

No. N/187/2018

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

Dated:16.06.2020

Present:

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

OP No.69/2018

BETWEEN:

Shree Renuka Sugars Limited,
BC-105, Havelock Road, Camp,
Belagavi – 590 001.
Having its Administrative Office at
No.7 (Old No.24), "Sunanjaya",
I & II Floor, 1st Cross, Kumara Cot Road,
Behind Hotel Janardhana,
Bengaluru-560 001.
(Represented by Sri Vinayak Puranik)

..... PETITIONER

(Represented by Advocate Manmohan
P.N. Associates)

AND

1. Karnataka Power Transmission Corporation Limited
(KPTCL), Kaveri Bhavan,
K.G. Road,
Bengaluru-560 009.
(Represented by its Managing Director)
2. Bangalore Electricity Supply Company Limited,
(BESCOM), K.R. Circle,
Bengaluru-560 001.
(Represented by its Managing Director)

3. Chamundeshwari Electricity Supply Corporation Limited,
(CESC), 29, Kaveri Grammeena Bank Road,
Vijayanagar II Stage,
Mysore-570 019.
(Represented by its Managing Director)
4. Mangalore Electricity Supply Company Limited,
(MESCOM), MESCOM Bhavana, Bejai,
Mangaluru-575 004.
(Represented by its Managing Director)
5. Gulbarga Electricity Supply Company Limited,
Station Road,
Kalaburagi-585 101.
(Represented by its Managing Director)
6. Power Company of Karnataka Ltd.
5th floor, Kaveri Bhavan,
K.G. Road,
Bangaluru-560 009.
(Represented by its Managing Director)

... **RESPONDENTS**

[Respondents No.1 to 6
Represented by Advocate Just Law]

ORDERS

1. The Petitioner has filed this petition under section 86(1)(e) & (f) of the Electricity Act, 2003, praying this Commission for the following reliefs:

- (i) To issue a direction to the Respondents 2 to 5 to consider the representations dated 25.04.2018 submitted by the Petitioner (produced as Annexure F, F1, F2 and F3); and consequently, to direct the Respondents 2 to 5 to release the payments to the Petitioner as per the invoices raised by the Petitioner along with the interest at 18% p.a.; and

(ii) To pass such other and further orders as deemed fit in the facts and circumstances of the case in the interest of justice and equity.

2. The claims made in Annexure F, F1, F2 and F3 against Respondents 2 to 5 are as detailed below:

Name of the ESCOM	Annexure No.	Amount claimed in Rs.
BESCOM	F	79,70,331.00
CESC	F1	18,43,496.00
MESCOM	F2	13,37,354.00
GESCOM	F3	22,82,127.00

3. The material facts as made out from the pleadings and the documents produced by the petitioner, required for the disposal of this case may be stated as follows:

(a) The petitioner is a Company registered under Companies Act, 1956, having its administrative office as shown in the cause title. It operates three Bagasse-based co-gen plants at (i) Munoli village in Saundatti taluk; (ii) Burlatti village in Athani taluk of Belagavi district; and (iii) Havalga village in Afzalpur taluk of Kalaburagi district, with exportable capacity of 15 MW, 25 MW and 20 MW respectively.

(b) The petitioner had filed OP No.58/2016, OP No.60/2016 and OP No.61/2016 before this Commission against the Distribution Licensees of the State praying for a direction to execute the PPA for purchase of power from its Co-gen plants, at the tariff to be determined by this Commission. A number of other Bagasse-based Co-gen plant owners also had filed different petitions before this Commission for the

same reliefs. All these cases were clubbed and the proceedings were conducted in OP No.38/2016 and finally these cases were disposed of on 11.04.2017 granting reliefs as noted in the final order as per Annexure-G.

(c) When the above proceedings were pending before this Commission, the Government of Karnataka (GoK) issued a Government Order (GO) No.EN 16 PPT 2016, Bengaluru, dated 11.11.2016 (Annexure-A), accorded approval to purchase power by the Electricity Supply Companies (ESCOMs) from the bagasse-based co-gen plants in the State, which were not having PPAs with the ESCOMs, with such other terms and conditions as noted in it. The copies of this GO were marked to all the ESCOMs. Pursuant to this GO, all the ESCOMs filed OP No.85/2016 requesting:

“(1) To approve the proposal of the Petitioners (ESCOMs) for procurement of electricity on medium term basis from the Bagasse-based Co-gen Plants, who are already generating electricity and do not have PPAs with the ESCOMs, in terms of the GO dated 11.11.2016;

(2) To determine the tariff payable by the Petitioners (ESCOMs) herein in accordance with the GO No.EN 16 PPT 2016 Bangalore dated 11.11.2016 from Bagasse-based Co-gen Plants.”

This petition, OP No.85/2016 was clubbed along with OP NO.38/2016 and other connected petitions filed by the Co-gen Plants.

- (d) During the pendency of OP No.38/2016 and the other connected cases, an Interlocutory Application was filed on 01.12.2016, requesting for fixing the interim tariff, as the Sugarcane crushing season had begun and the Co-gen Plants were required to generate power. On the same day, i.e., 01.12.2016, their request was allowed by this Commission and a provisional tariff of Rs.3.47 per unit was fixed. The copy of the said order was issued on 05.12.2016. One such copy produced by the petitioner is as per Annexure-B. (Note: In the pleadings of the parties and in the PPAs executed by the petitioner, the date of Interim Order is referred as 05.12.2016).
- (e) After fixing the provisional tariff of Rs.3.47 per unit, this Commission approved the PPA format on 23.12.2016 for procurement of power from Co-gen Plants pursuant to GO dated 11.11.2016. The petitioner executed separate PPAs dated 02.01.2017 with all the ESCOMs in the State for supply of energy from its Co-gen Plants. These PPAs were produced by the petitioner as per Memo dated 05.09.2019 in this case.
- (f) The petitioner issued letters dated 24.12.2016 to the Respondent No.2 (BESCOM), intimating that it would inject surplus power from its three Co-gen Plants from 26.12.2016. The said intimations are at Annexures-C, C1, C2. The petitioner started injecting power into the State Grid from its three Co-gen Plants from 26.12.2016.

(g) The petitioner raised Invoices dated 10.01.2017 in respect of energy supplied for the period from 26.12.2016 to 31.12.2016 and Invoices dated 07.02.2017 in respect of energy supplied on 01.01.2017, against Respondents 2 to 5 for the amounts due to be payable by them. These Invoices are produced at Annexure-D & E (collectively) respectively for the said periods.

(h) The Respondents 2 to 5 refused to pay the charges for the energy supplied between 26.12.2016 and 01.01.2017 for the period prior to execution of the PPAs by the petitioner stating that there would be no payment liability in the absence of valid PPAs.

(i) The petitioner issued letters dated 25.04.2018 (Annexure-F, F1, F2 & F3) to the Managing Directors of Respondents 2 to 5 requesting to instruct the concerned officials to release the payments at the earliest. In these letters, it is claimed that refusal of Respondents to honour these bills on the ground that the amounts claimed under these bills were not payable in the absence of valid PPAs, is incorrect as Clause No.5 of the GoK Order No.EN 16 PPT 2016 dated 11.11.2016, clearly states that:

"It is proposed to allow ESCOMs to purchase power from sugar factories which are Co-Gen units, at the tariff fixed by the Karnataka Electricity Regulatory Commission (KEREC) for the medium term of five years, starting from the year 2016-17. This will be applicable to those sugar factories which are already generating power but do not have PPAs."

(j) In spite of the letters to the Managing Directors, the payments were not released to the petitioner, thereby the petitioner has filed the present petition on 07.08.2018.

(k) That Hubli Electricity Supply Company Limited (HESCOM) has cleared the invoices raised against it for its share of energy. However, Respondents 2 to 5 did not make payments in spite of repeated requests.

4. The petitioner has relied on the following grounds in support of its claims:

(a) That the petitioner supplied the power to Respondents 2 to 5 pursuant to the GO dated 11.11.2016 (Annexure-A). The said GO was issued by the GoK acting under Section 11 of The Electricity Act, 2003, in the interest of the public, farmers of the State and also to improve the availability of power in the State. Thereby the petitioner was bound by the said order to supply power to Respondents 2 to 5 even without the existence of PPAs.

(b) The Respondents 2 to 5 have admitted the injection of power into the grid and they utilized the said power by selling energy to the consumers, thereby received benefits. The petitioner had informed the Respondents before injecting power and they wholeheartedly accepted the power supply by the petitioner without any demur. Therefore, the Respondents are estopped from denying the claim of the petitioner.

(c) The Respondents 2 to 5 have failed to act in a fair and non-arbitrary manner and on the contrary they have discriminated the petitioner by refusing to make the payment for supply of power made by it.

5. The Respondents 1 to 6 appeared through their counsel. Common Statement of Objections on behalf of Respondents 2 & 6 is filed. The other Respondents adopted the Statement of Objections filed by Respondents 2 & 6. The material defence made out in the Statement of Objections may be stated as follows:

(a) It is contended that as per the GO dated 11.11.2016, the petitioner could have commenced the injection of power only after the execution of the PPA. The said GO clearly requires the petitioner to execute the PPA for sale of power to the Respondents. That in the present case, the petitioner herein sought for payment for the energy supplied for the period from 26.12.2016 to 01.01.2017 without having any PPA.

(b) That the relevant provisions under The Electricity Act, 2003 (Act, 2003) and Section 17 of the Karnataka Electricity Reforms Act, 1999 (KERA, 1999) which is saved under Section 185 of the Act, 2003, clearly require that an agreement for purchase of power to be executed by a distribution licensee with a generating company should be in the manner approved by the Commission. That any agreement to purchase power without the approval of the Commission is a nullity. The power supplied for the period from 26.12.2016 to 01.01.2017 was

not under any such PPA. The Respondents 2 to 5, the distribution licensees are not liable to pay for the energy injected by the petitioner prior to the execution of PPA.

(c) The energy injected by the petitioner from 26.12.2016 to 01.01.2017 amounts to injection of unscheduled energy. Unscheduled energy cannot be effectively utilized. When a generator injects energy without a schedule, the utility is not in a position to make effective use of such energy, as most often, the said energy is injected without intimation. If payment for such energy is directed to be made, it would adversely affect the interest of the ESCOMs as all generators will resort to injecting unscheduled energy and claim payment for the same. The ESCOMs cannot be made to suffer at the benefit of unscrupulous private generators. The Petitioner cannot take advantage of his wrongful action of injecting unscheduled energy into the grid.

(d) Electrical energy injected into the grid cannot be stored and it would be consumed instantly and there would be no option for the Respondents, either to accept or reject the said energy. Therefore, the contention of the Petitioner that the Respondents 2 to 5 by utilizing the energy injected by the Petitioner and not making the payment for the same unjustly enriching themselves and making wrongful gain at the cost of the Petitioner, is untenable.

(e) The Respondents have not denied the receipt of intimation dated 24.12.2016 issued by the petitioner informing the Respondent No.2 (BESCOM) that it would inject the exportable energy from its Co-gen Plants from 26.12.2016. Further, they have not denied the receipt of invoices and other correspondences made by the petitioner for claiming the amount for the energy supplied from 26.12.2016 to 01.01.2017.

(f) The Respondents have denied all other averments made in the petition, contrary to above and not specifically traversed.

6. The petitioner has filed the Rejoinder reiterating the averments made in the petition and denying the validity of defences urged in the Statement of Objections of Respondents.

7. We have heard the learned counsel for the parties. They urged the respective contentions taken in the pleadings.

8. From the rival contentions of the parties, the following Issues arise for our consideration:

Issue No.1: Whether the GO dated 11.11.2016 (Annexure-A) is issued by the Government acting under the powers conferred under Section 11 of the Act, 2003?

Issue No.2: Whether the petitioner is entitled to claim the compensation or price for the energy supplied from 26.12.2016 to 01.01.2017 on the principles of Unjust Enrichment or Estoppel or on any other grounds?

Issue No.3: To which reliefs the petitioner is entitled to?

Issue No.4: What order?

9. On consideration of the submissions made by the learned counsel of the parties and the pleadings and documents produced on the file our findings on the above Issues are as follows:

10.Issue No.1: Whether the GO dated 11.11.2016 (Annexure-A) is issued by the Government acting under the powers conferred under Section 11 of the Act, 2003?

(a)The main contention of the petitioner is that the power was injected pursuant to the GO dated 11.11.2016 and the said order has forced the petitioner and other Co-gen owners to sell power to ESCOMs in the State. It is contended that the Government has issued such GO by invoking Section 11 of the Act, 2003. Therefore, according to the petitioner soon after the interim order dated 01.12.2016 fixing interim tariff of Rs.3.47 per unit for the power to be supplied, the petitioner is entitled to inject the energy into the Grid without executing any PPA but by mere intimation of the date of injection of power.

(b) The Commission notes that the injection of power pursuant to an order under Section 11 of the Act, 2003 does not require the execution of PPA or the approval by the Commission for injection of such energy. Therefore, if the GO dated 11.11.2016 is found to be issued acting under the powers conferred on the Government under Section 11 of the Act, 2003, the contention of the petitioner that the said GO compels him to inject the energy into the Grid can be accepted.

(c) The pleadings of the Respondents show that they have not admitted that the said GO was issued in exercise of power under Section 11 of the Act, 2003. Apart from it, it is a question of interpretation to ascertain whether the said GO was issued by the Government under the powers conferred under Section 11 of the Act. Therefore, the Commission has to examine whether the issuance of the said GO was under Section 11 of the Act, 2003 or not.

(d) Section 11 (1) of the Act, 2003, provides that the Appropriate Government may specify that a generating company shall, in extraordinary circumstances operate and maintain any generating station in accordance with the directions of that Government. The explanation under this Section provides that for the purpose of this Section, the phrase "extraordinary circumstances" means circumstances arising out of threat to security of the State public order or a natural calamity or such other circumstances arising in the public interest.

(e) From the said Section 11 (1) of the Act, 2003, the ingredients require to pass an order under this Section are:

- (i) There shall be an extraordinary circumstances as explained in the explanation;
- (ii) The order shall direct the generating company that it should operate and maintain generating station in accordance with its direction.

(f) The material parts of the proceedings of the Government of Karnataka in issuing the GO dated 11.11.2016 are as follows:

"PROCEEDINGS OF THE GOVERNMENT OF KARNATAKA

Sub: Purchase of Power from Sugar factories having Bagasse Based Co-Generation units, without subsisting PPA.

PREAMBLE:

1. some Sugar factories which have very large crushing capacity, have established Co-Generation units which have got exportable surplus during the crushing season.
2. The sugar factories are located within the State and are purchasing sugarcane from the farmers. In the recent past, the sugar factories have been facing difficulties in payment to the farmers and State Government is also giving a number of financial concessions. If the power is purchased on a continuous basis, then it will help the sugar factories to make payments to the farmers.
3. There are 65 sugar factories in the State, out of which 52 factories have Co-Generation units. Out of these, 11 sugar factories have already entered into long term PPAs with ESCOMs. As per the proposal given by the South India Sugar Mills Association, 28 sugar factories with an exportable capacity of 501 MWs are willing to enter into PPA with the ESCOMs.
4. The power from the Co-Generation units produced during the crushing season which is from November to May coincides with the peak demand in the State.
5. It is proposed to allow ESCOMs to purchase power from sugar factories which are Co-Generation units, at the tariff fixed by Karnataka Electricity Regulatory Commission (KERC) for the medium term of five years, starting from the year 2016-17. This will be

applicable to those sugar factories which are already generating power but do not have PPAs.

6.

7.

8. As a matter of policy, it is in the interest of the public, farmers of the State and also to improve the availability of power in the State, it is proposed to purchase power from Sugar factories having Bagasse based Co-Generation Units without subsisting PPAs. Hence this Order.

Government Order No.EN 16 PPT 2016

Bangalore, dated: 11th November, 2016

In the circumstances explained in the preamble, the State Government hereby accord approval to purchase power from Bagasse Based Co-Generation Units of sugar factories in the State with the approval of KERC for a period of five years commencing from 2016-17, at the tariff determined by KERC with the following conditions:

- i) The power generation should be only from Bagasse.
- ii) This will be applicable to Co-Generation units which are already generating power but do not have PPAs with the ESCOMs.
- iii) The Sugar Factories interested to sell the power to the ESCOMs as per this G.O. should sign the PPA within one week of Karnataka Electricity Regulatory Commission approval.
- iv) The Sugar Factories should not violate the Karnataka Sugarcane (Regulation of Purchase and Supply) Act, 2013.
- v) For the New Bagasse Based Co-Generation Units which are going to start Generation, the existing guidelines and policy will apply.
- vi) Energy pumped by Generators under the PPA as per this order shall be allocated amongst ESCOMs as per the existing

Government Order dated 05.09.2015 or the Government Orders to be issued from time to time in future.

- vii) The Generators shall raise the bills as per the Government Order dated 05.09.2015 to the respective ESCOMs.

By Order and in the name of the
Governor of Karnataka,
sd/-
Under Secretary to Government,
Energy Department."

- (g) From the above proceedings of the Government of Karnataka, it can be noted that certain sugar factories which were not having PPAs, came forward to sell the powers to ESCOMs of the State under long term PPAs and the Government considered that the purchase of power from these Co-gen units would facilitate the farmers to get their dues from the sugar factories and the off-take of power would meet the peak demand in the State. Therefore, it was proposed to allow the ESCOMs to purchase the powers from the Co-gen units at the tariff to be fixed by the Commission for the medium term of five years starting from the year 2016-17 and the subject was discussed in the Cabinet meeting and the GO was issued. Clause (iii) of the Conditions under the GO states that the sugar factories interested to sell the power to ESCOMs as per this GO should sign the PPA within one week of KERC approval. Clause (vi) of the Conditions states that energy pumped by the generators under the PPA as per this order shall be allocated among ESCOMs as per the existing GO dated 05.09.2015 or the GO to be issued from time to time in future. Clause

(vii) of the Conditions provide that the generator shall raise the bills as per the GO dated 05.09.2015 to the respective ESCOMs.

(h) The reading of the GO would show that there was no "Extraordinary Circumstances" as understood under Section 11 of the Act, 2003. On the other hand, it was issued on the request of certain Co-gen Plant owners with exportable capacity and willing to enter into a PPA with ESCOMs in the State. The GO does not compel the sugar factories to sell the power to ESCOMs as noted in Condition No.(iii). It is stated that the sugar factories interested to sell the powers to ESCOMs have to sign the PPAs. Condition (vi) also states that energy pumped by Co-gen plants under the PPA as per this GO shall be allocated among ESCOMs but not for any energy pumped prior to execution of the PPA. The petitioner has contended that the Cogen Plants were forced to sell power to ESCOMs pursuant to the G.O. dated 11.11.2016. From the above facts, it is clear that the said G.O has not forced them to sell the power to ESCOMs. As already noted, for the power injected pursuant to the order under Section 11 of the Act, 2003, the practice adopted does not require execution of the PPA by the generator. Usually, the order under Section 11 of the Act, 2003, would be of short duration till the continuance of "extraordinary circumstances". In the present case, the GO provides for supply of power for a period of five years on medium term basis.

(i) As already noted, in Condition Nos. (iii) and (vi) of the GO, Cogen Plants intending to sell the power to ESCOMs should execute the PPA before injecting power. The Commission also notes that the interim order dated 01.12.2016 (Annexure-B), fixing interim tariff for supply of power or the final order dated 11.04.2017, fixing the tariff for supply of power in OP No.38/2016 and other connected cases, do not authorize the Co-gen plants to inject energy even before executing the PPA. On the other hand, this Commission approved the standard format for entering into PPA, pursuant to the interim order and Article 4.1 of the PPA provides that procurer shall pay for the energy delivered for the term of the PPA from the date of supply of power after signing of the PPA, to the Seller at a tariff to be determined by the Government, etc., Therefore, PPA does not authorize payment for energy injected prior to execution of the PPA.

(j) For the above reasons, considering the ingredients required for issuance of an order under Section 11 of the Act, 2003 and the contents of the GO dated 11.11.2016 (Annexure-A), the Commission is of the considered view that the issuance of GO does not fall under Section 11 of the Act, 2003.

(k) For the above reasons, we hold Issue No.1, in negative.

11. Issue No.2: Whether the petitioner is entitled to claim the compensation or price for the energy supplied from 26.12.2016 to 01.01.2017 on the principles of Unjust Enrichment or Estoppel or on any other grounds?

(a)The petitioner has contended that the Respondents 2 to 5 have admitted the injection of power into the grid for the period from 26.12.2016 to 01.01.2017 and they utilized the said power by selling energy to the consumers thereby derived benefits. Therefore, it is contended that on the principles stated in Section 70 of the Indian Contract Act, 1872, the Respondents were liable to pay for the energy utilized.

(b)The Section 70 of the Indian Contract Act, 1872 reads as follows:

“70 Obligation of person enjoying benefit of non-gratuitous act.

Where a person lawfully does anything for another person, or delivers anything to him, not intending to do so gratuitously, and such another person enjoys the benefit thereof, the latter is bound to make compensation to the former in respect of, or to restore the thing so done or delivered.”

(c)The Respondents 2 to 5 in their Statement of Objections have contended that in the facts of the present case, Section 70 of the Indian Contract Act, 1872 has no application for claiming compensation for the energy injected into the grid for the above said period in question. Further, they contended that injection of power into the grid without any commercial agreement either with ESCOMs or with any consumer is prohibited. They also contended that such unscheduled energy injected cannot be effectively utilized by the Distribution Licensees. It is also pointed out that electrical energy

injected into the grid cannot be stored and it would be consumed instantly and thereby there is no option for the respondents to reject the said energy and such energy cannot be thrust against the wish of the Respondents.

(d) Considering the rival contentions, it can be said that the injection of energy by the petitioner for the period in question is not an act lawfully done which is an ingredient for claiming compensation under Section 70 of the Indian Contract Act, 1872. The other ingredient for the application of Section 70 is that the other party has voluntarily accepted the thing done or delivered. Commission notes that in the present case, the respondents had no opportunity to voluntarily accept or reject the power injected into the grid. The commentary under Section 70 of the Indian Contract Act, 1872 by the learned Authors, Pollack & Mulla, 14th Edition, Volume II, states the circumstances under which the ingredients of the said Section are not made out, and reads thus:

“... A claim on the basis of something done against the express provisions of statute cannot be claimed under this Section...”

“... Where the Defendant informed the Plaintiff that he did not want the work done, the work was not done lawfully...”

“... The voluntary acceptance of the benefit of the work done or under delivery is the foundation of the claim

under Section 70. The person on whom the benefit is conferred, enjoys the benefit voluntarily. It means that the benefit must not have been thrust upon him without his having the option of refusing it. Nobody has a right to forcing the benefit upon another."

Therefore, the analysis of the facts of the present case shows that the principles stated in Section 70 of Indian Contract Act, 1872 cannot be applied.

(e) The petitioner has further contended that it had informed the Respondents before injecting power into the grid and they wholeheartedly accepted the power supplied without any demur, therefore, the Respondents are estopped from denying the claim of the petitioner.

(f) The Respondents have denied the applicability of principles of Estoppel in the present case.

(g) The principles of Estoppel are stated in Section 115 of the Indian Evidence Act, 1872, which reads thus:

"S. 115 Estoppel. – *When one person has, by his declaration, act or omission, intentionally caused or permitted another person to believe a thing to be true and to act upon such belief, neither he nor his representative shall be allowed, in any suit or proceeding between himself and such person or his representatives, to deny the truth of that thing."*

- (h) The Commission notes that the Respondents have not made any representation for supply of power for the period from 26.12.2016 to 01.01.2017 making the petitioner to believe for injecting the energy into the grid. In the absence of such representation, the principles of Estoppel are not applicable.
- (i) The petitioner has stated in his petition that Respondents 2 to 5 ESCOMs which have been established by the State Government are "States" under Article 12 of the Constitution of India and the Respondents 2 to 5 have a duty to act in a fair transparent and non-arbitrary manner. Further, the petitioner stated that the Respondents 2 to 5 have failed to act in a fair and non-arbitrary manner and on the contrary, the Respondents to 2 to 5 have discriminated the petitioner by refusing to make the payment for supply of power made by the petitioner.
- (j) As already noted, the Respondents have not acted illegally and the refusal by the Respondents to pay for the energy supplied is not illegal. Hence, the above of the contention of the petitioner is not sustainable in law.
- (k) It may be noted that Hubli Electricity Supply Company Limited (HESCOM) has paid its share towards the energy supplied to the petitioner. It may also be noted that the petitioner had on 12.12.2016 itself had made a request for supply of energy and the HESCOM had replied through its letter dated 23.12.2016, intimating the petitioner

that it would pay for its share of liability only, for the energy supplied to the grid from 26.12.2016 onwards on fulfilling certain conditions stated therein (the said letter of HESCOM has been produced at page 47, 53 and 58 of the petition). However, the petitioner has failed to obtain the consent of other ESCOMs before injecting the energy in advance. Therefore, the payment by HESCOM does not in any way improve the case of the petitioner. The said payment does not create any liability on other ESCOMs.

(I) For the above reasons, we hold Issue No.2, in negative.

12. Issue No.3: To which reliefs the petitioner is entitled to?

The petitioner is not entitled to any of the reliefs as prayed in the petition.

13. Issue No.4: What order?

For the foregoing reasons, we pass the following:

ORDER

The petition is dismissed holding that the petitioner is not entitled to any of the reliefs sought for in the petition.

sd/-

(SHAMBHU DAYA MEENA)
Chairman

sd/-

(H.M. MANJUNATHA)
Member

sd/-

(M.D. RAVI)
Member