

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.114/MP/2023 along with IA Nos.28/2023 & 29/2023

- Subject : Petition under Section 79 (1)(c) and (f) of the Electricity Act, 2003 read with Regulation 32 of the Central Electricity Regulatory Commission (Grant of Connectivity, Long term Access and Medium term Open Access in inter-State Transmission and related matters) Regulations, 2009 for setting aside the letter dated 23.03.2023 issued by the Central Transmission Utility of India Ltd.
- Date of Hearing : **21.8.2023**
- Coram : Shri Jishnu Barua, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member
- Petitioner : Soltown Infra Private Limited (SIPL) and 2 Ors.
- Respondents : Central Transmission Utility of India Limited (CTUIL).
- Parties Present : Shri Sanjay Sen, Sr. Advocate, SIPL
Shri Parinay Deep Shah, Advocate, SIPL
Shri Kartik Sharma, advocate, SIPL
Ms. Sikha Ohri, Advocate, SIPL
Shri Swapnil Verma, CTUIL
Shri Siddharth Sharma, CTUIL
Ms. Muskan Agarwal, CTUIL
Shri Alok Shankar, Advocate, CTUIL
Shri Kumarjeet Ray, Advocate, CTUIL

Record of Proceedings

Learned senior counsel for the Petitioners submitted that the present Petition has been filed, inter alia, for setting aside CTUIL's letter dated 23.3.2023 sent to the Petitioners herein whereby the Petitioners, SIPL and its Directors/Promoters have been blacklisted from applying for and obtaining connectivity or open access with CTUIL for a period of 3 years from the date of issuance of the said letter. Learned senior counsel submitted that on 12.10.2021 & 30.11.2021, SIPL applied for Stage I connectivity for 600 MW and 1200 MW, which was granted by CTUIL on 21.12.2021 and 22.1.2022 respectively. Thereafter, on 2.12.2021, SIPL applied for Stage II connectivity for the aforesaid 1800 MW (tranches of 500 MW, 600 MW and 700 MW), which was granted by CTUIL on 7.3.2022 pursuant to which a Transmission Agreement for Connectivity was entered into with CTUIL on 12.4.2022. On 25.4.2022, SIPL applied for the grant of Stage II connectivity for another 200 MW (not part of its 1800 MW applications). He submitted that after rectifying all the errors, including the removal of erroneous land documents from the list of supporting



documents as evident from its e-mails dated 8.7.2022 & 11.7.2022, on 12.7.2022, CTUIL proceed to issue the Bay Allocation letter to SIPL. The said letter was issued by CTUIL only after it was satisfied with the replies to the queries raised by it during the meeting dated 8.7.2022 and the subsequent correspondences between the parties dated 8.7.2022, 11.7.2022 & 12.7.2022. CTUIL also granted Stage II connectivity to SIPL for 200 MW on 15.7.2022. However, on 4.8.2022, CTUIL issued a first show cause notice to SIPL and its directors/promoters, *inter alia*, alleging that they had deliberately misrepresented and misled the CTUIL and for acting contrary to Clause 9.2.2 of the Revised Procedure for grant of Stage-II connectivity. The Petitioners responded to the said show cause on 18.8.2022. Further, vide separate addendums dated 21.8.2022, the Petitioners, *inter alia*, also highlighted that the applications, to the above extent, were rectified by SIPL in accordance with the provision allowing for the rectification of the applications. However, in order to maintain a harmonious relationship with CTUIL and avert a protracted dispute, SIPL, vide its letter dated 30.8.2022, sought to surrender/ withdraw the entire 1800 MW Stage II connectivity. Learned senior counsel for the Petitioners submitted that thereafter, CTUIL vide its letter dated 31.8.2022 closed the proceedings under the aforesaid show cause by revoking the Stage II connectivity for 1800 MW & the Transmission Agreements thereof and encashment of the connectivity bank guarantee furnished by SIPL amounting to Rs. 50 lakh. On 31.8.2022, SIPL applied afresh for grant of Stage II connectivity for 350 MW and 125 MW, which was granted by CTUIL on 26.10.2022. Learned senior counsel added that this fresh grant of connectivity by CTUIL also makes it clear that even CTUIL considered the proceedings initiated by the first show cause notice concluded with its revocation letter dated 31.8.2022. However, on 22.2.2023, CTUIL issued a second show cause notice to SIPL and its directors/promoters which expanded the scope of the first show cause notice and asked the Petitioner to show cause as to why the Petitioners should not be blacklisted from getting open access and connectivity from CTUIL. The Petitioners responded to the second show cause notice vide letter dated 3.3.2023. However, on 23.3.2023, CTUIL issued a blacklisting letter to SIPL and its promoters/directors from applying for and obtaining any connectivity or open access from CTUIL for a period of three years.

2. Learned senior counsel for the Petitioner further submitted that subsequently, the CTUIL vide its letter dated 5.4.2023 revoked the connectivity of 675 MW granted to the Petitioner on the ground that in light of the Petitioner's blacklisting, it cannot be allowed to transition under the GNA Regulations.

3. Learned counsel for the Respondent No.1, CTUIL sought liberty to upload CTUIL's consolidated reply on maintainability and merits to the amended Petition on the Commission's e-filing portal. The representative of CTUIL added that CTUIL has already served a copy of its reply to the Petitioners.

4. Learned senior counsel for the Petitioners submitted that the Petitioner has received CTUIL's reply only on 18.8.2023. Learned senior counsel further submitted that CTUIL is already in the process of allocating the Petitioners' subsequent Stage II Connectivity of 675 MW at Bikaner-II S/S as revoked by CTUIL and in case any third-party rights are created on the said capacity, the present Petition would be rendered infructuous. Accordingly, learned senior counsel urged that CTUIL be directed to maintain the status quo in the matter. In response, learned counsel for

CTUIL submitted that pursuant to the Record of Proceedings for the hearing dated 14.7.2023, the Commission has already declined to grant similar relief at this stage of proceeding.

5. Considering the request of the learned counsel for the Respondent, CTUIL, the Commission permitted the Respondent to file its reply within a day with an advance copy to the Petitioners who may file their response, if any with a week thereafter.

6. The Commission directed the CTUIL to clarify on an affidavit within a week as to whether the Petitioner has submitted a copy of the authorization given by the State government or the Central government as Renewable Power park developer” as required under the 2009 Connectivity Regulations, and if yes, to submit a copy of such authorization.

7. Considering the submissions made by the learned senior counsel for the Petitioners and learned counsel for the CTUIL and in order to ensure that the prayers of the Petitioners do not become infructuous, the Commission directed the CTUIL not to allocate the revoked capacity (675 MW) at Bikaner- II S/s to any other entity till the next date of hearing.

8. The Petition shall be listed for hearing on ‘maintainability and merits’ on 11.9.2023.

By order of the Commission
Sd/-
(T.D. Pant)
Joint Chief (Law)