**HIGH COURT FOR THE STATE OF TELANGANA**

**AT HYDERABAD**

**W.P.No.6599 of 2021**

Between:

1. M/s.Mansarowar Ispat (India) Pvt,Ltd., (RJN-699)

Office No.2-1-41,Tobacco Bazar,

Secunderabad – 500003.

Rep., by its Director, Sri.Girish Kumar .

….. 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. 6599 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 for the month of February and March-2021 and the action of SLDC in not considering the bilateral open access applications of the petitioner on the grounds that TSSPDCL has rejected the applications 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.RJN-699 having CMD of 9.990 MVA connected at 220/132/33 KV Kothur Sub-Station and 33KV Feeder voltage has been submitting an Interstate short term open access applications 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 Petitioner is existing consumer of the TSDISCOM and want to purchase power through in different mode of transactions i.e power purchase through power Exchange under collective transactions and power purchase through Bilateral transactions, and for these CERC (Open Access in Inter-State Transmission) Regulations, 2008 and TSERC Regulation 2 of 2005 are applicable.

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 or under Bilateral transactions.

Respondent further submits that, M/s.GMR Energy Trading limited is a trader and on behalf of petitioner has been submitting an Inter State Short

term Open Access application to avail power through power Exchange under collective transactions, and accordingly TSSLDC issuing NO-Objection Certificate to the petitioner.

4.It is submitted that M/s.GMR Energy Trading limited as a trader submitted a short term open access application (STOA) applications on behalf of petitioner for the month of February-2021& March-2021 to draw power from M/s. D.B.Power Limited under Bilateral transactions for a quantum of 2MW. The applications were transmitted to TSSPDCL for furnishing the remarks for February-2021 & March-2021 months. TSSPDCL has communicated that the applications were rejected, accordingly TSSLDC has informed to the petitioner that the application are not considered.

M/s.GMR Energy Trading limited has submitted an Interstate Short Term Open Access application on behalf of petitioner for the months of February-2021 & March-2021 under Collective transaction with rejected quantum i.e 2MW plus1.5MW (Total 3.5 MW) to purchase power in power Exchange, and accordingly the respondent i.e TSSLDC has issued No-Objection certificate.

Respondent submits that M/s.Mansarowar Ispat (India) Pvt,Ltd., (RJN-699) the petitioner herein has availed total quantum i.e 3.5MW of power through power exchange under collective transaction.

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