

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

(Special Original Jurisdiction)

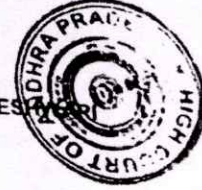
THURSDAY, THE SEVENTEENTH DAY OF OCTOBER,
TWO THOUSAND AND NINETEEN

:PRESENT:

THE HONOURABLE THE CHIEF JUSTICE SRI JITENDRA KUMAR MAHESWAR

AND

THE HONOURABLE SRI JUSTICE U. DURGA PRASAD RAO



WRIT PETITION No. 13860 of 2019

Between :-

1. M/s.Axis Wind Farms (MPR Dam) Pvt. Ltd., A Company incorporated under the Companies Act, 1956 And having its office at Plot No.A2, Dwaraka Vilas, Anantapur, Andhra Pradesh - 515 001. Rep.by its Authorized Signatory, Mr.Suryanarayana Peri
2. M/s.JED Solar Parks Pvt. Ltd., A Company incorporated under the Companies Act, 1956 And having its office at D Block, Flat No.55, Dwaraka Villas, Anantapur, Andhra Pradesh - 515 001. Rep.by its Authorized Signatory, Mr.Suryanarayana Peri
3. M/s.Vayuputra Energy Pvt. Ltd., A Company incorporated under the Companies Act, 1956 And having its office at Plot D-46, Dwaraka Vilas, Anantapur, Anantapur, Andhra Pradesh - 515 001, Rep.by its Authorized Signatory, Mr.Suryanarayana Peri
4. M/s.Rayalaseema Wind Energy Company Pvt. Ltd., A Company incorporated under the Companies Act, 1956 And having its office at Plot D-46, Dwaraka Villas, Anantapur, Andhra Pradesh - 515 001. Rep.by its Authorized Signatory, Mr.Suryanarayana Peri
5. M/s.SEI Sriram Power Pvt. Ltd., A Company incorporated under the Companies Act, 1956 And having its office at Lepakshi, Survey No.251, Kurnool, Andhra Pradesh - 515 331. Rep.by its Authorized Signatory, Mr.Suryanarayana Peri
6. M/s.Greenko Solar Power (Dharmavaram) Limited, (Formerly known as Rain Coke Ltd), A Company incorporated under the Companies Act, 2013 And having its office at 450/3E, Dharmavaram Mandal, Anatahpur, Andhra Pradesh - 515 671, Rep.by its Authorized Signatory, Mr.Suryanarayana Peri
7. M/s.Guttaseema Wind Energy Company Private Ltd., (Formerly known as Advaita Wind Energy Ventures Private Limited), A company incorporated under the Companies Act, 1956 And having its registered office at Office at Plot No. 1366, Road No. 45, Jubilee Hills, Hyderabad - 500 033. Rep.by its Authorized Signatory, Mr.Suryanarayana Peri
8. M/s.Saipuram Wind Energies Pvt. Ltd., A company incorporated under the Companies Act, 1956 And having its registered office at Office at Plot No. 1366, Road No. 45, Jubilee Hills, Hyderabad - 500 033. Rep.by its Authorized Signatory, Mr Suryanarayana Peri

..Petitioners

AND

1. State of Andhra Pradesh, Represented by its Principal Secretary, Electricity Department, Andhra Pradesh Secretariat, Velagapudi, Amaravathi. Guntur District - 522 503.
2. Andhra Pradesh Electricity Regulatory Commission, 11-4-660, 4th Floor, Singareni Bhavan, Red Hills Road, Khairatabad, Hyderabad, Telangana 500004.
3. AP State Load Dispatch Center Transmission Corporation, of Andhra Pradesh Limited 3rd Floor, APSLDC Building, Vidvut Soudha, Gunadala, Vijayawada, AP -520004

..Respondents.

Contd....2...

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ in the nature of Mandamus or any other appropriate writ order or direction:

- a. to declare the Regulation issued by Respondent No.2 i.e., APERC Forecasting, Scheduling and Deviation Settlement of Solar and Wind Generation Regulation, 2017 (Regulation No.4 of 2017) dated 21.08.2017 and consequential proceedings issued by Respondent No. 3 i.e., Procedure for implementation of DSM for Wind and Solar generation as per Regulation. 4 of 2017 of Honble APERC, as arbitrary, discriminatory, unreasonable and ultra vires to the Constitution of India;
- b. to declare the action of Respondent No.3 in issuing the following Notices i.e.,
 (1) Notice, dated 27.08.2019 vide Lr.No.ED/SLDC/SE(EB C)/EE/AO/D SM/F.No.14/D.No.397/2019 to Petitioner No.1(2) Notice, dated 27.08.2019 vide Lr.No.ED/SLDC/SE(EBC)/EE/AO/DSM/F.No.14/D.No.423/2019 to Petitioner No.2(3) Notice, dated 29.08.2019 vide Lr.No.ED/SLDC/SE(EBC)/EE/AO/DSM/F.No.14/D.No.488/2019 to Petitioner No.3(4) Notice, dated 28.08.2019 vide Lr.No.ED/SLDC/SE(EBC)/EE/AO/DSM/F.No.14/D.No.458/2019 to Petitioner No.4(5) Notice, dated 14.08.2019 vide Lr.No.ED/SLDC/SE(EBC)/EE/AO/DSMIF.No.14/D.No.356/2019 to Petitioner No.5(6) Notice, dated 14.08.2019 vide Lr.No.ED/SLDC/SE(EBC)/EE/AO/DSM/F.No.14/D.No.348/2019 to Petitioner No.6 as arbitrary, illegal, unconstitutional and also violative of principles of natural justice;

I.A No. 2 of 2019 :-

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Respondent No. 3 not to take any coercive action against the Petitioners including and not limited to encashment of the Bank Guarantees i.e.,
 (1). BG.No.0505518BG0003450, dated 04.08.2018 for an amount of Rs. 46,80,000/-furnished by Petitioner No. 1; (2).BG.No. 0505518BG0003344, dated 31.07.2018 for an amount of Rs. 10,80,000/- furnished by Petitioner No.2; (3). BG. No. 0505518BG0003448, dated 04.08.2018 for an amount of Rs. 57,82,500/-jointly furnished by Petitioner No. 3 and 7; (4).BG.No.0505518BG0003447, dated 04.08.2018 for an amount of Rs. 4,50,000/- jointly furnished by Petitioner No. 4; (5). BG. No. 0505518BG0003348, dated 31.07.2018 for an amount of Rs.4,14,000/- furnished by Petitioner No. 5; (6).BG.No.0505518BG0003347, dated 31.07.2018 for an amount of Rs. 4,95,000/- jointly furnished by Petitioner No. 6, pending disposal of Writ Petition No.13860 of 2019, on the file of the High Court..

I.A No. 1 of 2019 :-

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to Suspend the operation and effect of Notice(s) issued by the Respondent No.3 i.e., (1) Notice, dated 27.08.2019 vide Lr.No.ED/SLDC/SE(EBC)/EE/AO/DSM/F.No.14/D.No.397/2019 to Petitioner No.1; (2) Notice, dated 27.08.2019 vide Lr.No.ED/SLDC/SE(EBC)/EE/AO/DSM/F.No.14/D.No.423/2019 to Petitioner No.2; (3) Notice, dated 29.08.2019 vide Lr.No.ED/SLDC/SE(EBC)/EE/AO/DSM/F.No.14/D.No.488/2019 to Petitioner No.3; (4) Notice, dated 28.08.2019 vide Lr.No.ED/SLDC/SE(EBC)/EE/AO/DSM/F.No.14/D.No.458/2019 to Petitioner No.4; (5) Notice, dated 14.08.2019 vide Lr.No.ED/SLDC/SE(EBC)/EE/AO/DSM/F.No.14/D. No.356/2019 to Petitioner No.5; (6) Notice, dated 14.08.2019 vide Lr.No.ED/SLDC/SE(EBC)/EE/AO/DSM/F.No.14/D.No.348/2019 to Petitioner No.6, pending disposal of Writ Petition No.13860 of 2019, on the file of the High Court.

Contd....3...

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and order of High Court dt. 19-11-2019 made herein and upon hearing the arguments of SRI.P.VIKRAM Advocate for the petitioners, learned GP for ENERGY for Respondent No.1, Sri.P.Srinivasa Rao, learned counsel, takes notice for respondent No.2 and Sri Y.Nagi Reddy, learned counsel, takes notice for respondent No.3, the Court made the following. ✓

ORDER :-

"Three weeks' time is granted to all the respondents to file counters.

Interim order granted earlier to continue until further orders. ✓

List this case after three weeks along with W.P.Nos. 781 of 2018, 5706 and 15513 of 2019 for analogous hearing." ✓

//TRUE COPY//

K
ASSI SD/- K. AMMAJI
ASSISTANT REGISTRAR

for ASSISTANT REGISTRAR

To

1. One CC to SRI.P.VIKRAM, Advocate [OPUC]
2. One CC to SRI.P.SRINIVASA RAO, STANDING COUNSEL (OPUC)
3. One CC to SRI.Y.NAGI REDDY, STANDING COUNSEL (OPUC)
4. Two CCs to GP FOR ENERGY, High Court Of Andhra Pradesh. [OUT]
5. One spare copy

HIGH COURT

HC.J & UDPR.J

DATED:- 17-10-2019.

ORDER

W.P.No.13860 of 2019

**EXTENDING THE
INTERIM ORDER**



IN THE HIGH COURT OF ANDHRA PRADESH: AMARAVATI

(Special Original Jurisdiction)

THURSDAY, THE NINETEENTH DAY OF SEPTEMBER

TWO THOUSAND AND NINETEEN

:PRESENT:

THE HONOURABLE THE ACTING CHIEF JUSTICE C.PRAVEEN KUMAR
AND
THE HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION NO: 13860 OF 2019

Between:

1. M/s.Axis Wind Farms (MPR Dam) Pvt. Ltd., A Company incorporated under the Companies Act, 1956 And having its office at Plot No.A2, Dwaraka Vilas, Anantapur, Andhra Pradesh - 515 001. Rep.by its Authorized Signatory, Mr.Suryanarayana Peri
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Petitioners

AND

1. State of Andhra Pradesh, Represented by its Principal Secretary, Electricity Department, Andhra Pradesh Secretariat, Volagapudi, Amaravathi. Guntur District - 522 503.
2. Andhra Pradesh Electricity Regulatory Commission, 11-4-660, 4th Floor, Singareni Bhavan, Red Hills Road, Khairatabad, Hyderabad, Telangana 500004.
3. AP State Load Dispatch Center Transmission Corporation, of Andhra Pradesh Limited 3rd Floor, APSLDC Building, Vidvut Soudha, Gunadala, Vijayawada, AP - 520004

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ in the nature of Mandamus or any other appropriate writ order or direction:

- a. to declare the Regulation issued by Respondent No.2 i.e., APERC Forecasting, Scheduling and Deviation Settlement of Solar and Wind Generation Regulation, 2017 (Regulation No.4 of 2017) dated 21.08.2017 and consequential proceedings issued by Respondent No. 3 i.e., Procedure for implementation of DSM for Wind and Solar generation as per Regulation. 4 of 2017 of Honble APERC, as arbitrary, discriminatory, unreasonable and ultra vires to the Constitution of India;
- b. to declare the action of Respondent No.3 in issuing the following Notices i.e., (1) Notice, dated 27.08.2019 vide Lr.No.ED/SLDC/SE(EBC)/EE/AO/D-SM/F.No.14/D.No.397/2019 to Petitioner No.1(2) Notice, dated 27.08.2019 vide Lr.No.ED/SLDC/SE(EBC)/EE/AO/DSM/F.No.14/D.No.423/2019 to Petitioner No.2(3) Notice, dated 29.08.2019 vide Lr.No.ED/SLDC/SE(EBC)/EE/AO/DSM/F.No.14/D.No.488/2019 to Petitioner No.3(4) Notice, dated 28.08.2019 vide Lr.No.ED/SLDC/SE(EBC)/EE/AO/DSM/F.No.14/D.No.458/2019 to Petitioner No.4(5) Notice, dated 14.08.2019 vide Lr.No.ED/SLDC/SE(EBC)/EE/AO/DSM/F.No.14/D.No.356/2019 to Petitioner No.5(6) Notice, dated 14.08.2019 vide Lr.No.ED/SLDC/SE(EBC)/EE/AO/DSM/F.No.14/D.No.348/2019 to Petitioner No.6 as arbitrary, illegal, unconstitutional and also violative of principles of natural justice;

IA NO: 2 OF 2019

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Respondent No. 3 not to take any coercive action against the Petitioners including and not limited to encashment of the Bank Guarantees i.e., (1). BG.No.0505518BG0003450, dated 04.08.2018 for an amount of Rs. 46,80,000/-furnished by Petitioner No. 1; (2).BG.No. 0505518BG0003344, dated 31.07.2018 for an amount of Rs. 10,80,000/-furnished by Petitioner No.2; (3). BG. No. 0505518BG0003448, dated 04.08.2018 for an amount of Rs. 57,82,500/-jointly furnished by Petitioner No. 3 and 7; (4).BG.No.0505518BG0003447, dated 04.08.2018 for an amount of Rs. 4,50,000/- jointly furnished by Petitioner No. 4; (5). BG. No. 0505518BG0003348, dated 31.07.2018 for an amount of Rs.4,14,000/- furnished by Petitioner No. 5; (6).BG.No.0505518BG0003347, dated 31.07.2018 for an amount of Rs. 4,95,000/- jointly furnished by Petitioner No. 6, pending disposal of Writ Petition No.13860 of 2019, on the file of the High Court..

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The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of SRI.P.VIKRAM Advocate for the petitioners, learned GP for ENERGY for Respondent No.1, Sri.P.Srinivasa Rao, learned counsel, takes notice for respondent No.2 and Sri Y.Nagi Reddy, learned counsel, takes notice for respondent No.3, the Court made the following.

ORDER:

Sri.P.Srinivasa Rao, learned counsel, takes notice for respondent No.2 and Sri Y.Nagi Reddy, learned counsel, takes notice for respondent No.3. Both of them seek time to file counter.

Post on 14.10.2019 along with W.P.No.5706 of 2019.

Till then, the authorities shall not invoke the bank guarantees furnished by the petitioners, if not already invoked.

//TRUE COPY//

SD/- K. AMMAJI
ASSISTANT REGISTRAR

For ASSISTANT REGISTRAR

To,

1. The Principal Secretary, Electricity Department, State of Andhra Pradesh, Andhra Pradesh Secretariat, Velagapudi, Amaravathi. Guntur District - 522 503.
2. The Andhra Pradesh Electricity Regulatory Commission, 11-4-660, 4th Floor, Singareni Bhavan, Red Hills Road, Khairatabad, Hyderabad, Telangana 500004.
3. The AP State Load Dispatch Center Transmission Corporation, of Andhra Pradesh Limited 3rd Floor, APSLDC Building, Vidvut Soudha, Gunadala, Vijayawada, AP - 520004 (1 to 3 by RPAD)
4. One CC to SRI.P.VIKRAM, Advocate [OPUC]
5. One CC to SRI.P.SRINIVASA RAO, STANDING COUNSEL (OPUC)
6. One CC to SRI.Y.NAGI REDDY, STANDING COUNSEL (OPUC)
7. Two CCs to GP FOR ENERGY, High Court Of Andhra Pradesh. [OUT]
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SRL

HIGH COURT

HACJ & MSMJ

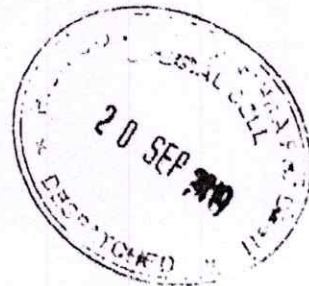
DATED:19/09/2019

NOTE: POST ON 14.10.2019 ALONG WITH W.P.NO.5706 OF 2019

ORDER

WP.No.13860 of 2019

DIRECTION



IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
(Special Original Jurisdiction)

**MONDAY, THE THIRTIETH DAY OF DECEMBER,
TWO THOUSAND AND NINETEEN**

:PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE SRI JITENDRA KUMAR MAHESHWARI
AND
THE HONOURABLE SRI JUSTICE M. VENKATA RAMANA**



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I.A No. 2 of 2019 :-

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Respondent No. 3 not to take any coercive action against the Petitioners including and not limited to encashment of the Bank Guarantees i.e.,
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The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and order of High Court dt. 19-09-2019, 17-10-2019 made herein and upon hearing the arguments of SRI.P.VIKRAM Advocate for the petitioners, learned GP for ENERGY for Respondent No.1, Sri.P.Srinivasa Rao, learned counsel, takes notice for respondent No.2 and Sri Y.Nagi Reddy, learned counsel, takes notice for respondent No.3, the Court made the following.

ORDER :-

**Rule nisi. Call for records. Notice returnable in four weeks.
List for final hearing in due course.
Interim order passed earlier to continue.**

**Sd/- A. Surya Prakash Rao
DEPUTY REGISTRAR**

//TRUE COPY//

SECTION OFFICER

To

1. One CC to SRI.P.VIKRAM, Advocate [OPUC]
2. One CC to SRI.P.SRINIVASA RAO, STANDING COUNSEL (OPUC)
3. One CC to SRI.Y.NAGI REDDY, STANDING COUNSEL (OPUC)
4. Two CCs to GP FOR ENERGY, High Court Of Andhra Pradesh. [OUT]
5. One spare copy

tvv

HIGH COURT

126.

HC.J & MVRJ

DATED:- 30.12.2019.

ORDER

W.P.No.13860 of 2019

**EXTENDING THE
INTERIM ORDER**

