

No.N/214 & 215/2018

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

Dated: 30.12.2021

Present

Shri Shambhu Dayal Meena : Chairman
Shri H.M. Manjunatha : Member
Shri M.D. Ravi : Member

OP No.81/2018 & OP No82/2018

BETWEEN:

N. Sriramareddy,
S/o Narayanappa
Aged about
R/at Ollavadi Near Gollapalligadda
Imareddyhalli Post,
Chintamani,
Chikkaballapura District.

....PETITIONER.

(Represented by Sri Zulfikir Kumar Shafi, Advocate
& Sri L Lakshmi Narayana Reddy, Advocate).

AND:

- 1) Bengaluru Electricity Supply
Company Limited (BESCOM),
A Company registered under the
Provisions of Companies Act, 1956
Having its Registered Office
at K.R. Circle,
Bangalore-560 001.
(Represented by its Managing Director)
- 2) The Executive Engineer (Ele),
C, O &M Division, BESCOM,
Chintamani.
- 3) The General Manager (Ele),
DSM, Corporate Office,
BESCOM, K.R. Circle,
Bengalureu-560 001.

- 4) The Assistant Executive Engineer,
Rural Sub-Division, BESCO,
Chintamani Division,
Chikkaballapura District.

... RESPONDENTS

(Represented by Ms. Medha M. Puranik, Advocate,
for M/s JUSTLAW Advocates)

OP No.82/2018

BETWEEN:

N. Sriramareddy,
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Aged about
R/at Ollavadi Near Gollapalligadda
Imareddyhalli Post,
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for M/s JUSTLAW Advocates)

COMMON ORDERS

1. The facts relied upon by the petitioners in the above two petitions for claiming the reliefs prayed for in the respective petitions, are similar and interlinked. The defence taken by the respondents opposing the grant of reliefs, are also similar and interlinked. The petitioner and the respondents in both cases are one and the same. Therefore, we proceed to pass the Common Order in the above two cases.
2. The OP No.81/2018 is filed under Section 86 (1) (f) of the Electricity Act, 2003 praying for the following reliefs to:
 - a) Pass an order granting an extension of time by a period of four (4) months) so as to enable the petitioner to complete the Project.
 - b) Direct the respondents to honour the terms and conditions of the Power Purchase Agreement dated 28.09.2015.
 - c) Pass such other order or direction as this Commission deems fit on the facts and circumstances of the case, in the interest of justice and equity.
3. The OP No.82/2018 is filed under Section 86 (1) (f) of the Electricity Act, 2003 praying for the following reliefs to:
 - a) Direct the respondents to honour the terms and conditions of the Power Purchase Agreement dated 28.09.2005 and enhance the tariff to Rs.9.56 per unit/kWh from Rs.3.57 per unit/kWh under the new RR No.46205 which was transposed

on a project that was already fully completed under RR No.1951 under the original agreement dated 28.09.2015.

- b) Pass such other order or direction as this Commission deems fit on the facts and circumstances of the case, in the interest of justice and equity.

4. The facts relevant as stated by the petitioner for understanding the controversies between the parties may be stated as follows:

- a) That the Solar Policy 2014-21 provides for promotion of grid connected Solar Roof Top Projects on public buildings, domestic, commercial and industrial establishments through net metering and gross metering methods based on Tariff Orders issued by this Commission from time to time. Pursuant to it, the 1st respondent (BESCOM) issued guidelines regarding the installation of SRTPV System. The Government has also allowed installation of SRTPV System on the roofs of the existing buildings constructed or under construction.
- b) The petitioner is the owner of lands bearing Survey Nos.24, 2, 3 & 25 situated at Oolavadi near Gollapalligudda in Chintamani taluk of Chikkaballapur district. In these lands, the petitioner has two existing poultry farms supplied with electricity bearing RR No.P-1950 & P-1951 respectively.
- c) The petitioner had filed two on-line applications both dated 05.09.2015 requesting to allow him to construct the SRTPV Systems on the rooftops of the poultry farms connected with RR No.P-1950 and P-1951. After

following the preliminary enquiries for eligibility, the petitioner and the 1st respondent (BESCOM) entered into two PPAs both dated 28.09.2015. The 2nd respondent [Executive Engineer (Ele.), BESCOM Chintamani Division, Chintamani] has signed the PPAs as Authorised Signatory of the 1st respondent (BESCOM). These two PPAs were approved by this Commission and the same was communicated through letters dated 30.10.2015 (Annexure-F).

- d) The petitioner had also filed other two off-line applications bearing Nos.CMYSRTPV25 & CMYSRTPV26 for proposing to install two more SRTPV Systems on the roof tops of the buildings to be constructed on the same lands. These applications were also processed by the local officers of the 1st respondent (BESCOM) and two PPAs both dated 30.12.2015 were executed between the petitioner and the 1st respondent (BESCOM). These two PPAs were submitted to this Commission and the same were approved vide letters dated 01.03.2016. These two PPAs do not contain the identity of the location of the proposed constructions. However, the two PPAs mentioned off-line applications No.CMYSRTPV25 & CSMYSRTPV26 respectively. Sometime after the execution of the two PPAs dated 30.12.2015, the locations of the Projects covered under these PPAs are identified with RR No.0-46204 & 0-46205.
- e) All the four PPAs stipulate that the tariff payable for the energy injected on net-metering basis would be Rs.9.56 per unit for the term of the PPA

and the capacity of the SRTPV System to be installed is 1 MW in each case. They also contain other terms & conditions stated therein.

- f) The petitioner applied for credit facility for establishing the SRTPV Systems with Corporation Bank. The application of the petitioner was processed and the Corporation Bank, Yelahanka Branch, Bengaluru, by its letter dated 11.02.2016 (Annexure-H) intimated the petitioner for having sanctioned the credit facility with the terms & conditions attached to the said letter. The petitioner, the Corporation Bank and the 1st respondent (BESCOM) entered into Tripartite Agreement dated 18.02.2016 (Annexure-J), allowing the Corporation Bank (Financer) to have lien and the first right over the amount to be realised by the petitioner towards the sale of energy from the SRTPV System to the 1st respondent (BESCOM).
- g) There is no dispute that the SRTPV System on the existing poultry farm with RR No.P-1950 has been installed and successfully commissioned on 29.06.2016 (Annexure-M).
- h) In furtherance of the installation of the SRTPV System on the existing poultry farm with RR No.P-1951, the petitioner obtained approval for installation dated 19.03.2016 (Annexure-L) issued by the 2nd respondent [Executive Engineer (Ele.), BESCOM, Chintamani Division, Chintamani]. The petitioner also obtained approval dated 21.04.2016 (Annexure-N) of drawings pertaining to the electrical installations of 1 MW SRTPV System to be installed at the premises connected with RR

No.P-1951, issued by the Chief Electrical Inspector to Government (CEIG). The said approval incorporated in it, the erection of new sheds to accommodate Solar Modules within the lands, bearing same survey numbers owned by the petitioner. The petitioner claims that he had completed the work relating to electrical installations of 1 MW of SRTPV System in the said premises and submitted work completion report dated 23.08.2016 (Annexure-P) to the CEIG. Thereafter, the CEIG conducted initial inspection of electrical installation pertaining to the premises bearing RR No.P-1951 and found that solar energy meter test and calibration report was required to be furnished and accordingly intimated the same vide letter dated 30.08.2016 (Annexure-Q). The petitioner claims that in all other respect the installation of SRTPV System at premises bearing RR No.P-1951 was fully ready and completed.

- i) The petitioner claims that when the status of installation of SRTPV System at the premises of RR No1951 stood at this stage, the 2nd respondent [EE (E), BESCOM, Chintamani Division, Chintamani) issued letter dated 06.09.2016 (Annexure-R) stating that on inspection of the spot on 03.09.2016, he found that the premises bearing RR No.P-1951 was installed with 954 solar panels and the rest approximately 2,580 solar panels were installed on the newly constructed sheds relating to the PPA dated 30.12.2015 with the application No.CMYSRTPV26 which was cancelled on 29.08.2016. Therefore, as per this letter dated 06.09.2016 (Annexure-R)), the 2nd respondent (Executive Engineer) has

not accepted the version of the petitioner as per his letter dated 01.09.2016 that the SRTPV installation work relating to RR No.P-1951 was completed. Therefore, the 2nd respondent (Executive Engineer) proposed to rectify the defects pointed out in respect of SRTPV installation work on RR No.P-1951. A copy of the letter dated 06.09.2016 (Annexure-R) was also issued to the CEIG, for his information. In the meanwhile, the 2nd respondent [Executive Engineer (Ele.), BESCO, Chintamani Division, Chintamani] vide letter No.EEE/AEE(O)/AE(T)/CMY/DVN/2016-17/1607-09 dated 29.08.2016 (Annexure-AA produced along with the rejoinder) intimated that the two PPAs dated 30.12.2015 relating to RR No.O-46205 & RR No.O-46204 have been cancelled alleging violation of guidelines as per GoK letter No.EN 17 VSC 16 dated 17.08.2016 in constructing the structures.

- j) On receipt of the copy of the letter dated 06.09.2016 (Annexure-R), the CEIG wrote letter dated 15.09.2016 (Annexure-S) to the petitioner narrating the observations and the defects noted in the said letter dated 06.09.2016 and intimating the petitioner to settle those issues before taking further action for the inspection of the SRTPV System in question bearing RR No.P-1951.
- k) The petitioner obtained letter dated 16.09.2016 (Annexure-T) from the 2nd respondent (Executive Engineer) stating that the PPA dated 28.09.2016 concerning the SRTPV installation of RR No.P-1951 was not cancelled vide letter dated 06.09.2016 (Annexure-R).

- l) Thereafter, the CEIG final inspection had not taken place in spite of the petitioner pleading before different Authorities that he had completed the installation of SRTPV System relating to RR No.P-1951, but not at the location relating to the PPA dated 30.12.2015 which was said to be cancelled.
- m) Finally the petitioner executed a fresh PPA dated 22.12.2017 (Annexure-X) as allowed by the Generic Order dated 07.11.2017 passed by this Commission in the matter of "*Tariff Order for SRTPV plants violating the norms specified for implementation of the SRTPV plants*" at the tariff of Rs.3.57 per unit as specified in the said Order. Thereafter, the project was commissioned on 30.12.2017. The PPA dated 22.12.2017 (Annexure-X) relates to the location of the SRTPV System bearing RR No.O-46205. The petitioner has contended that the SRTPV System shown to have been relating to the location bearing RR No.O-46205 is in reality relates to the location of the SRTPV System bearing RR No.P-1951 and the respondents have wrongfully transposed RR No.O-46205 in place of RR No.P-1951 for the said SRTPV System. Therefore, the petitioner has filed the OP No.82/2018 before this Commission on 07.09.2018, for the reliefs claimed in it.
- n) In OP No.81/2018, the petitioner has narrated all the above facts and further stated that the office of the 2nd respondent (Executive Engineer, Chintamani) vide letter No.EEE/AEE(O)/AE(T)/CMY/DVN/2016-17/1607-09 dated 29.08.2016 among other observations has

clearly noted and affirmed that approximately 594 solar panels of 315 watts each (totally 187 kW) were installed on the said existing sheds of poultry farm lying towards the left side of the road, thereby having invested substantial capital on the said project and having failed to complete it within the time limit due to the reasons not attributable to the petitioner, he should be allowed to complete it. Therefore, the petitioner has stated that this project is required to be completed at the tariff agreed in the PPA dated 28.09.2015. Accordingly, the petitioner has filed OP No.81/2018 on 07.09.2018 with the prayers noted above.

5. The respondents appeared through counsel and filed a single statement of objections. The relevant part of the statement of objections of the respondents may be stated as follows:

a) The averments made by the petitioner that the two PPAs dated 28.09.2015 executed by the petitioner relate to existing poultry farms bearing RR No.P-1950 and RR No.P-1951 respectively and further that the other two PPAs dated 30.12.2015 executed by the petitioner relate to under construction structures which were subsequently assigned RR No.O-46204 & RR No.O-46205 and that these different PPAs were approved on different dates by this Commission, are not disputed, though some of these dates are incorrectly stated in the Statement of Objections.

- b) It is also not disputed that the petitioner has commissioned 1 MW SRTPV System on the roof top of the existing poultry farm bearing No.P-1950 as stated by him.
- c) That an inspection of SRTPV installations was conducted on 24.08.2016 in Urban Division of BESCO in Chintamani. During that inspection, all the four SRTPV installations of the petitioner for which PPAs have been executed were also inspected. During such inspection, It was observed that the SRTPV System relating to RR No.P-1950 was found commissioned and the SRTPV System relating to RR No.P-1951 was installed with 50% panels on the roof top, further, SRTPV System bearing RR No.O-46205 (PPA dated 30.12.2015) was constructed on the ground-mounted roof and 90% of solar panels were installed and the construction of the roof of SRTPV System bearing RR No.O-46204 (PPA dated 30.12.2015) was yet to be commenced and it was only a plain land and steel structure poles alone were found to be erected. Further the respondents have contended that construction of the structures relating to RR No.O-46204 and O-46205 were found in violating the construction of SRTPV norms specified and, therefore, these two PPAs were terminated.
- d) That in respect of SRTPV installation bearing RR No.O-46205 (PPA dated 30.12.2015), the petitioner came forward to execute the PPA pursuant to the Order dated 07.11.2017 passed by this Commission and, thereafter executed a fresh PPA dated 22.12.2017 for sale of

energy at a tariff of Rs.3.57 per unit as specified in the said Order dated 07.11.2017.

e) For the above reasons, the respondents have prayed for the dismissal of both the petitions.

6. The petitioner has filed the rejoinder reiterating the same averments stated in the petition.

7. During the pendency of the petition on 11.07.2019 accepting the request of the learned counsel for the respondents to conduct spot inspection by a senior official of BESCO in the presence of the petitioner, the Commission directed, Superintending Engineer, BESCO (H.Q.) to conduct spot inspection in the presence of the petitioner and to submit the report to this Commission. Accordingly, on 06.08.2019 the spot inspection was conducted in the presence of the petitioner and the inspection report was filed to this Commission on 27.08.2019 (kept in OP No.82/2018).

8. We have heard the learned counsel for the parties. They have reiterated the respective grounds taken by them in their pleadings.

9. From the rival contentions and the pleadings of the parties, the following issues arise for our consideration:

Issue No.1: Whether the SRTPV System in respect of which the PPA dated 22.12.2017 (Annexure-X) is executed, has been installed on the roof-top of the premises relating to RR No.P-1951 as contended by the petitioner?

Issue No.2: Whether the petitioner is entitled to the tariff of Rs.9.56 per unit for the energy delivered from the above stated SRTPV System

in respect of which PPA dated 22.12.2017 (Annexure-X) is executed?

Issue No.3: Whether the petitioner can be permitted to complete the unfinished SRTPV System and if so, on what terms & conditions?

Issue No.4: To which reliefs the petitioner is entitled to?

Issue No.5: What Order?

10. After considering the submissions of both the learned counsel and the pleadings and records of the parties, our findings on the above issues are as follows:

11. Issue No.1: Whether the SRTPV System in respect of which the PPA dated 22.12.2017 (Annexure-X) is executed, has been installed on the roof-top of the premises relating to RR No.P-1951 as contended by the petitioner?

a) The two PPAs dated 28.09.2015 relating to RR No.P-1950 & RR No.P-1951 were executed in respect of existing poultry farms. Identifying the locations of these existing poultry farms is not difficult and with certainty the said locations can be identified. The petitioner has stated in the list of dates and events that he entered into an Engineering, Procurement & Construction (EPC) contract with Messrs Guna Solar Private Limited on 15.12.2015 for implementation of SRTPV Systems relating to RR No.P-1950 & P-1951. The petitioner has completed the SRTPV System relating to RR No.P-1950. That fact is not in dispute.

b) The petitioner has contended that in furtherance of implementing the SRTPV System relating to RR No.P-1951, he obtained approval for

installation of the said SRTPV System vide letter dated 19.03.2016 (Annexure-L) issued by the 2nd respondent (EEE, Chintamani) and thereafter, he obtained approval of the drawings dated 21.04.2016 (Annexure-N) from the CEIG, pertaining to the electrical installations comprising of transformer and single line diagram for power evacuation, etc.,. It is the case of the petitioner that he submitted the work completion report on 23.08.2016 (Annexure-P) to CEIG and thereafter, the CEIG conducted initial inspection of the electrical installations pertaining to the SRTPV System bearing RR No.P-1951. The petitioner contends that the CEIG in his initial inspection report has mentioned the premises visited by him as the premises bearing RR No.P-1951, therefore, the installation of the SRTPV System as per the said drawing relates to the premises relating to RR No.P-1951.

c) The above contention of the petitioner is refuted by the respondents contending that the petitioner had misled the CEIG regarding the identity of premises, where the petitioner had almost completed the project work which in fact was not actually related to the premises bearing RR No.P-1951, but related to newly constructed structures in respect of RR No.O-46205.

d) After considering the evidence/material on record, we are convinced that the SRTPV System which was almost completed was not related to the premises bearing RR No.P-1951. In this regard, the joint inspection report dated 06.08.2019 and the observations made by the 2nd

respondent (EEE, Chintamani) after his visit to the spot on 03.09.2016 as narrated in letter dated 06.09.2016 (Annexure-R) may be noted. The joint inspection report refers the completed project relating to RR No.P-1950 as installation No.1 and the project covered under PPA dated 22.12.2017 (Annexure-X) as installation No.2 and the unfinished project as installation No.3 and the abandoned project as installation No.4. The diagram mentioned in the joint inspection report shows the location of different installations No.1 to 4. Further, it shows that the road leading from Madanapalli Main Road to Oolavadi village divides the lands of the petitioner where these projects are situated. The said diagram shows that installations No.1 & 2 are one side of the road and the installations No.3 & 4 are on the other side of the road. The joint inspection report also contains a sheet showing the location of installations No.1 to 4 taken from the Google map link. This map also tallies with the location of installations No.1 to 4 as shown in the diagram of the joint inspection report. Therefore, it is very clear that installation No.1 (relating to RR No.P-1950) & installation No.3 (relating to RR No.P-1951) are on either side of the road and the installation No.2 covered under PPA dated 22.12.2017 is by the side of the installation No.1. Therefore, it is very clear that the SRTPV System in respect of which the PPA dated 22.12.2017 is executed is not installed/constructed on the existing roof top of poultry farm relating to RR No.P-1951. Further, it may be noted that installation No.2 referred in joint inspection report is on the newly constructed sheds. It is not stated in the joint inspection

report that any part of installation No.2 is on the existing old roof-tops. It is shown in the joint inspection report that the existing two poultry farms were supplied with electricity in the year 2010 itself. Therefore, these sheds can be said to have been constructed earlier to the dates of supply connection to them. The new sheds relating to installation No.2 (RR No.O-46205) must have been constructed some time earlier to August, 2016. Therefore, the observations/inferences in the joint inspection report regarding the distinction of existing poultry farms and newly constructed sheds, can safely be accepted.

e) The petitioner has not disputed the contents of the joint inspection report. He has filed rejoinders on 14.01.2020 subsequent to filing of the joint inspection report on 27.08.2019. In para 11 of the rejoinder, the petitioner has stated as follows regarding joint inspection report.

Para -11 "It is respectfully submitted that the stage of completion of each project has been documented by the Commissioner vide inspection report dated 27.08.2019 (filed on 27.08.2019). Though the factual physical status of the SRTPV Projects have been correctly recorded during the inspection, the transposed RR Number has continued to be reflected in the Inspection Report also, wherein installation under the now transposed RR No.O-46205 has been shown to have been synchronized on 30.12.2017 and on the other hand the installation under RR No.P-1951 has been shown as "Partially Installed", with 594 number of panels."

The above said averments in the rejoinder substantially accepts the factual physical status of SRTPV Projects as shown in the joint inspection

report, though the petitioner stated that RR No.O-46205 was transposed to installation No.2 instead of its original RR No.P-1951. This contention of the petitioner cannot be accepted as the installation No.2 referred in joint inspection report has been installed on the newly constructed sheds.

- f) The contents of the joint inspection report are corroborated with the narration of 2nd respondent (EE, Chintamani) stated in the letter dated 06.09.2016 (Annexure-R) after his visit to the spot on 03.09.2016. The said narrations are as follows:

“With reference to the above subject, and vide above cited reference No.5, you have stated that the SRTPV installation of RR No.P-1951 work is completed and also completion report has already been submitted to CEIG on 23.08.2016 for approval & likely to be received in a day or two.

In this regard, I along with Asst. Executive Engineer (Ele.), O&M Sub-Division, Chintamani visited the spot on 03.09.2016 and the following observations are noted.

- 1. As shown in the enclosed sketch. SRT15AA1855 dated 27.08.2015 application given for 1 MW [i.e., sanctioned for (part A vide) existing RR No.P-1951 towards the left side of road only]/*
- 2. The Solar proposal for another 1 MW by yourself vide SRTPV number CMY SRTPV-26 dated 30.12.2015 on the right side of the road as shown in the sketch was cancelled by this office OM No.EEE/AEE(O)/AE(T)/CMY DVN/2016-17/1607-09 dated 29.08.2016. The copy of*

the same is enclosed with this letter for your kind reference.

3. *During the inspection on 03.09.2016, it is noted that approximately 594 Nos Panels of 315 watts each i.e., 187 kW are installed at part A portion and rest approximately 2580 panels of each 315 watts resulting 813 kW are erected on part B shed which was already cancelled by this office.*
4. *Also it is noticed that, power transformer, cubicle, 11 kV breaker etc., are also erected on part B portion which is not in the premises of proposed SRT15AA1855 installation.*
5. *With the above observations it is clear that, you are misleading this office and CEIG authority.*

In this regard your proposal for the above said installation may be rectified by your end only."

- g) There is one supposed inconsistency between joint inspection report and the narration contained in the letter dated 06.09.2016 (Annexure-R). The said letter (Annexure-R) referring the sketch attached to it, states that the existing poultry farm bearing RR No.P-1950 and the newly constructed sheds and the SRTPV installation on it are on the right side of the road and the existing poultry farm bearing RR No.P-1951 is on the left side of the road, whereas the joint inspection report states otherwise. The reason appears to be obvious. The road dividing the lands of petitioner is leading from Madanapalli road (Bangalore-Kadapa road) to Oolavadi village. The situation of a place whether it is on the left or right side of a

road is a relative term, depending upon the direction in which the person narrates, is facing. Therefore, it is clear that in the joint inspection report while describing the left and right side of the road, one was facing towards Oolavadi village. Whereas, in the letter dated 06.09.2016 (Annexure-R) prepared by the 2nd respondent (Executive Engineer), while describing the left and right side of the road, one was facing towards Madanapalli road. Therefore, in reality, there is no inconsistency in the two reports while describing the situation of the different items of properties as to whether it would be lying on the right side or left side of the road.

h) The petitioner has relied upon drawing approval dated 21.04.2016 (Annexure-N) issued by CEIG which is shown to have related to the SRTPV Project bearing RR No.P-1951 and the sketch attached to it is said to have incorporated the drawings for the erection of new sheds to accommodate solar modules, to contend that newly erected portion was part of Project bearing RR No.P-1951. This circumstance relied upon by the petitioner is not improving his case. The CEIG does not personally verify the truth of the contents of the drawings pertaining to the electrical installation of the proposed SRTPV System. The party sends the proposed drawings got prepared by competent person and submits it to the CEIG for approval. The CEIG would approve the drawings subject to necessary corrections and observations and returns the same to the party. The party has to establish the SRTPV System as per the approved drawings. On completion of the works, the party has to request for inspection by

CEIG after furnishing certain clearances. Thereafter, CEIG visits the spot. Therefore, the mentioning of RR No. of SRTPV Project in the drawings submitted to CEIG is only a self-serving statement by the party making it and it cannot be used against the opposite party. Therefore, this circumstance stated by the petitioner is not helpful to him to show that erection of new sheds related to the premises bearing RR No.P-1951. As already noted, the petitioner has not disputed that the SRTPV System in question has been set up on the newly constructed roofs which are on one side of the road and the existing old sheds bearing RR No.P-1951 is on the other side of the road. The mere mentioning of RR No.P-1951 in the initial inspection report dated 30.08.2016 (Annexure-Q) of CEIG is not helpful to the petitioner unless it is shown that the CEIG specifically verified the RR No. of the premises. In the 30.08.2016 letter, CEIG desired for furnishing additional documents as stated in the letter. Usually, the CEIG has to concentrate on the verification of electrical installations as to whether they were installed as per drawings approved.

- i) For the above reasons, we hold that the petitioner has failed to establish that the SRTPV System in question in respect of which PPA dated 22.12.2017 (Annexure-X) is executed has been installed on the roof-top of the premises bearing RR No.P-1951. Accordingly, Issue No.1 is held in negative.

12. Issue No.2: Whether the petitioner is entitled to the tariff of Rs.9.56 per unit for the energy delivered from the above stated SRTPV System in respect of which PPA dated 22.12.2017 (Annexure-X) is executed?

a) The respondents have contended that the two PPAs dated 30.12.2015 relating to the proposed constructions were cancelled after spot inspection report as per Annexure-R2 produced along with the Statement of Objections. The petitioner has also admitted in his rejoinder that the 2nd respondent (Executive Engineer), vide his letter dated 29.08.2016 (Annexure-AA produced with rejoinder) cancelled the two PPAs dated 30.12.2015 with reference to off-line applications bearing Nos.CMYSRTPV25 (RR No.O-46205) & CMYSRTPV26 (RR No.O-46204) stating that the said Projects were not in compliance with the guidelines mentioned as per GoK letter No.EN 17 VSC 16 dated 17.08.2016. Though the petitioner has contended in his petition that the said guidelines mentioned in the GoK letter were not applicable to the Projects in question and in fact such guidelines were not contravened, while erecting the new sheds, he has not claimed any relief to set aside the cancellation of the said PPAs. In the absence of setting aside the cancellation of the said PPAs, the petitioner cannot claim the tariff stated in them. In OP No.82/2018, the petitioner has restricted its claim that the SRTPV System in question constructed related to the premises bearing RR No.P-1951 and the respondents have illegally and unauthorizedly transposed the new RR No.O-46205 for the existing RR

No.P-1951. As already noted on Issue No.1, that the petitioner has failed to establish that fact. Therefore, the cancellation of the PPA dated 30.12.2015 relating to RR No.O-46205, becomes final. In that event, the petitioner was allowed to commission the Project in terms of the Generic Order dated 07.11.2017 passed by this Commission at the tariff of Rs.3.57 per unit as provided in the said Order.

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

13. Issue No.3: Whether the petitioner can be permitted to complete the unfinished SRTPV System and if so, on what terms & conditions?

a) The petitioner has filed the OP No.81/2018, requesting to allow him to complete the unfinished SRTPV System as noted during the joint inspection report. This unfinished SRTPV System is described as installation No.3 in the joint inspection report. The facts noted relating to this SRTPV System in the joint inspection report are as follows:

"Installation No.3 towards right side of the road:

- | | |
|---------------------------------|------------------------|
| i. RR No. | : P-1951 |
| ii. Date of Service | : 2010 |
| iii. Type of installation | : Poultry farm |
| iv. Iv Sanctioned load | : 40 HP |
| v. Solar installed capacity kWp | : Partially installed. |

The said installation is an existing poultry farm consists of 7 (seven) nos. of sheds with staff quarters. The solar panels were installed on the rooftop of 3 nos. of sheds (only on one side of the roof facing towards south direction), nos. of panels is 594, capacity of each panel is 315 kWp and total installed capacity is 187 kWp."

- b) Subsequent to the Generic Tariff Order dated 02.05.2016, the capacity of the SRTPV System allowed on the roof-top of a premises is restricted to the sanctioned load of that premises. It may be noted that the Generic Tariff determined by this Commission for the present is far below the tariff of Rs.9.56 per unit as determined in the Generic Tariff Order dated 10.10.2013. In the above circumstances, this Commission is of the considered view that the petitioner may be allowed to commission the SRTPV System on the roof-top of the premises bearing RR No.P-1951 within a period of four months from the date of this Order, subject to the maximum capacity of the SRTPV System to be installed not exceeding the sanctioned load for that premises and with the tariff that would be applicable as on the date of commissioning of the SRTPV System.
- c) For the above reasons, Issue No.3 is held accordingly.

14. Issue No.4: To which reliefs the petitioner is entitled to?

- a) The petitioner may be allowed to commission the SRTPV System on the roof-top of the premises bearing RR No.P-1951, concerned in OP No.81/2018, subject to the terms & conditions stated above in Issue No.3.
- b) The petitioner is not entitled to any of the reliefs as prayed in OP No.82/2018.

15. Issue No.5: What Order?

For the above reasons, we pass the following:

ORDER

- a) In OP No.81/2018, the petitioner is allowed to commission the SRTPV System on the roof-top of the premises bearing RR No.P-1951, subject to the conditions that maximum capacity of the SRTPV System to be commissioned shall not exceed the sanctioned load for that premises and the tariff applicable for net metered energy supplied shall be the generic tariff prevailing as on the date of commissioning of the SRTPV System, and the commissioning of the SRTPV System shall take place within a period of four months from the date of this Order.
- b) OP No.82/2018, is dismissed holding that the petitioner is not entitled to any of the reliefs claimed in it.
- c) The original Order be kept in OP No.82/2018 and copy of it be kept in OP No.81/2018.

sd/-

(SHAMBHU DAYAL MEENA)
Chairman

sd/-

(H.M. MANJUNATHA)
Member

sd/-

(M.D. RAVI)
Member