**HIGH COURT FOR THE STATE OF TELANGANA**

**AT HYDERABAD**

**W.P.No.6606 of 2021**

Between:

1. M/s.Suguna Metals Ltd.,(VKB-1247)

Survey No.141 to 143, Lakshmidevarapalli Road,

Narayanpur Village, Pargi Mandal,

Vikarabad District – 501501.

Rep., by its Director, Sri.Bharat Kumar Agarwal.

….. Petitioner

AND

1. The Southern Power Distribution Company Ltd.,

of Telangana state,

Rep., by its Chairman and Managing Director,

Mint Compound, Hyderabad

1. The Chief General Manager-IPC,

TSSPDCL, Mint Compound, Hyderabad.

1. Telangana State TRANSCO,

Vidyut Soudha, Hyderabad rep., by its

Chairman and Managing Director.

1. The State Load Despatch Centre (SLDC),

TSTRANSCO, Vidyuth Soudha, Hyderabad.

Rep., by it’s the Chief Engineer.

..Respondents

**COUNTER AFFIDAVIT FILED BY RESPODENTS NO. 3 AND 4**

I,S.V. Kumar Raju, S/o S. Rajaratnan, Aged: 57 years, Occ: Chief Engineer, SLDC, Hyderabad, do hereby solemnly affirm and state on oath as follows:

I am working as Chief Engineer, SLDC, Hyderabad, and well acquainted with the facts of the case and I am authorized to swear this affidavit. I have gone through the contents of the petition, and having understood the same, I hereby deny various allegations made against these respondents except those which are specifically admitted hereunder. The petitioner is put to strict proof of the same.

* + - 1. It is submitted that the writ petition bearing WP. No. 6606 of 2021 has been filed to issue a writ in the nature of a Writ of Mandamus or any other appropriate writ direction, order or orders declaring the action of the 1st respondent in rejecting the applications and the action of SLDC in communicating the rejection order by mail, dated 27.02.2021 for the month of March -2021 as wholly arbitrary, illegal without jurisdiction, offending the principles of natural justice and void, and consequently direct the respondents to consider the bilateral open access applications of the petitioner and pass such other .

Further, prayed that the pending disposal of the writ petition this Hon’ble court may be pleased to direct the respondents to consider bilateral open access applications of the petitioner for March-2021 and further months and pass such other and further orders.

* + - 1. It is submitted that the petitioner is having a H.T Service connection No.VKB 1247 having CMD of 30.99 MVA connected at 132/33 KV Pargi Sub-Station and 132KV Feeder voltage has been submitting an Interstate short term open access application under Collective transaction to purchase power through power Exchange and accordingly the respondent i.e TSSLDC has been issuing No-Objection certificate.
      2. In reply to para 4 and 7 of the petition, the respondent submits that Petitioners are existing consumers of the TSDISCOM and want to purchase power in different mode of transactions i.e power purchase through power Exchange under collective transactions and power purchase through Bilateral transactions.

As per Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations, 2008, Clause 8.3 While processing the application for concurrence or ‘no objection’ or prior standing clearance, as the case may be, the State Load Dispatch Centre shall verify

1. existence of infrastructure necessary for time-block-wise energy metering and accounting in accordance with the provisions of the Grid Code in force, and
2. Availability of surplus transmission capacity in the State network.

**And as per TSERC Regulation 2 of 2005**

**Clause 3: Extent of application**

*“This Regulation shall apply to open access to intra-state transmission and distribution systems of licensees in the State, including when such systems are used in conjunction with inter-state transmission system(s)”.*

**Clause 5.2**

*“For short-term open access transactions, the Nodal Agency for receiving and processing applications shall be the State Load Dispatch Centre (SLDC). The SLDC shall, however, allow short-term open access transactions only after consulting the concerned transmission and/or distribution licensee(s) whose network(s) would be used for such transactions”.*

As per the above clauses in the Regulation TSSLDC will process the application only after obtaining technical clearance from TSSPDCL, and accordingly No-Objection Certificate will be issued to purchase power through Power Exchange under collective transactions.

Respondent further submits that, M/s. Manikaran Power Limited is a trader and on behalf of petitioner has submitted an Inter State Short term Open Access applications under Bilateral transactions to draw power from M/s. Raipur Energen Limited (REL), Chhattisgarh State to M/s. Sugna Metals Ltd for the month of October-2020 & November-2020.

4. It is submitted As per the CERC and TSERC regulations, the applications were communicated to TSSPDCL to furnish technical clearance. After obtaining technical clearance from TSSPDCL, TSSLDC has issued concurrence for the same.

M/s. Manikaran Power limited as trader submitted a short term Open Access application (STOA) on behalf of petitioner i.e M/s. Sugna Metals Ltd for the month of December-2020 and January-2021 to draw power from M/s. Raipur Energen Limited (REL). The applications were transmitted to TSSPDCL for furnishing the remarks.

TSSPDCL has communicated that the application of January -2021 was rejected, accordingly TSSLDC has informed to the petitioner that the application is not considered.

M/s. Sugna Metals Ltd has submitted an Interstate short term open access application for the month of January -2021 under another mode of transaction i.e., Collective transaction with a rejected quantum i.e 8MW (which was applied under Bilateral transaction) plus 22.99MW (Total 30.99 MW) to purchase power in power Exchange, and accordingly the respondent i.e TSSLDC has been issued No-Objection certificate.

The petitioner i.e M/s. Sugna Metals Ltd has availed total CMD quantum i.e 30.99 MW of power through power exchange under collective transaction for the month of January-2021.

Respondent submits that M/s. Manikaran Power Limited has submitted an Inter State Short term Open Access applications under Bilateral transactions to draw power from M/s. Raipur Energen Limited(REL), Chhattisgarh State to M/s. Sugna Metals Ltd for the month of February-2021. The application is transmitted to TSSPDCLand requested to furnish technical feasibility.

M/s.MS Agarwal Foundries (Pvt) Limited, M/s. Agarwal Foundries, M/s. Jeevaka Industries(P) Ltd and M/s. Sugna Metals Ltd have filed a Write petition No. 1258 of 2021 before the Hon’ble High Court to direct the respondents to consider the bilateral open access applications of the petitioners. Hon’ble high court issued an interim order against the W.P.No. 1258 of 2021 and directed respondents to consider the application made by the petitioner requesting for Open access for the month of February, 2021, and subsequent months.

Respondent submits that as per the orders of the Hon’ble high court TSSLDC has issued concurrence for the month of February -2021 and processing subsequent months also.

Respondent submits that on behalf of M/s. Sugna Metals Ltd the other trader i.e GMR Energy trading Limited has submitted an Inter State Short term Open Access application for a quantum of 8MW under Bilateral transactions to draw power from another source i.e., M/s. D.B.Power Limited, Chhattisgarh State to M/s. Sugna Metals Ltd for the month of February-2021 and March-2021.The applications were transmitted to TSSPDCL for furnishing the remarks, TSSPDCL has communicated that the applications were rejected, accordingly TSSLDC has informed to the petitioner that the applications are not considered.

Respondent respectively submits that, as per the Section 31of Electricity Act, 2003, the State Load Despatch Centre shall be the apex body to ensure integrated operation of the power system in a State,and responsible for carrying out real time operations for grid control and despatch of electricity within the State through secure and economic operation of the State grid.

Accordingly SLDC issues ‘No-Objection certificate’ to the petitioner, after obtaining technical clearance from TSSPDCL. Without obtaining Technical Clearance from Discom, TSSLDC cannot issue NOC, as per the TSERC Regulation 2 of 2005 clause No.5.2 .

It is submitted that all the allegations made by the petitioners that are not specifically dealt with herein are denied and the petitioner is put to strict proof of the same.

It is therefore prayed that this Honorable Court may be pleased to dismiss the Writ Petition with costs in the interest of Justice.

DEPONENT

Sworn and signed before me

On this day of April, 2021

At Hyderabad

Advocate: Hyderabad

VERIFICATION

I,S.V. Kumar Raju, S/o S. Rajaratnan, Aged: 57 years, Occ: Chief Engineer do hereby verify and declare that the facts stated in the above paragraphs of the affidavit are true to my personal knowledge, belief, information and also legal advice from my counsel.

Hence verified on this the day of April, 2021 at Hyderabad.

DEPONENT

Counsel for the Respondent