



Chhattisgarh State Electricity Regulatory Commission
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P. No. 28 of 2020

"Petition for removal of difficulties under Regulation 29 of the CSERC (Grid Interactive Distributed Renewable Energy Sources) Regulation, 2019 and for providing relaxation under Regulation 27 r/w Regulation 26 of the CSERC (Grid Interactive Distributed Renewable Energy Sources) Regulations, 2019."

M/s Godawari Power & Ispat Limited.

... Petitioner

versus

**Chhattisgarh State Power
Distribution Company Limited, Raipur**

... Respondent

PRESENT : D.S.Misra, Chairperson
Arun Kumar Sharma, Member
Vinod Deshmukh, Member (Judicial)

Appearance : Shri Raunak Jain, Counsel along with Shri Vinay Agrawal
and Shri Sudeep Chakraborty for petitioner

Shri Abhinav kardekar and Ms. Gurpreet Kaur Chawla,
Counsels along with Shri Robin Gupta, EE for respondent.

ORDER

(Passed on 10.03.2021)

The petitioner, M/s Godawari Power & Ispat Limited, has filed this petition under Regulation 29 of the CSERC (Grid Interactive Distributed Renewable Energy Sources) Regulation, 2019 (DRE Regulations, 2019 in short) for removal of difficulty and for providing relaxation under Regulation 27 read with Regulation 26 of the DRE Regulations, 2019. Petitioner has set up Captive Power Plants (CPP) of 73 MW capacity, out of which 42 MW is generated through Waste Heat Recovery Boiler

(WHRB) route, 20 MW through biomass and remaining 11 MW through coal based thermal (AFBC) route. The petitioner is seeking to replace its 11 MW coal based captive generating plant by remotely located solar plant which will generate carbon free green energy. For this purpose, the petitioner has sought relaxation in the DRE Regulations, 2019, mainly in the provisions relating to banking so as to get 24x7 power for its captive load. The proposal of the petitioner is as follows:

- a) To relax the restrictions on use of banked power during peak hours and peak months.
- b) To fix wheeling charges at 6% in energy terms for lifetime of the project.
- c) To fix SLDC and other charges for captive solar PV plants for lifetime of the project.

2. Heard the parties. During the preliminary hearing, the Commission had advised both the parties to meet and explore the possibility of an amicable solution. During the course of final hearing, both the counsels informed the Commission that they have arrived at a mutually agreed bilateral arrangement, broad details of which are as follows:

- (i) Entire generation from the petitioner's solar plant shall go towards offsetting CSPDCL's RPO compliance.
- (ii) Provisions of banking in the regulations can be relaxed so as to allow 24x7 use of banked power by the petitioner.
- (iii) Banking charges be increased to 5% from existing 2%.
- (iv) The surplus banked energy, if any, at the end of the year will be credited to CSPDCL's account without any charges.
- (v) The petitioner shall not procure power from other sources through open access.

3. Both the counsels cited the provision in clause 27 of DRE Regulations, 2019 and argued that the Commission has been vested with the power to relax any of the provisions on its own motion or by an application. The relevant clause reads as follows:

"27. Power to relax: *The Commission may by general or special order, for reasons to be recorded in writing, and after giving an opportunity of hearing to the parties likely to be affected, may relax any of the provisions of these Regulations on its own motion or on an application made before it by an interested person"*

Their contention is that since there is an application before the Commission for relaxation in some of the provisions and both the parties have arrived at a mutually agreed arrangement, the Commission may approve it by recording reasons. However, learned counsel for the respondent insisted that this could be a stand alone or one time arrangement and should not form a precedence for others.

4. Commission's view:

We have considered the contentions of both the parties and gone through the relevant legal provisions. A plain reading of clause 27 of the DRE Regulations 2019 would make it clear that the power vested with the Commission is to relax or ease any existing provision so as to facilitate implementation of the regulations in true sense. However, this power to relax cannot be stretched to cover introduction of new provision or to modify the basic structure of the regulations. On careful examination of the proposed mutually agreed arrangement, as put forth by the parties, it emerges that some of the points contained therein amount to altering the existing provisions and insertion of new ones. Besides, there could be other parties which are likely to get affected by the proposed amendments and, therefore, they need to be heard. Thus, these are more in the nature of 'amendments' rather than 'relaxation' in the existing provisions. In fact, the clause following 27 i.e. clause 28 of DRE Regulations, 2019 provides for such amendments and reads as follows:

"28. Power to amend: *The Commission may from time to time add, vary, alter, suspend, modify, amend or repeal any provisions of these Regulations."*

5. We are of the view that while framing the regulations, the Commission had not visualized emergence of such a situation i.e., replacement of existing coal based plant with the carbon-free green power plants. Although, such initiatives needs to be encouraged and incentivized in the interest of reducing carbon footprint, the contentions of the counsels of both the parties that the Commission can give effect to the proposed bilateral arrangement by exercise of powers vested under clause 27 of the regulations cannot be accepted. We feel that suitable modifications have to be incorporated in the existing regulations for this purpose.

6. We, therefore, direct that draft amendments to this effect may be prepared and regulatory process for public consultation be initiated. The case is accordingly disposed off.

**Sd/-
(Vinod Deshmukh)
Member (Judicial)**

**Sd/-
(Arun Kumar Sharma)
Member**

**Sd/-
(D. S. Misra)
Chairperson**