

No.N/32/2019

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

**Dated:02.05.2023**

**Present**

<b>Shri P. Ravi Kumar</b>	<b>.. Chairman</b>
<b>Shri H.M. Manjunatha</b>	<b>.. Member (Legal)</b>
<b>Shri M.D. Ravi</b>	<b>.. Member</b>

**OP No.13/2019**

**BETWEEN:**

G Rajanna  
Son of late Gangadharappa,  
No. 118/12, Mookambika Temple Road,  
Machohalli Village,  
Magadi Main Road,  
Bengaluru – 560 091

**... PETITIONER**

(Represented by Sri. Shridhar Prabhu, Advocate  
For Navayana Law Officers)

**AND**

Bangalore Electricity Supply Company Limited  
A Company Registered under the provisions of  
Companies Act, 1956,  
having its Registered office at:  
K.R. Road,  
Bangaluru-560 001.

**... RESPONDENT**

(Represented by its Managing Director)

(Represented by Senior Advocate Sri Shriranga for  
Sumana Naganand, Advocate for Justlaw Advocates)

**ORDERS**

1) The Petitioner has filed this petition under Section 86 (1) (f) of the Electricity

Act, 2003, praying for the following reliefs to:

a) Call for record;

- b) Issue an Order/s to set aside the Letter date 06<sup>th</sup> January, 2018 at Annexure-P1;
  - c) Issue an Order/s to set aside the Letter dated 22<sup>nd</sup> January, 2018 at Annexure – P2;
  - d) Issue an Order/s directing the Respondent to make payment of Rs. 6,42,000/- (Rupees Six Lakh Forty-Two Thousand only) for the Invoices raised from May 2017 to December 2018 at the Tariff rate of Rs. 9.56/- as agreed under PPA, along with the interest applicable therein and the pendent lite;
  - e) Pass such other and other incidental orders as may be appropriate under the facts and circumstances of the present case.
- 2) The relevant facts for the disposal of present case stated by the Petitioner are as follows: -
- a) That the Petitioner and the Respondent entered into the Power Purchase Agreement dated 20.01.2016 as per Annexure–P4. The PPA provides that the Petitioner has to install 90 kWp Solar Rooftop Photo Voltaic (SRTPV) system on the Rooftop of the premises situated at #118/12, Mookambika Temple road, Machohalli Village, Magadi main road, Bengaluru – 560091 and as to sell Solar Power to Respondent at the rate of Rs. 9.56 per unit on Net Metering Arrangement. The existing premises where the SRTPV system is to be installed was connected to RR No RNHTTVK280 under Tavarekere Sub-division of BESCO. The other terms and conditions governing the rights and liabilities of the parties, are stated in the PPA.
  - b) Executive Engineer (Ele)C, O&M, Nelamangala division, BESCO on 27.01.2016 has issued approval for installation of 90 kWp SRTPV system on the Rooftop of the Petitioner's premises, as per Annexure P5. The

approval letter dated 27.01.2016 for installation (Annexure P5) contains the terms and conditions to be fulfilled by Petitioner while installing the SRTPV system. The said approval provides that "For HT installations, if the existing meter cubicle is having 2 element system of 2 CTs, 2 PTs and metering with three wire system, it shall be replaced by 3 element system of 3 CTs, 3 PTs and metering with four wire system" and further states that "This approval is valid for 180 days from the date of this letter and the SRTPV system is to be commissioned within this period, failing which the approval will be treated as cancelled".

- c) The Petitioner has installed the project and obtained meter test report on 11.05.2016 (Annexure P7). The said report certified that the meter bearing SI No. Y0123828 having configuration of 3 phase, 4 wire, is tested for its accuracy and found all the errors are within the permissible limits as per IS 14697 standards. The meter test report was verified by Assistant Engineer (Ele.) MT Lab, BMAZ, Bangalore.
- d) The system installer as well as the Petitioner submitted the work completion report on 15.05.2016 (Annexure P8) having CT ratio of 200/5A.to the Assistant Executive Engineer, BESCO, Tavarekere Sub-division.
- e) Additional Chief Electrical Inspector (ACEI), Bengaluru South issued drawing conditional approval dated 21.06.2016 (Annexure – P9) for installation of the SRTPV system.
- f) The Petitioner claims that the SRTPV system was synchronized with the grid at 11 KV voltage level on 25.06.2016 and produced the certificate

of Synchronization vide letter No: 5276-81 dated 26.06.2016 (Annexure P10).

- g) The Petitioner states that subsequent to synchronization of SRTPV system the concerned official of the Respondent had taken meter reading of the energy meter regularly and issued the monthly bills and the Petitioner has received the amount towards the quantum of net metered energy at the rate of 9.56 per unit. Such bills are produced collectively at Annexure P11.
- h) General Manager (Revenue) BESCO, Corporate Office issued letter dated 06.01.2018 (Annexure P1) to the Executive Engineer C, O&M Division, BESCO, Nelamangala for recovery of Rs. 2,42,307/- stating that there was excess payment made to the Petitioner towards the monthly bills. It is also stated in the said letter that the SRTPV system should have been synchronized on 24.07.2016, however it was synchronized on 26.07.2016 after a delay of 2 days, thereby tariff applicable was Rs. 6.14 per unit as per KERC Order dated 02.05.2016. Therefore, insisted to recover the excess payment made till that time.
- i) Subsequently, the Petitioner received the letter dated 22.01.2018 (Annexure P2) from the concerned local Assistant Executive Engineer, Tavarekere for payment of the differential amount of Rs. 2,42,307/-. Thereafter, the Petitioner gave representation dated 02.04.2018 (Annexure P12), to MD/Director (Technical), BESCO, K.R Circle., Bengaluru urging that he was entitled to the tariff of Rs. 9.56 per unit for the energy supplied under the PPA and that there was no delay on his part while synchronising the SRTPV system. The Petitioner has asserted in

the representation that the SRTPV system was synchronized on 25.06.2016 itself. The Petitioner has not received any favourable reply. Subsequently, the present petition is filed on 25.01.2019 before this Commission praying for the relief noted above.

- 3) The Respondent appeared through counsel and filed the statement of objection. The gist of the statement of objection may be stated as follows: -
- a) It is not disputed that the Respondent executed the PPA as per Annexure P4 with the Petitioner with the terms and conditions stated therein. The issuance of approval for installation of SRTPV and other official correspondences are not disputed.
- b) The Respondent has denied the validity of the synchronization certificate dated 26.06.2016 (Annexure P10) produced by the Petitioner and contended that this document is a fabricated document and that the SRTPV system was not synchronized on 25.06.2016 as claimed by the Petitioner. And submitted the chronological events of the facts as detailed below:

Chronological Event		
Nomenclature	Date	Annexure
Safety approval by ACEI	28.06.2016	R1
Facilitating Fee	29.06.2016	R2
CT/PT test Report	17.07.2016 & 18.07.2016 respectively	R3 & R4
Letter to conduct PC test	22.07.2016	R5
Meter purchased invoice	25.07.2016	R6
Bidirectional Meter testing (Main Meter and Check Meter) and PC Test conducted.	26.07.2016	R7
Certificate of Synchronization	26.07.2016	R8

- c) The Respondent has contended that the SRTPV system of the Petitioner was synchronized with the BESCO grid on 26.07.2016 as per certificate of synchronization dated 26.07.2016 (Annexure R8).
- d) The Respondent has stated that ACEI, Bengaluru South has issued safety approval of the SRTPV system of the Petitioner vide its letter dated 28.06.2016 (Annexure R1). The Respondent has also produced Switch Test certificate dated 17.07.2016 (Annexure R3) and letter dated 22.07.2016 to conduct Pre-Commissioning Test (Annexure R5) and also Vat/Tax Invoice dated 25.07.2016 (Annexure R6) issued in favour of Petitioner for having purchased LT Three Phase CT operated DLMS complaint ETV Meter bearing Serial No. 3119619. It has also produced De-Commissioning Test report dated 26.07.2016 (Annexure R7) of existing HT installation bearing RR No RNHTTVK 280 of O&M unit Tavarekere Sub-division.
- e) The Respondent has contended that the work completion report produced by the Petitioner marked at Annexure P8 is an incomplete document and as on that date, the installation work was not completed as per the letter dated 27.01.2016 and the Petitioner had not obtained safety approval from the ACEI and had not obtained the suitable Bidirectional meter for synchronization of the SRTPV with grid.
- f) Subsequent to commissioning of the SRTPV system the meter reading was taken for the first time on 01.09.2016 and for subsequent months on the first day of calendar months and the invoices were raised and payment were made for the net energy injected at the rate of Rs. 9.56 per unit. The Respondent, immediately after ascertaining the mistake on its part,

issued letter dated 06.01.2018 to the Executive Engineer, C, O&M Division, BESCO, calling upon him to recover a sum of Rs. 2,42,307/-, being the excess amount paid to the Petitioner. Accordingly, the Assistant Executive Engineer, BESCO, Tavarakere issued letter dated 22.01.2018 to the Petitioner calling upon him to reimburse the said amount and further called upon him to raise the further invoice at the tariff rate of Rs. 6.14/- per unit.

- g) The Respondent has contended that the Petitioner has falsely claimed that the SRTPV system was synchronized on 25.06.2016 based on the fabricated document marked at Annexure P10 and that the sequence of events clearly establish that the SRTPV system could not have been synchronized on 25.06.2016. Therefore, the Respondent stated that as per the Generic Tariff Order dated 02.05.2016 the SRTPV system of the Petitioner was entitled only to the revised tariff at Rs. 6.14 per unit of the net energy injected, thereby the claim of the Petitioner is not sustainable.
- 4) The Petitioner filed the rejoinder to the statement of objections. In the rejoinder it is stated that after issuance of safety approval on 28.06.2016 (Annexure R1) by ACEI, the Respondent chose to De-commission the SRTPV system and Re-Commissioned it again and that could not have been the ground for reduction of tariff. Therefore, the Petitioner has contended that he had completed the SRTPV system in all respect even before the inspection by the ACEI and that the Respondent intentionally delayed Re-Commissioning of the project beyond the specified time of 180 days, thereby the defence of the Respondent cannot be accepted.

- 5) The Petitioner has further contended in the Rejoinder that, 180 days provided for Commissioning of the SRTPV system should be counted from the date of receipt of the letter dated 27.01.2016 (Annexure P5) and that the said letter must have been received by him on 29.01.2016 or 30.01.2016, there by the SRTPV system was commissioned within the time allowed
- 6) We have heard the learned counsel for the parties and perused their pleadings and the documents. The Petitioner has also filed written arguments.
- 7) The following issues arises for our consideration.

Issue No.1: Whether the SRTPV system of the Petitioner was synchronized with the BESCO grid on 25.06.2016 as contended by the Petitioner or on 26.07.2016 as contended by the Respondent?

Issue N.2: Whether the Petitioner has proved that though the SRTPV system was ready for Synchronization on or about 28.06.2016, the Respondent intentionally delayed the synchronization of the said project?

Issue No.3: what Order?

After considering the material on records and the pleadings and the submissions of the learned counsels for the parties, our findings on the above issues are as follows:

- 8) Issue No.1: Whether the SRTPV system of the Petitioner was synchronized with the BESCO grid on 25.06.2016 as contended by the Petitioner or on 26.07.2016 as contended by the Respondent?
- a) The capacity of the SRTPV system in question is 90 kWp. It was contended by the Petitioner that the SRTPV system was commissioned



on 25.06.2016. If really it was synchronized on 25.06.2016 there should have been generation of energy subsequent to that date. The bill for September 2016 shows that the meter reading was taken for the first time on 01.09.2016 for the billing period subsequent to 26.07.2016. This document is produced by the Petitioner himself. Under this first bill the Petitioner has received Rs. 69,557/- towards the net energy injected from 26.07.2016 to 31.08.2016. This bill is treated as bill for the month of August 2016. The Petitioner has not produced any document to show that any energy was being generated soon after 25.06.2016 the date on which the SRTPV system was claimed to be synchronized. It is also not the case of the Petitioner that for one or other reasons the Respondent has not considered the injection of power subsequent to 25.06.2016.

- b) The approval for installation of SRTPV system (Annexure P5 dated 27.01.2016) clearly states that for HT installation, if the existing meter cubicle is having 2 element system of 2 CTs, 2PTs and metering with three wire system, it shall be replaced by 3 element system of 3 CTs, 3 PTs and metering with four wire system. Admittedly the existing meter of the Petitioner in respect of which meter test report dated 11.05.2016 (Annexure P7) was issued, was not complying with the requirement stated above. Therefore, it was required to be replaced by 3 element system of 3 CTs 3 PTs with 4 wire system. The Petitioner has not disputed that such meter was purchased under invoice dated 25.07.2016 (Annexure R6) and the new meter has been used for synchronization of the SRTPV system with the grid. Without the required metering

cubicle system synchronization cannot be effected. This fact also establishes that the SRTPV system was synchronized with the BESCOM grid only on 26.07.2016 as contended by the Respondent and this fact falsifies the contention taken by the Petitioner.

- c) The Respondent has produced the copy of the outward register (Despatch Register) relating to period from 22.06.2016 to 28.07.2016. This register is produced by the Respondent as evidence that the commissioning certificate dated 26.07.2016 (Annexure- R8) has been despatched vide letter No 5276-81 dated 26.07.2016, but not on 26.06.2016 to the petitioner and the other authorities. The entry in the outward register indicates the dispatch number of the commissioning certificate issued by Executive Engineer, O&M Division BESCOM, Nelamangala to the petitioner. Therefore, the register also supports the view that the commissioning certificate dated 26.07.2016 is genuine document and disputed commissioning certificate dated 26.06.2016 is not believable. Therefore, these facts clearly establish that the SRTPV system was not synchronized on 25.06.2016 as claimed by the Petitioner, but it was synchronized on 26.07.2016 as contended by the Respondent.
- d) In view of the above clinching evidence on record, it appears the Petitioner has contended during argument at the late stage of the proceedings that soon after the safety approval issued by the ACEI on 28.06.2016, the SRTPV system was ready for commissioning but there was intentional delay on the part of the Respondent to commission the project, beyond the scheduled date for commissioning. The metering

system as required, was installed only on 26.07.2016. Therefore, the contention that the SRTPV system was ready on 25.06.2016 is not correct. Hence the contention of the petitioner cannot be accepted.

e) For the above reasons we hold issue No. 1 in favour of the Respondent.

9) Issue No. 2: Whether the Petitioner has proved that though the SRTPV system was ready for Synchronization on or about 28.06.2016, the Respondent intentionally delayed the synchronization of the said project?

a) The Petitioner was required to Commission the project within 180 days from 27.01.2016 the date on which the approval for installation was issued. Therefore, from 27.01.2016 within 180 days the Petitioner should have commissioned the project. That last date for commissioning was falling on 24.07.2016.

b) The contention of the Petitioner that he must have received the approval for installation dated 27.01.2016 (Annexure P5) on 29.01.2016 or 30.01.2016, there by considering the probable date of receipt of this approval, the SRTPV System was installed within 180 days. That contention cannot be accepted because the letter dated 27.01.2016 (Annexure P5) provides that the approval is valid for 180 days from the date of the said letter and it does not state that the 180 days should be counted from the date of the receipt of that letter.

c) As noted earlier the Petitioner could able to purchase the required meter only on 25.07.2016 and on the very next day the SRTPV System was synchronized. Therefore, it is clear that there was no

delay on the part of Respondent in synchronizing the SRTPV system with grid.

d) For the above reasons Issue No. 2 is held in negative.

10) Issue No. 3: What Order?

In view of the findings on issue Nos. 1 and 2, the Petitioner is not entitled to any of the reliefs claimed. Hence, the following:

**ORDER**

The petition is dismissed, holding that the Petitioner is not entitled to any of the reliefs claimed by him.

sd/-  
(P. RAVI KUMAR)  
Chairman

sd/-  
(H.M. MANJUNATHA)  
Member (Legal)

sd/-  
(M.D. RAVI)  
Member