

**BEFORE THE KARNATAKA ELECTRICITY REGULATORY COMMISSION,  
BANGALORE**

**Dated : 19<sup>th</sup> June, 2014**

- |                               |          |
|-------------------------------|----------|
| 1. Sri M.R. Sreenivasa Murthy | Chairman |
| 2. Sri H.D. Arun Kumar        | Member   |
| 3. Sri D.B. Manival Raju      | Member   |

**I.A.No.1/2014  
IN  
OP No.1/2014**

**BETWEEN :**

Khandaleru Power Company Limited  
No.807, 8<sup>th</sup> Floor, Raghava Towers  
Chirag Ali Lane  
HYDERABAD – 560 001

..  
[Represented by M/s.Link Legal India Law Services, Advocates]

**PETITIONER**

**AND:**

1) M/s. Gulbaga Electricity Supply Company Limited  
Station Road  
GULBARGA – 565 102

2) State Load Despatch Centre  
Cauvery Bhavan  
K.G. Road

BANGALORE – 560 009

..  
[Respondents represented by M/s.Thiru & Thiru, Advocates]

**RESPONDENTS**

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**ORDER ON I.A.No.1/2014**

- 1) The Respondents have filed I.A.No.1/2014 praying for a direction against the Petitioner to produce the following documents:

- (a) Application / Letter along with its Annexures made by the Petitioner to the Government of Karnataka seeking extension, resulting in order dated 18.06.2010 (referred to as Annexure-P4 to the Petition);
  - (b) Application / Letter along with its Annexures made by the Petitioner to the IREDA for sanction of loan corresponding to the sanction letter dated 08.06.2011 (referred to as Annexure-P5 to the Petition);
  - (c) Application / Letter along with its Annexures made by the Petitioner to the Government of Karnataka seeking extension resulting in order dated 12.03.2012 (referred to as Annexure-P6 to the Petition);
  - (d) Audited annual report of the Petitioner for the financial years 2007-2008 till 2012-2013, containing Chairman / Director reports, balance sheets, profit and loss A/c and auditor's report along with relevant notes and schedules.
- 2) The Respondents have stated that the above documents are necessary to file an appropriate reply to the Petition.
- 3) The Petitioner - Generating Company has filed the Petition for declaration that the Power Purchase Agreement (PPA) dated 9.10.2007, entered into between the Petitioner and the 1<sup>st</sup> Respondent, is validly terminated by the

**I.A.No.1/2014 in OP No.1/2014**

Petitioner after issuing a Termination Letter dated 24.10.2013, with immediate effect, and has prayed for consequential reliefs.

- 4) It is alleged in the Petition that the 1<sup>st</sup> Respondent failed to open a Letter of Credit as required under Article 6.5 of the PPA and that the Petitioner issued a Default Notice dated 17.9.2013 as required under Article 9.3.2 of the PPA and that the said Default Notice was served on the 1<sup>st</sup> Respondent on 23.9.2013, and that the 1<sup>st</sup> Respondent failed to comply with the demand made in the Default Notice for opening of a Letter of Credit and therefore the Termination Letter dated 24.10.2013 was issued to the 1<sup>st</sup> Respondent, terminating the PPA with immediate effect. It is further alleged that inspite of the termination of the PPA, the Petitioner was not allowed by the Respondents to sell power under open access to third parties.
- 5) The opening words in the PPA executed by the parties read as, "This Draft Power Purchase Agreement is made at Gulbarga," etc. Therefore, the Petitioner incidentally has alleged that this was only a Draft PPA and was not binding on the parties.
- 6) After hearing the learned counsel for the parties and on perusal of the records of the case, this Commission is of the opinion that the Application filed by the Respondents merits no consideration for the following reasons:

- (a) The learned counsel for the Petitioner submitted that though in the Petition, he has taken a ground that the PPA in question was only a 'Draft PPA', that ground is not pressed by him, as there is no material to support the same. Therefore, for meeting this ground, the 1<sup>st</sup> Respondent need not require the documents sought by it, in view of the submission of the learned counsel for the Petitioner.
- (b) The Petition is for declaration that the PPA has been validly terminated as the Letter of Credit has not been opened by the 1<sup>st</sup> Respondent, as required in the PPA. For replying this ground, the documents sought by the 1<sup>st</sup> Respondent are not relevant.
- (c) No other ground is made out in support of the Application.
- 7) In view of the above, we pass the following :

**ORDER**

I.A.No.1/2014 is dismissed. The Respondents are directed to file their Statement of Objections before the next date of hearing. List on 10.7.2014.

Sd/-  
(M.R. SREENIVASA MURTHY)  
CHAIRMAN

Sd/-  
(H.D. ARUN KUMAR)  
MEMBER

Sd/-  
(D.B. MANIVAL RAJU)  
MEMBER