

**Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade,
Mumbai 400 005, Tel. 022 22163964/65/69
Email: mercindia@merc.gov.in Website: www.merc.gov.in**

Dated: 07 February 2023

**CORAM: Sanjay Kumar, Chairperson
I. M. Bohari, Member
Mukesh Khullar, Member**

Case No.17 of 2023 and IA No. 7 & 8 of 2023

Petition challenging the illegal and arbitrary actions and conduct on the part of MSEDCL, in disconnecting the Petitioner's wind power plant from its distribution system / grid, without prior intimation, basis or affording an opportunity for justification and in derogation of the extant clauses of the relevant Energy Purchase Agreements.

Case No. 18 of 2023 and IA No. 9 & 10 of 2023

Petition under Section 86(1)(f) of the Electricity Act, 2003 for adjudication of dispute between NuPower Renewables Private Limited and MSEDCL in respect of disconnection from grid by MSEDCL for non-installation of meters at the Petitioner's Wind Project.

Case No. 20 of 2023 and IA No. 13 & 14 of 2023

Notice of Contravention dated 05 January 2023 issued by MSEDCL to Petitioner for alleged contravention of PPA dated 20 August 2014.

Case No.22 of 2023 and IA No. 17 & 18 of 2023

Petition seeking inter alia quashing of Impugned Notice dated 5 January 2023 issued by MSEDCL

Case No. 23 of 2023 and IA No. 15 & 19 of 2023

Petition seeking inter alia quashing of Impugned Notice dated 05 January 2023 issued by MSEDCL

Case No.24 of 2023 and IA No. 16 & 20 of 2023

Petition seeking inter alia quashing of Impugned Notice dated 09 January 2023 issued by

MSEDCL and application for interim protection against any action(s) pursuant to the Impugned Notice dated 09 January 2023.

1. M/s. Khandke Wind Energy Pvt. Ltd (KWEPL)
(Case No 17/2023)
 2. M/s Nu Power Renewables Pvt. Ltd. (NPRPL)
(Case No 18/2023)
 3. M/s Rajlaxmi Minerals (RM)
(Case No 20/2023)
 4. M/s Sispara Renewables Power Pvt. Ltd. (SRPPL)
(Case No 22/2023)
 5. M/s Kalsubai Power Pvt. Ltd. (KPPL)
(Case No 23/2023)
 6. M/s. NSL Wind Power Company (Satara) Pvt. Ltd (NWPCPL)
(Case No 24/2023)
- ...Petitioners

Vs

Maharashtra State Electricity Distribution Co. Ltd. (MSEDCL) ... Respondent

Arguing Counsels for the Cases

M/s. Khandke Wind Energy Pvt. Ltd.	Shri Sumant Nayak (Adv.)
M/s. Nu Power Renewables Pvt. Ltd.	Shri Venkatesh (Adv.)
M/s. Rajlaxmi Minerals	Shri Pradeep Nayak (Adv.)
M/s. Sispara Renewables Power Pvt. Ltd.	} Shri Avijeet Lala (Adv.)
M/s. Kalsubai Power Pvt. Ltd.	
M/s. NSL Wind Power Company (Satara) Pvt. Ltd.	Shri. Sakya Singha Chaudhuri (Adv.)
For MSEDCL	Shri Ravi Prakash (Adv.)

Daily Order

1. Heard the Advocates of the Petitioners/ Applicants and MSEDCL.
2. Advocate of the MSEDCL submitted that it has received few Petitions/Applications belatedly (as late as on 3 February 2023). In order to file detailed reply on merits, he sought adjournment. Advocates of Petitioners consented to MSEDCL's request of adjournment subject to assurance that no coercive action will be initiated in pursuance to Notice under challenge.
3. Advocate of MSEDCL brought to the notice of the Commission that some of the wind generators (including those who are not party in this proceedings) have submitted an undertaking during

proceedings before Hon'ble Bombay High Court that they shall install the meters at individual WTG within (30) days. He insisted that the sanctity of said undertaking shall be maintained.

4. Advocate appearing on behalf of NPRPL mentioned that the said undertaking is subject to the decision of the Commission in present matter. Other Advocates also pleaded the same aspect.
5. The Commission notes that Hon'ble Bombay High Court vide its Order dated 17 January 2023 in Writ Petition No. 641 of 2023 (SRPPL) and 639 of 2023 (KPPL) ruled following:

“ ...

2. *Petition dismissed as withdrawn with liberty to move MERC. **MERC to endeavour to hear petitioner and pass such orders as required in accordance with law preferably on the first Tuesday after petitioner files petition before MERC.***

3. *MSEDCL shall not take any coercive steps pursuant to the impugned notice **until 31st January 2023.***

....”

Further, in Writ Petition No. 1234 of 2023 (NRPL), Hon'ble Bombay High Court vide its Order dated 17 January 2023 ruled following:

“

....

3. *In this case, Maharashtra State Electricity Distribution Company Limited (MSEDCL) has already disconnected petitioner's facility on 11th January 2023. Mr. Jagtiani, after the petition was heard for some time, stated that **petitioner would approach MERC for appropriate reliefs and in the petition to MERC, petitioner will also raise the issue of improper issuance of show cause notice and that no individual meter requires to be installed at the Wind Turbine Generator Set (WTG Set) as per the electricity purchase agreement. Mr. Jagtiani states that for the moment petitioner would give undertaking that individual meters would be installed on each WTG Set within 30 days period as provided for other generators excluding the time required for MSEDCL to inspect the meter and grant approval, without prejudice to petitioner applying to MERC by way of an Interim Application to contend that such individual meters should not required to be installed as per electricity purchase agreement.***

4. *In view of the undertaking noted as mentioned above, Mr. Dwarkadas states that WTG Set will be reconnected within three days subject to MERC deciding the application of petitioner and subject to the undertaking as noted above being furnished by petitioner.*

5. *All rights and contentions are kept open. If the application is made by petitioner as noted above, MERC shall endeavour to dispose it at the earliest.*”

Thus, it seems that SRPPL and KPPL has not given any undertaking before the High Court. Undertaking given by NRPL is subject to final decision of the Commission on present Petition. Other three Wind Generators have directly approached this Commission. Hence, issue of undertaking does not arise in present Petitions before the Commission.

6. At the same time, from perusal of High Court Judgment dated 17 January 2023, it is observed that that some of the Wind Generators who are presently not before this Commission, have given clear undertaking before the High Court that they will install meter at WTG level within 30 days. Such Wind Generators need to honor their undertaking given before the High Court.
7. In last hearing during 'mentioning' application held on 31 January 2023, the Commission had restrained MSEDCL from taking any coercive action against Petitioners or similarly placed other WTGs till further orders. Today, MSEDCL has sought time for filing its reply. The Commission while allowing such time to MSEDCL, subject to honoring the respective undertakings given before the High Court (wherever applicable) by the WTG's, the Commission deems it fit to extend such status quo till final disposal of these matters.
8. Accordingly, MSEDCL is allowed to file its Replies in these matters within 2 weeks and Petitioners may file their Rejoinder within 1 weeks thereafter. Status quo to be maintained till final disposal of these matters subject to para 7 above.
9. **Post receipt of submission and completion of pleadings, next date of hearing will be intimated by the Secretariat of the Commission.**

Sd/-
(Mukesh Khullar)
Member

Sd/-
(I. M. Bohari)
Member

Sd/-
(Sanjay Kumar)
Chairperson