 30.07.2016 by an order dated 06.01.2017. This shows that the Respondents have tried to cover up their illegal omission of non-servicing of the Petitioner's installation on account of sheer callousness and unprofessional approach. The Petitioner has not

been served with the alleged cancellation order dated 06.01.2017, cancelling the PPA dated 23.01.2016.

- h) The Petitioner is facing huge financial difficulty as the loan obtained was based on the tariff of Rs.9.56 per unit fixed in the PPA dated 23.01.2016. The action of the Respondents in fixing a tariff of Rs.6.61 per unit even when the delay to commission the project under PPA dated 23.01.2016 is solely on account of their failure to service the installation RR No.13419. The Petitioner had worked his finances at the tariff of Rs.9.56 and had successfully completed the project well within the time granted. The Petitioner is not in a position to service his debt at the varied tariff of Rs.6.61 per unit and has been struggling to make EMI payments.
- i) The Petitioner is entitled for a sum of Rs.1,93,10,400/- (One crore, ninety-three lakhs, ten thousand and four hundred only) and the same is payable by the Respondents for the losses suffered by the Petitioner. The said sum is being arrived as follows:

6 units generation per day *30 kWp*30 days = 5400 units per month.

5400*9.56 per unit (Tariff fixed under the PPA dated 23.01.2016) = Rs.51,624 per month, and for a year Rs.6,19,488.

As the term of the PPA is 25 years, the Petitioner has lost out

on the revenue at the tariff of Rs.9.56 for 25 years and therefore, the Petitioner is entitled for a sum of Rs.1,54,87,200/-

- j) The Petitioner has invested a sum of Rs.30,00,000/- on the project solely depending on the PPA executed by the Respondents at tariff of Rs.9.56. The Petitioner is incurring a sum of Rs.35,400/- towards interest on the principal amount of investment. It would take a minimum of 9 years for the Petitioner to service the said debt and therefore, he is entitled for the said sum, being Rs.38,23,200/-. Wherefore, the Respondents are jointly and severally liable to pay a sum of Rs.1,93,10,400/- and interest thereon from 15.6.2016, the date of CEIG approval till realisation.

3. The Grounds urged by the Petitioner are:

- i. The action of the Respondent in not giving effect to the PPA dated 23.01.2016 is arbitrary, unreasonable and illegal.
- ii. The petitioner had completed installation of the plant in the month of March 2016 itself, within a period of 54 days. Work completion Report in this regard also was submitted. The Respondent No.2 issued the CEIG approval on 15.06.2016 and after that without assigning any reasons failed to provide service to the installation and completely abandoned the operation of the PPA unilaterally. The Respondents being State entities are estopped from taking any

action that severely prejudices the rights of the petitioner and violates his legitimate expectation.

- iii. The Hon'ble Apex Court in catena of cases has held that the duty to act fairly on part of the public authorities entitles every citizen to have legitimate expectation to be treated in a fair manner and it is imperative to give due importance to such an expectation in order to satisfy the requirement of non-arbitrariness in state action or otherwise it may amount to abuse of power.
- iv. The Respondents are guilty of violation of principles of natural justice in as much as the Petitioner was not heard or informed before valuable rights accrued to him under a valid, legal contract, the PPA dated 23.01.2016 was taken away. No notice was also issued giving the Petitioner an opportunity before the drastic measure of the alleged cancellation of the PPA dated 23.01.2016 was adopted by the Respondent.
- v. The PPA dated 23.03.2017 is not in accordance with law. There was no prior approval to establish the plant. The Petitioner has not submitted any work completion report in respect of RR No.13420, no CEIG inspection or approval has been granted by the Respondents in respect of RR No.13420. The same was also got signed by the Respondents in haste. Since the delay or non-commissioning of the

installation under the PPA dated 23.01.2016 for RR No.13419 was solely on account of the Respondents' negligence, the Petitioner cannot be saddled with a lower tariff and is therefore, entitled for tariff of Rs.9.56/- per unit as he was ready to commission the plant in March 2016 itself.

4. Upon issuance of Notice, the Respondents entered appearance through their Counsel and filed Statement of objections as follows:

a) As per SRTPV guidelines issued by the Respondent, after the completion of the installation of the SRTPV plant, the Petitioner is required to submit work completion report along with facilitation fee. However, the Petitioner has failed to submit work completion report and pay facilitation fee. Further, the Petitioner has failed to commission the plant within 180 days from the date of execution of PPA. Therefore, the Respondent has terminated the PPA with effect from 30.07.2016 vide OM dated 06.01.2017 (Annexure R1).

b) Thereafter, the Petitioner filed an application for installing the SRTPV plant in his premises having RR No.13420. On 23.03.2017, the Petitioner executed a PPA for sale of power from the SRTPV plant installed on roof of the existing building bearing RR No.13420 at tariff of Rs.6.61/- per KWh. On 23.03.2017, the Respondent No.2 accorded approval to the Petitioner to install SRTPV plant (Annexure R2). The Petitioner submitted the work completion report on

23.03.2017 (Annexure R-3). On 24.03.2017, the Petitioner paid Rs.2,000/- towards facilitation fee as required under SRTPV guidelines.

c) The Commission has clearly specified that PPAs executed as per the tariff order dated 10.10.2013 are eligible for Rs.9.56/- per unit, provided that they commission the SRTPV plant within 180 days. The Petitioner herein cannot be permitted to avail the benefit of higher tariff even though he has not adhered to the prescribed time frame for commissioning the plant.

d) For plants which have been commissioned beyond 180 days, the tariff order dated 02.05.2016 has been made applicable. Hence, there is no ambiguity in the policy of the Respondent nor the Orders of this Commission. The Petitioner is attempting to take advantage of his mistake by seeking higher tariff. Unless a uniform policy is enforced for generators who have commissioned their units after six months, it will lead to a situation where there is disparity between SRTPV plants.

e) The fact that the Petitioner has not submitted work completion report and not paid the facilitation fee with respect to its SRTPV plant bearing RR No.13419, proves that the Petitioner had not completed its plant within 180 days. The non-payment of facilitation fee in March 2016 is evident from the perusal of the installation wise non-

revenue collection report for March 2016 produced as Annexure R6. Such being the case, considering the Petitioner's request for commissioning the plant does not arise.

f) The work completion report dated 23.03.2016 produced by the petitioner as Annexure F is a concocted document. In view of non-completion of SRTPV plant in respect of RR No.13419 within the stipulated timeframe, the Respondent has terminated the PPA dated 23.01.2016.

g) Thereafter, the Petitioner has executed a PPA dated 23.03.2017 with respect to sale of power from SRTPV plant bearing RR No.13420 at tariff of Rs.6.61 per kWh as per the Generic tariff order dated 02.05.2016. The Petitioner is making baseless allegations that Respondent coerced the Petitioner to execute the PPA dated 23.01.2017. The Petitioner having voluntarily executed PPA dated 23.03.2017 incorporating tariff of Rs.6.61 per kWh cannot wriggle out of a valid contract.

h) The other allegations that Petitioner's plant was not commissioned on account of unexplained delay on the part of the Respondents, that the Respondent acted callously, that the Petitioner was forced to sign the PPA under undue influence, that the Respondents have made false statements in subsequent PPA are untenable and denied. That the Petitioner was not intimated about the

cancellation of the PPA, that the Respondents have breached the PPA and indulged in misrepresentation and malpractice are denied.

- i) The averment with regard to loan availed by the Petitioner is self-serving in nature and need not be specifically traversed.
- j) The averment that the Petitioner is entitled for a sum of Rs.1,93,10,400/- for loss suffered on account of failure of the Respondent to commission the plant is denied.
- k) The respondents have prayed for dismissal of the petition.

5. The petitioner has filed the Rejoinder to the Objections filed by the Respondents.

In addition to the averments in the petition, the Petitioner has stated in the rejoinder as follows:

- i) The Petitioner diligently followed up with the project work and paid Test fees on 31.03.2016 pursuant to which the Respondent No.1 conducted Test of Secure Solar Bidirectional meter on 02.04.2016 and submitted report on 13.04.2016. The Petitioner then submitted the Affidavit signed with the Licenced Electrical Contractor for execution of electrical installation work on 21.04.2016. Thereafter, the Petitioner submitted blueprint maps for installation of 114

modules vide letter dated 21.04.2016, subsequent to which the Additional Chief Electrical Inspector approved the drawings on 18.05.2016. The Respondent No.1 issued the Meter accuracy report on 23.05.2016 which clearly goes to show that the Petitioner had completed installation works at his end since the particular Test Report is issued only after testing the unit for installation. Copies of test report dated 13.04.2016, affidavit dated 21.04.2016, letter dated 21.04.2016, communication dated 18.05.2016 by the Additional Chief Electrical Inspector and Test report dated 23.05.2016 are produced as Annexures M, N, P, Q and R respectively. After repeatedly following up with the Respondent No.2, the Petitioner was asked to remit the Inspection fee on 23.05.2016 and accordingly the same was paid on the very same day on 23.05.2016. The CEIG approval was granted only on 15.06.2016.

- ii) After obtaining the CEIG approval, the Petitioner personally visited the office of the Respondent No.2 on multiple occasions and requested for servicing the installation at the earliest so as to enable the Petitioner to commission the SRTPV plant immediately. However, the Respondents failed to respond to the Petitioner for reasons best known to them. The Respondent No.1 also had communicated to Respondent No.2 to act on the written representation given by the Petitioner on various occasions. A copy of the Representation dated 26.10.2016, which the Petitioner had lost and procured under

RTI Act, is produced as Annexure S. This representation of the Petitioner was forwarded by General Manger of the Respondent No.1 to the Respondent No.2 only on 15.12.2016 (Annexure H). When the Respondents were keen on servicing the installation as on 15.12.2016 as they were aware that the delay was not on the part of the Petitioner, they state that the PPA dated 23.01.2016 was terminated on the very same date i.e., on 15.12.2016 vide Annexure R1. All these goes to show that the Respondents have issued communications/ letters as an afterthought by back dating them only to safeguard themselves and absolve themselves of their wrongful acts and consequently defeat the rights accrued in favour of the Petitioner.

- iii) The averments of the Respondents that they had terminated the PPA w.e.f. 30.07.2016 is patently false and denied. The Petitioner was not informed about the termination of the PPA dated 23.01.2016 by the Respondents w.e.f. 15.12.2016 as per Annexure R-1 dated 06.01.2017. From the recitals of Annexure R1 it is clear that the alleged termination of the PPA was done w.e.f.15.12.2016, however, it could be seen that the same is done retrospectively, which is impermissible and illegal. No prior notice of termination was issued to the Petitioner. Therefore, the alleged termination of PPA being in contravention of the terms of the PPA requiring issue of prior notice is illegal, arbitrary and unenforceable. At any rate, the Petitioner is

not in receipt of any communication, much less Annexure-R1 dated 06.01.2017 and the Respondents are put to strict proof of the same.

iv) The approval in respect of RR No.13420 was issued on 23.03.2017, on the very same day PPA was signed and the alleged work completion report also was submitted and immediately on the next day i.e., on 24.03.2017 facilitation fee was procured by the Respondents even though 6 months' time to complete the installation was there till September, 2017.

v) The tariff at Rs.6.61 per unit would make the project unviable and for the above reasons, the petition may be allowed.

6. We have heard the learned counsel for the parties and perused the records.

7. From the rival contentions and the pleadings of the parties and the relevant provisions of law governing the installation of the SRTPV system following Issues arise for our consideration.

- 1) Whether the petitioner has submitted the work completion report on 24.03.2016 (Annexure-F) in the office of the 2nd Respondent by paying fee of Rs.2,000/-?
- 2) Whether the work completion report (Annexure-F) was accompanied with the required documents?
- 3) Whether there is delay in commissioning of the SRTPV system of the petitioner, if so to which tariff the petitioner is entitled to?

4) What Order?

8. After considering the submissions and pleadings of both the parties, our findings on the above Issues are as follows:

9. Issue No.1: Whether the petitioner has submitted the work completion report on 24.03.2016 (Annexure-F) in the office of the 2nd Respondent by paying fee of Rs.2,000/-?

a) The petitioner in Para 6 of his petition has stated that he submitted the work completion report on 24.03.2016 (Annexure-F), but does not specifically stated to whom such report was submitted. However, this report (Annexure-F) is addressed to the 2nd Respondent. Therefore, it can be said that this report might have been submitted to the office of the 2nd Respondent. Annexure-F is a Xerox copy. In the column relating to details of facilitation fee paid, it is stated that Rs.2,000/- was paid under Receipt No.987749053609 dated 24.03.2016. This report is, signed by System Installer namely; Bunt Solar India Private Limited on 23.03.2016 and also by the petitioner on 24.03.2016. There is an endorsement at the end of this report with the initials of some person noting to receive facilitation fees of Rs.2,000/-.

b) The Respondents in their common statement of objections denied having received Annexure-F and payment of facilitation fee of Rs.2,000/- on 24.03.2016 under Receipt No.987749053609. The

petitioner has not produced the receipt for verification, though the receipt no. and date and the amount are mentioned in the work completion report (Annexure-F). The Respondents have contended that Annexure-F is concocted document. As noted earlier in the statement of objections of respondents, it is stated that the petitioner has executed a fresh PPA dated 23.03.2017 relating to RR No.13420 with a tariff of Rs.6.61/- per unit for installation of the SRTPV system and that on the same day the 2nd Respondent accorded approval to the petitioner to install SRTPV system as per Annexure-R2 and, thereafter, the petitioner had submitted the work completion report as per Annexure-R3 and on 24.03.2017, the petitioner had paid Rs.2,000/-. We may see that Annexure-R3, work completion report is signed by System Installer, Bunt Solar India Private Limited on 23.03.2017 and it is signed by the petitioner on 24.03.2017 and initialed by some person noting to receive the facilitation fee of Rs.2,000/- 'with his initials and date 24.03.2017.' We may note that in the facilitation fee paid column in this work completion report (Annexure-R3) it is stated that fees of Rs.2,000/- was paid under Receipt No.987749053609 dated 24.03.2017. The perusal of Annexure-F produced by the petitioner along with his petition and of Annexure-R3 produced by the respondents along with their objection, would show that both documents are copies of the same original except the calendar year mentioned while describing the various dates mentioned in the Annexure-F &

Annexure-R3. In Annexure-F, calendar years in various places are shown as 2016 and whereas in Annexure-R3, it is shown as 2017. It appears for some ulterior motive, the petitioner has submitted work completion report as per Annexure-F just altering the calendar year by some process. It can be seen that the respondents have verified that receipt No.987749053609 dated 24.03.2017 for Rs.2,000/- was really generated on 24.03.2017. This is clear from Annexure-R4, the Installation-wise Non-Revenue Collection Report for the month of March 2017. This document proves that in respect of RR No.13420 of petitioner a sum of Rs.2,000/- was received on 24.03.2017. Respondents have also produced Annexure-R6 to evidence that in the month of March 2016, no such amount was received. Therefore, we are of the opinion that the statement in the relevant column regarding payment of facilitation fee made in Annexure-F cannot be accepted and the version of the respondents that facilitation fee of Rs.2,000/- was paid on 24.03.2017 is to be accepted. Therefore, we hold that the petitioner had submitted Annexure-F fabricating Annexure-R3. Accordingly, Issue No.1 is held in negative.

10. Issue No.2: Whether the work completion report (Annexure-F) was accompanied with the required documents?

The bare perusal of relevant columns of Work Completion Report (Annexure-F) shows that the MT Division of BESCO has to issue the test

certificate of bi-directional meter and further SRTPV system should be inspected by the Chief Electrical Inspector to Government (CEIG) to hold that the work of SRTPV system has been completed. Admittedly, on 24.03.2016 these test reports were not obtained by the petitioner. Therefore, it is clear that work completion report could not have been submitted on 24.03.2016 with all required documents.

11. Issue No.3: Whether there is delay in commissioning of the SRTPV system of the petitioner, if so to which tariff the petitioner is entitled to?

a) The approval dated 29.01.2016 (Annexure-A) for installing the SRTPV system of the petitioner states that the approval was valid for 180 days from the date of the said approval and the SRTPV system should be commissioned within the said period failing which the approval would be treated as cancelled. Therefore, this period of 180 days expires on 27.07.2016. The petitioner's SRTPV system was required to be commissioned on or before 27.07.2016. The guidelines for installing the SRTPV system provides that within 3 days from the date of submission of the work completion report, the SRTPV system should be synchronized/ commissioned with the Grid. As already noted there was no work completion report duly submitted along with the required documents. Though the petitioner had made complaints before different authorities that his SRTPV system was not synchronized/commissioned, it appears such complaints were made subsequent to the due date for

commissioning of the project namely; 27.07.2016. The petitioner has not produced any document to show that he had submitted all the required documents before the due date for commissioning of his SRTPV system. The complaints on which the petitioner relied upon are subsequent to the due date of commissioning of the SRTPV system. The petitioner has averred in his petition in Para 7 that after issuing the CEIG approval, he visited the office of the 2nd Respondent on multiple occasions and requested for synchronizing of installation at the earliest, however, 2nd Respondent failed to respond to the petitioner for the reasons best known to him. The 2nd Respondent has denied these averments in his objection statement. The petitioner has not stated that during any such time he had submitted work completion report and had paid required fee.

- b) It appears when repeated complaints were made to higher-ups in BESCOM, finally a meeting was held on 14.03.2017 at Board Room of BESSCOM, Corporate Office, K.R. Circle, Bengaluru among Director (Technical), BESCOM, Chief Engineer (Ele.) BRAZ, BESCOM, and DGM, DSM, BESCOM, Corporate office and it was resolved to permit installing 30 kWp SRTPV system as per the earlier PPA executed by the petitioner with a tariff of Rs.6.61/- per unit as specified in the Generic Tariff Order dated 02.05.2016. It is shown that the petitioner had given a representation dated 21.02.2017 stating that due to some reasons, he could not able to install the

system in time and requested to process his application for 30 kWp SRTPV system for RR No.13420 with sanction load of 5 kWp at the present tariff. It can be seen that the Generic Tariff Order dated 02.05.2016 was in force from 02.05.2016. As per this order, the tariff for the SRTPV system of 30 kWp capacity was Rs.6.61/- per unit and the installed capacity could have been up to the sanctioned load. The petitioner had sanctioned load of 5 kWp for his RR No.13420. Therefore, it was decided in the above said meeting that the petitioner should not be insisted to obtain additional 25 kWp load to the existing RR No.13420 installation. The officials might have thought that a fresh PPA is to be executed and accordingly, the PPA dated 23.03.2017 was obtained from the petitioner and the SRTPV system of the petitioner for 30 kWp was commissioned on 24.03.2017.

- c) The petitioner has installed the SRTPV system of 30 kWp on the rooftop of his premises bearing No.274 situated at Syedwadi, Channapatna, Ramanagar district. It appears in the same premises, he was carrying out his Beedi Works unit and he was also having residence. Therefore, he was having installations bearing No.13419 as well as 13420.
- d) The petitioner contended that his signature was obtained on 2nd PPA dated 25.03.2017 against his wish and he should be provided with the tariff of Rs.9.56/- per unit as stipulated in the PPA dated

23.01.2016. It can be seen that the petitioner has failed to establish that he submitted work completion report within the due date or the concerned officials unlawfully refused to synchronize/commission his SRTPV system within the due date. Therefore, as per the Generic Tariff Order dated 02.05.2016, the petitioner was entitled to only the reduced tariff of Rs.6.61/- per unit as specified in the said order.

e) Subsequent to obtaining the CEIG report dated 15.06.2016, the petitioner should have filed the work completion report in Format-7 with all required particulars to the 2nd respondent. The petitioner claims that he submitted such work completion report on 24.03.2016 itself as per Annexure-F by paying the required facilitation fee of Rs.2,000/-. We found that Annexure-F is a fabricated document by altering the calendar year 2017 to 2016 of Annexure-R3 in various places. This fact establishes that the petitioner had not submitted the work completion report in Format-7 before the due date for commissioning of the SRTPV system i.e., 27.07.2016. It is not the case of the petitioner that any other work completion report tendered by him within due date was not received by the respondent. In the absence of work completion report, there was no occasion for commissioning/synchronizing the SRTPV system of the petitioner with the grid. The petitioner has averred in the petition as well as in the Rejoinder that the 2nd respondent had failed to obtain the meter testing report as well as the CEIG report, as if, it was the obligation

of the 2nd respondent to obtain such reports. It may be noted that the petitioner has to obtain these reports by paying the required fees and submitting the required documents and the 2nd respondent has no obligation to obtain such reports.

f) The respondents need not have cancelled the earlier PPA dated 23.01.2016 and they need not have obtained the 2nd PPA on 23.03.2017 for commissioning/synchronizing the SRTPV system of the petitioner, at the reduced tariff of Rs.6.61/- per unit. The Generic Tariff Order dated 02.05.2016 itself provides for reduced tariff, when the SRTPV system was not commissioned within the stipulated period. It appears the respondents might have thought that without taking a 2nd PPA for the reduced tariff, the relevant provisions of law relating to the SRTPV system do not allow them to commission the SRTPV system of the petitioner. This wrong impression had led them to take the 2nd PPA and to say the other relevant documents were received after execution of the 2nd PPA.

g) For the above reasons, on Issue No.3, it is held that there is delay in commissioning of the SRTPV system and that the petitioner was entitled to a reduced tariff of Rs.6.61/- per unit.

12. Issue No.4: What Order?

a) The petitioner has claimed tariff of Rs.9.56/- per unit for which he is not entitled to as already noted. Alternatively, the petitioner has claimed compensation of Rs.1,93,10,400/- from the respondents with interest at 18% per annum from 15.06.2016 (the date of CEIG approval) till the date of realisation. The basis for claiming this much of compensation is narrated in Para 11 of the petition. The compensation cannot be granted for the reasons stated in Para 11 under any provisions of law. Therefore, we hold that the petitioner is not entitled to any of the reliefs claimed in the petition.

b) For the foregoing reasons, we pass the following:

ORDER

The petition is dismissed. The petitioner is not entitled to any of the reliefs claimed in the petition.

Sd/-
(SHAMBHU DAYA MEENA)
Chairman

Sd/-
(H.M. MANJUNATHA)
Member

Sd/-
(M.R. RAVI)
Member