BEFORE THE HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION SHIMLA

Petition No: 222 of 2025
Date of Institution: 17.10.2025
Arguments Heard on: 09.04.2026
Decided on: 05.05.2026

CORAM

Yashwant Singh Chogal
MEMBER (Law)-cum-CHAIRMAN

Shashi Kant Joshi
MEMBER

In the matter of:-

M/s Dhar Solar Plant (500 kW) through its Proprietor.
Mr. Ankit SIngh,
Village and Post Office Dhar Tatoh,
Sadar District Bilaspur H.P. ……… **Petitioner**

Versus

The HP State Electricity Board Limited,
through its, Chief Engineer (SO), HPSEBL,
Vidyut Bhawan, Shimla, H.P.171004. ……….**Respondent No.1**

The Superintending Engineer Design,
(Power House Electrical) HPSEBL,
Sundernagar, H.P. **……….Respondent No. 2**

The Senior Executive Engineer,
(Protection and Testing) Division, HPSEBL,
Sundernagar, H.P. ……….**Respondent No.3**

The Senior Executive Engineer,
Electrical Division HPSEBL,
Bilaspur H.P. ……….**Respondent No.4**

Petition under Regulation 68 of the HPERC (CBR), 2024 for issuance of appropriate direction to the respondent to consider the Period 25th August 2020 to 18th September, 2020 as force majeure event in term of the Article 12 of the Power (PPA) dt. 14.03.2019 on account of the force majeure event and to consider to extension of the SCOD of the solar Project up to 18th September, 2020 with further prayer to grant tariff Rs. 4.20/kWh.

Present:

Sh. Ashok Verma, Ld. Counsel for the Petitioner.
Sh. Kamlesh Saklani, Authorized Representative for the Respondents.

ORDER

This Petition has been filed by M/s Dhar Solar Plant (500KW) under Regulation 68 of the Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2024 (CBR for short) for issuance of appropriate directions to the Respondents to consider the period 25th August, 2020 to 18th September, 2020 as force majeure event in terms of the Article 12 of the Power Purchase Agreement (PPA for short) dated 14.03.2019 and to consider to extend the Scheduled Commercial Operation Date (SCOD for short) of the solar Project up to 18th September, 2020 with further prayer to grant tariff Rs. 4.20 per kWh.

2. The Petitioner is proprietor of 500 kW Solar Power Plant situated at Village and Post Office Dhar Tatoh, Tehsil Sadar, Distt.

Bilaspur, H.P. (Project for short). A Joint Petition being Petition No. 05 of 2019 for the approval of the PPA was filed before the Commission which was allowed vide order dated 01.02.2019 allowing the tariff Rs. 4.20 per kWh to the project which was valid uptill 31.03.2020 in terms of the Commission's generic levellized tariff order dated 25.07.2018 (Annexure P-1) in the matter of determination of generic levellized tariffs for solar PV projects for FY 2018-19 under the Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from the Renewable Energy Sources Terms and Conditions for the Tariff Determination) Regulations, 2017 (RE Regulations, 2017 for short).

3. It is averred that in the month of February, 2020, there was break out of Covid-19 Pandemic in the entire nation and the Ministry of Finance vide its Office Memorandum (OM for short) dated 19.02.2020 has recognized the disruption in supply chains a force majeure event. Further, the Ministry of New and Renewable Energy (MNRE) vide OM dated 20.03.2020 read with OM's dated 17.04.2020 and 30.06.2020 has directed the relevant implementing agencies to

allow extension in time in scheduled commissioning of the Projects due to impact of COVID-19.

4. According to the Petitioner, it had immediately notified the respondent through letter dated 28.03.2020 regarding the occurrence of the force majeure event and delay in the completion of the solar project vide letter dated 28.03.2020 (Annexure P-2) as under:-

> *"Sir,*
> *I have been allotted Dhar Solar Plant of 500 KW capacity. The COD of the Plant was scheduled on 31.03.2020.But due to spread of Covid virus and complete lockdown, the COD can not be achieved as scheduled.*
> *So for it is not known how far this problem will be there.*
> *It is therefore intimated that COD may please be deferred till the normal situation form corona."*

5. It is averred that as result of the lockdown, State borders and all official and commercial works remain suspended and the material and the equipment to be procured for the solar project could not be transported from within as well as outside the country to the project site.

6. As per the Petitioner, it had notified the Respondent through email to srxenpsp@gmail.com on 15th June, 2020 (Annexure P-3), addressed to the Chief Engineer (Commercial), HPSEBL that the

Solar PV plant 500 KW shall be ready for its synchronization in 3rd Week of July, 2020. It is submitted that this intimation is strictly in compliance with the Articles of the PPA, which stipulate that Solar Developer is required to notify the HPSEBL/respondent qua the intended date of synchronization. The said letter was duly acknowledged by the Respondents vide letter dated 22.06.2020 (Annexure P-4) and the Chief Engineer (Commercial) intimated the Superintending Engineer (Design), Power House (Electrical), HPSEBL Sundernagar, by imparting appropriate instructions in this regard. However, the Respondents did not take any steps for the synchronization of the solar project in the month of July 2020.

7. It is submitted that period from March 2020 to 24th August was severally hit by the Covid-19 Pandemic. The Petitioner, a small developer has infused equity and has taken all possible actions for the completion of the solar project in the 3rd Week of July, 2020, but due to reasons best known to the respondents, the site visit to the solar project could was not undertaken.

8. It is claimed that vide office Memorandum dated 13th August, 2020 (Annexure P-5) issued by the MNRE New Delhi, all RE projects

under implementation as on the date of lockdown, i.e. 25th March, 2020, through RE implementing agencies designated by the MNRE or under various schemes of the MNRE, were given a time extension of 5 (months) from 25th March, 2020 to 24th August, 2020 which was a blanket extension without case to case examination and no documents/evidence were asked for such extension. Clause (e) of the above OM has been reproduced as under:-

> *"e. the state Renewable Energy Departments (including agencies under Power/energy Departments of States, but dealing in renewable energy) may also treat lockdown due to covid-19, as force majeure and may consider granting appropriate time extension on account of such lockdown."*

9. According to the Petitioner, the Project was synchronized on 18th September, 2020 with grid despite clear intention of the petitioner to get it synchronized with the grid during the 3rd Week of July, 2020.

10. Further, after the synchronization of the solar project with grid and further declaration of COD, the petitioner raised first energy bill upon the respondent No 1 at the tariff of Rs. 4.20 per kWh as allowed to the project under PPA which was processed by the Respondents but the tariff of Rs. 3.98 per kWh was provided with reason that the

tariff of Rs. 4.20 per kWh was applicable upto 31.03.2020 and the solar project was commissioned beyond the said date.

11. Further to the shock and conscious of the Petitioner, the Respondent No.1 vide its letter dated 01.09.2021 informed the Petitioner that the tariff of Rs. 3.98 per kWh was given wrongly being an inadvertent mistake and the solar project is entitled for the tariff of Rs. 3.41 per kWh. According to it, the Respondents have unilaterally reduced the tariff to Rs. 3.41 per kWh without affording an opportunity of hearing and have raised recovery of an amount Rs. 3,65, 685/- from the energy bills of the Petitioner.

12. Further, the Respondents have not paid any heed towards various written representations of the Petitioner.

13. It is submitted that petitioner vide letter dated 10.09.2021 (Annexure P-7) on receipt of the letter dated 01.09.2021 had written to the Respondent No.1, Secretary HPERC and the Hon'ble Chief Minister of the Himachal Pradesh in this regard but the Respondent No.1 vide its letter dated 24.12.2021 (Annexure P-8) reiterated its earlier stand that tariff of Rs. 3.41 per kWh is applicable for the

project, as the Petitioner failed to commissioned its project on 31.03.2020.

14. It is also submitted that even the HIMURJA vide letter dated 18.07.2020 (Annexure P-9) has extended the registration of the Project upto 30.09.2020 taking the Covid-19 pandemic in view. The Petitioner vide letter dated 11.01.2022 (Annexure P-10) again requested the Respondent No. 1 for redressal that due to Force Majeure clause he is entitled for the tariff of Rs. 4.20 per kWh and also highlighted its genuine difficulty in achieving the commissioning of the Project but no response was heard from the respondents' side. The Petitioner also submitted representations on 16.06.2022, 12.07.2022 and 17.07.2023 (Annexure P-11 Colly) but to no avail. Further in letter dated 17.07.2023, the Petitioner had requested to file a joint petition before the Commission for effective redressal of the grievances, as the project was badly hit by the Covid-19 Pandemic. The Good Faith Negotiations were conducted between the Petitioner the Respondent No.1 on the issue of the tariff and illegal reduction of tariff to Rs. 3.41 per kWh from 4.20 per kWh on 10.09.2025 but vide letter dated 10.09.2025, the Respondents communicated the Minutes

of Meeting (MoM) (Annexure P-12) reiterating its stand on the reduction of applicable tariff.

15. According to Petitioner the outbreak of Covid-19 pandemic and consequent imposing of lockdown imposed by Government of India and Government of Himachal Pradesh constitute a clear force majeure event which has directly impacted the Petitioner ability to procure equipment and manpower for timely completion of the project, therefore, the period from 25.03.2020 to 24.08.2020 deserves to be treated as force majeure under the PPA.

16. According to the Petitioner, the Commission in the case of M/s Leond Hydro Power Private Limited versus HP State Electricity Board 42 of 2022 decided on 07.01.2023 has observed as under:-

> *"40 [a]s it observed above, the petitioner had already intimated the HPSEBL/Respondent of the readiness of the Project for testing and synchronization on 02.11.2017. It is also evident from letter dated 15.02.2018 Annexure R-6 that pre-commissioning tests were conducted from 07.12.2017 to 14.12.2017. If this is so, there was no occasion for the respondent to delay the testing and synchronization of the project which was neither in the interest of the Petitioner nor in the interest of HPSEBL. Therefore the letter (email dated 02.12.2017 Annexure R-3) of the Superintending Engineer, Design to call for additional/fresh documents in response to letter of the Petitioner dated 02.11.2017, after the huge delay is beyond comprehension."*

17. Thus, the denial of tariff of Rs. 4.20 per kWh for the Project is arbitrary, contrary to terms of PPA and violative of the directions of the MNRE. Also averred that the very purpose of incorporating a force majeure clause in the PPA is to protect the contracting parties against events which are beyond their control. The Covid-19 pandemic and the resultant lockdown were exactly such unforeseen events and denying the benefit of force majeure frustrates and defeats the very object of the clause and has caused grave injustice to the Petitioner. Further, the Commission in similar cases has recognized the impact of Covid-19 as force majeure event and the similar benefit is required to be extended for the project and that the reduction of tariff of Rs. 3.41 per kWh from Rs. 4.20 per kWh has affected the project financially.

REPLY OF THE RESPONDENTS

18. The Petition has been resisted by the Respondents by filing replies. No reply has been filed by the Respondent No. 3 and 4.

REPLY OF RESPONDENT NO. 1

19. As per the Respondent No. 1, the Petitioner has no cause of action and locus standi to file and maintain the present petition and

that no legal and vested rights of the petitioner have been infringed or violated in any manner, entitling the petitioner to raise any grievance(s) against the Replying Respondents and also that the Petition does not disclose any enforceable cause of action against the Replying Respondents and also that the petitioner is estopped to file and maintain the present petition on account of his own acts, conduct and acquiescence. As such, the present Petition is liable to be dismissed.

20. Further averred that the present petition has been filed by the petitioner on distorted and twisted facts which are far off from reality and has withheld the material information from the Commission.

21. It is also averred that the Petitioner, vide letter dated 16.09.2020, had informed the Respondent No. 2 that the Dhar Solar Plant, located in Village Dhar Tatoh, Tehsil Sadar, District Bilaspur, was ready for synchronization on 18.09.2020. Further, the Petitioner had obtained the requisite approval from the Chief Electrical Inspector on 16.09.2020 (Annexure RA-2), which is a necessary prerequisite for synchronization of power plant and consequently, the Respondent No. 2 duly scrutinized the mandatory approvals and

clearances, conducted an inspection, and synchronized the Project on 18.09.2020. Further, the Petitioner thereafter submitted the necessary 15 day trial data, leading to the plant being recommended for commercial operation with effect from 03.10.2020. It is denied that the Respondents did not take any steps for synchronization.

REPLY OF RESPONDENT NO. 2

22. It is submitted by way of preliminary submissions that the Petition is misconceived on facts and untenable in law. Further, as per the PPA signed on 14.03.2019 as per order dated 11.02.2019 in Petition No. 05 of 2019, the Scheduled Commercial Operation Date (SCOD) of the project was 31.10.2019 and as per Article 6, Clause 6.2 (b) of the PPA, a tariff of Rs. 4.20 per kWh was stipulated, subject to the condition that the entire capacity of the Project is commissioned on or before 31.03.2020 and in the event of commissioning beyond 31.03.2020, the applicable tariff was to be the lower of the tariff determined by the Commission for the relevant category of projects for the year in which commissioning occurred. The project was actually commissioned on 18.09.2020, i.e., well beyond both the SCOD (31.10.2019), the last date for tariff eligibility

(31.03.2020) and thus, the project was not entitled to the tariff of Rs. 4.20 per kWh. Further, the tariff as applicable for the Project was determined by the Commission vide order dated 15-01-2021 in Suo Moto petition No. 79 of 2021 which was Rs. 3.41 per kWh for this category of projects and the same is lower than the tariff provided in its PPA (Rs. 4.20 per kWh).

23. It is averred that the plea of the Petitioner that the delay had occurred due to unforeseen outbreak of COVID-19 and nationwide lockdown (March–August 2020) is untenable as the PPA specifically deals with such circumstances under Article 12 ("Force Majeure"). Under which the affected party is required to notify the other party in writing within five (5) days of commencement of the Force Majeure event. No such notice was issued by the Petitioner. Furthermore, as per Article 4, Clause 4.1.1, the Petitioner was required to provide the HPSEBL at least sixty (60) days' advance written notice prior to synchronization and such notice can be given only when the project is fully installed, inspected, and technically ready for synchronization and since, no such notice was issued by the Petitioner till 31.03.2020,

that the project was ready for synchronization by that date, the claim of the Petitioner is not maintainable.

24. It is submitted that the nationwide lockdown, which commenced on 25.03.2020, could at the very most have impacted the final activities relating to synchronization, inspection by field staff, and the commissioning process. These are end-stage tasks undertaken after the project has already been fully constructed, tested, and made technically ready. The Petitioner, however, had neither completed the construction of the Project, nor obtained any of the mandatory statutory and technical clearances prior to 25.03.2020. Not only this, the Petitioner even had not secured Chief Electrical Inspector approval, had also not completed protection and testing, and had also not submitted any documentation demonstrating readiness for synchronization by 31.03.2020. In such circumstances, the delay in commissioning cannot be attributed to the COVID-19 lockdown, because the core construction work and essential preparatory activities, which should have been completed well before the imposition of lockdown, were themselves not completed in time by the Petitioner. According to it, the delay is attributable entirely to the

Petitioner's own failure to complete the project within the contractual timelines, and not on account of restrictions arising from COVID-19.

25. According to it, the Petitioner approached it with complete documents including CEI approval, test reports, and pre-commissioning data only on 16.09.2020 and consequently, the HPSEBL officers/officials immediately inspected the plant, and synchronized it on 18.09.2020, strictly as proposed by the Petitioner. These facts stand recorded in the detailed report of the Superintending Engineer (PEC Cell), HPSEB Ltd., Sundernagar dated 29.11.2025 **(Annexure-P1)**. Thereafter, the mandatory 15-day trial run was conducted, and the project was recommended for declaration of Commercial Operation w.e.f. 03.10.2020.

26. Thus, the contentions of the Petitioner that the project was ready for synchronization during June–July 2020, are factually incorrect and are contradicted by the documentary record and the Petitioner's own conduct. Further, the Petitioner's reliance on the Ministry of Finance OM dated 19.02.2020 and the MNRE OMs dated 20.03.2020, 17.04.2020, 30.06.2020 and 13.08.2020 is misconceived as said OMs constitute general policy guidance applicable to MNRE-

implemented schemes and do not amend or override the express contractual obligations contained in Articles 4, 6 and 12 of the PPA. The Petitioner has produced no contemporaneous evidence showing that equipment procurement, material supply, logistics, EPC activities or commissioning were actually impeded by COVID-19. It is averred that the HIMURJA's administrative extension of provisional registration up to 30.09.2020 cannot revive an already lapsed SCOD and make the Petitioner entitled for the enhanced tariff overriding the tariff orders passed by the Commission.

27. On Good Faith Negotiation Meeting, convened on 10.09.2025, it is averred that the same ended without consensus, as the Petitioner was not entitled to the tariff of Rs. 4.20 per kWh. It is further averred that the tariff of Rs. 3.98 per kWh, initially applied to the Petitioner's first invoice was an inadvertent processing error as the said rate corresponds to the generic tariff applicable for FY 2019-20 and had no relevance to the Petitioner's actual date of commissioning. This inadvertence was duly rectified, and vide letter dated 01.09.2021, Respondent 1 expressly clarified to the Petitioner that in terms of Article 6.2 of the PPA, the tariff applicable is that of the financial year

in which the project is commissioned. Since the Petitioner's project was commissioned on 18.09.2020, falling within FY 2020-21, the applicable tariff determined by the Commission vide order dated 15.01.2021 for the FY 2020-21 i.e. Rs. 3.41 per kWh was applicable. Accordingly, neither the tariff of Rs. 4.20 per kWh nor the tariff of Rs. 3.98 per kWh allowed earlier year as per FY 2019-20 were applicable for the project. The tariff of Rs. 3.41 per kWh has, therefore, been correctly and lawfully applied by the HPSEBL.

28. On reply to the contents of the Petition on merits, the approval of the PPA vide order dated 01.02.2019 in Petition No. 05 of 2019, execution of the PPA dated 14.03.2019 have not been denied. The remaining contents have been denied reiterating the averments made by way of preliminary submissions.

29. The receipt of email dated 15.06.2020 has not been denied and that the HPSEBL acting upon it had issued necessary instructions to all the concerned field units on 22.06.2020 for achieving synchronization and commercial operation of the said project. However, the claim of readiness in 3rd week of July 2020 is incorrect and contradicted by the absence of mandatory statutory approvals

and documents. Further, the Petitioner's communication dated 16.09.2020 (Annexure P-1) unequivocally demonstrates that the project had not attained synchronization-readiness before that date and that the tentative approval of the Chief Electrical Inspector having been issued only on 16.09.2020 and consequently, the HPSEBL has acted expeditiously and effected synchronization on 18.09.2020. The relevant conditions of the said OM dated 13.08.2020 have been reproduced in the reply.

30. It is not disputed that the HPSEBL vide letter dated 01.09.2021 has clarified the correct tariff applicable to the Petitioner's project. The Petitioner's allegation of "unilateral reduction" of tariff or denial of opportunity of hearing are wholly misconceived and untenable. It is averred that the individual financial hardships do not empower alteration of tariff determined under statutory and contractual framework.

31. Further, vide letter dated 24.12.2021 the HPSEBL simply reiterated the correct legal position that the tariff of Rs. 3.41 per kWh as applicable as the Petitioner failed to commission the project by 31.03.2020.

REJOINDERS

32. In rejoinder, the contents of the reply have been denied and those of the Petition has been reiterated.

SUBMISSIONS OF THE PARTIES

33. Sh. Ashok Verma, Ld. Counsel for the Petitioner has submitted that the Petitioner could not commission the Project on 31.03.2020 on account of prevailing lockdown in the country but on 15.06.2020, the Respondents had been communicated that its Project would be ready for synchronization during the 3^{rd} week of July, 2020 but no effective steps were taken by the Respondents for synchronizing the Project and rather, the Project was synchronized on 18.09.2020. According to him, the MNRE vide OM dated 13.08.2020 has considered the period of lockdown w.e.f. 25.03.2020 to 24.08.2020 as force majeure event and by excluding said period, the Project becomes entitled to the tariff of Rs. 4.20 per kWh but a tariff of Rs. 3.41 per kWh has been wrongly applied for the Project. He has relied upon the law laid down by the Hon'ble APTEL in Appeal No. 330 of 2022 titled ACME Heergarh Powertech Private Limited Vs. Maharashtra Electricity Regulatory Commission and Another decided on 31.01.2025 and has

also placed copy of order dated 05.03.2021 passed by the Ld. Delhi Electricity Regulatory Commission in Petition No. 34 of 2020 and Ld. Maharashtra Electricity Regulatory Commission's order dated 24.08.2022 in Case No. 33 of 2022 that on account of period of lockdown, the SCOD's of the Projects have been extended in said cases.

34. Sh. Kamlesh Saklani, Authorised Representative on the other hand has submitted that the Petitioner had failed to synchronize the Project on the SCOD without any reason and had not been prevented in any manner due to the lockdown and the tariff of Rs. 3.41 per kWh has rightly been applied as the Project has been commissioned in the control period applicable for the year 2020-21. According to him, the cases relied by the Petitioner or the OM issued by the MNRE have no application to the facts and circumstances of the case.

35. We have gone through the record and the submissions carefully. The following points arise for determination in the present case.

POINTS FOR DETERMINATION

Point No. 1: Whether the Petitioner had failed to Commission the Project during the validity of the generic levellized tariff for FY 2018-19 determined by the Commission vide order dated 25.07.2018 which was valid till 31.03.2020 due to force majeure events on account of Covid-19 pandemic as alleged?

Point No. 2: If Point No. 1 is answered in affirmative, whether the Petitioner is entitled for the tariff of Rs. 4.20 per kWh being 1.0 MW Project, as determined by the Commission vide order dated 25.07.2018 in Suo Moto Petition No. 26 of 2018 and as approved vide order dated 01.02.2019 in Petition No. 05 of 2019?

Point No. 3: Final Order.

36. For the reasons to be recorded hereinafter in writing, our point wise findings are as under:-

Point No. 1: No.

Point No. 2: No.

Point No. 3: Petition dismissed per operative part of the Order.
(Final Order)

REASONS FOR FINDINGS

Points No. 1 and 2:

37. Both these points being interconnected and interlinked are taken up together for disposal.

38. It is the case of the Petitioner that the PPA in respect of the Project was approved by the Commission vide order dated 01.02.2019 passed in Joint Petition No. 05 of 2019 and as per the PPA, the tariff of Rs. 4.20 per kWh was applicable to the Project as the validity of the generic levellized tariff for Solar PV Projects as determined by the Commission for FY 2018-19 vide order dated 25.07.2018 was applicable for the Projects commissioned on or before 31.03.2020 as per the Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determination) Regulations, 2017 (RE Regulations, 2017 for short). It is also the case of the Petitioner that during the month of February, 2020, there was outbreak of Covid-19 pandemic and consequently, a lockdown was imposed in the State and this fact was brought to the notice of the Respondent by the Petitioner vide letter dated

28.03.2020 that due to complete lockdown, the Petitioner could not achieve the Commercial operation date as scheduled.

39. It is also the case of the Petitioner that due to lockdown and closing of the State borders, all the commissioning works remain suspended and the material and equipments to be procured for the Project could not be procured from within the country as well as outside the country.

40. The Petitioner has also claimed that on 15.06.2020, during the ongoing lockdown, it had intimated the Respondent through e-mail to srxenpsp@gmail.com, addressed to the Chief Engineer (Commercial), HPSEBL (under whose control the Private Sector Projects (PSP) section was working) that the Project shall be ready for synchronization during the 3rd week of July, 2020 which was duly acknowledged by the Respondents vide letter dated 22.06.2020 (Annexure P-4). However, no steps were taken in this regard and rather, the Project was synchronized with the grid on 18.09.2020.

41. A careful perusal of the record reveals that the PPA in respect of the Project was approved by the Commission vide order dated 01.02.2019 in Petition No. 05 of 2019. The SCOD of the Project was

October, 2019. The Commission had determined the generic levellized tariff for the period FY 2018-19 under RE Regulations, 2017 vide order dated 25.07.2018 in Suo Moto Petition No. 26 of 2018 and as per said order, the tariff was valid upto 31.03.2020 subject to the condition that the Project(s) are commissioned on or before 31.03.2020. In the circumstances, though the SCOD of the Project was October, 2019 yet the Petitioner would have been entitled to the tariff of Rs. 4.20 per kWh had the Project been commissioned or synchronized with the grid on or before 31.03.2020.

42. The Petitioner has tried to invoke provisions of Article 12 of the PPA for claiming the benefit of lockdown period and has placed on record the copy of Office Memorandum dated 13.08.2020 issued by the MNRE, GoI vide which the period from 25.03.2020 to 24.08.2020 has been considered as force majeure due to Covid-19 and a blanket extension of the aforesaid period from 25.03.2020 to 24.08.2020 i.e. 5 (five) months has been granted for the RE Projects that no documents or evidence will be asked in respect of said period. It is apparent from the aforesaid Office Memorandum that the timelines of

immediate milestone may be extended within the extended time provided for commissioning.

43. No doubt, the Petitioner vide e-mail dated 15.06.2020 had intimated the HPSEBL that the Project would be ready for synchronization during the 3rd week of July, 2020 but said e-mail was totally silent that the permission of the Chief Electrical Inspector had been obtained as required under the provisions of the Central Electricity Authority (Measure Relating to Safety & Electric Supply) Regulations, 2010. It is evident from the Annexure attached to letter dated 22.06.2020 of the HPSEBL that various steps were highlighted to be taken for successful synchronization of the Project. Article 4.1.2 (iii) of the PPA, as approved by the Commission, provides that the approval of the Chief Electrical Inspector shall be necessary for synchronizing the Project. Article 4.1.3 of the PPA further provides that the Company (Petitioner) shall notify the HPSEBL, as soon as the requirement of Article 4.1.2 have been met and unit is ready to be synchronized to the grid system in accordance with the agreement. It is evident from the reply of the Respondent that the Petitioner approached the HPSEBL without all the requisite documents

including Chief Electrical Inspector's approval and such approval was obtained only on 16.09.2021 and thus, the Project was synchronized on 18.09.2021 on inspection of the Plant which finds mentions in the detailed report of Superintending Engineer (PEC-Cell) HPSEBL, Sundernagar dated 29.11.2025, attached to the reply of the Respondent No. 2 as Annexure RA-2. This also finds mention in letter dated 16.09.2020 of the Petitioner sent to Superintending Engineer (Design), HSPEBL Sundernagar whereby all the documents mentioned therein i.e. Pre-Commissioning Test Report, Testing Report of CTPT by AE, M&T Sub-division, HSPEBL, Bilaspur, Testing Report of Transformer, VCB by AE, P&T Sub-division, HPSEBL Sundernagar, Drawing of SLD Electrical, Civil Drawing, Factory Test report of Transformer, LT panel, VCB, Meter, CTPT, Interconnection agreement and CEI report were annexed. The HPSEBL has also annexed report of the Chief Electrical Inspector dated 16.09.2020 alongwith its reply. However, these letters have not been annexed with the Petition by the Petitioner for the reasons best known to it. In the circumstances, the contention of the Petitioner that the Project was ready for synchronization is not tenable.

44. As observed above, the original SCOD of the Project was October, 2019 but no reason whatsoever have been assigned for not commissioning the Project within the stipulated date. As per the generic levellized tariff order dated 25.07.2018 for Solar PV Projects in Suo Moto Petition No. 26 of 2018, the Commission allowed the tariff of Rs. 4.20 per kWh for Solar PV Projects upto 1.0 MW capacity and that said tariff shall remain valid till 31.03.2020 provided the following conditions are met:-

> (i) the joint petition for approval of PPA has been submitted to the Commission on or after 01.04.2018, but not later than 31.03.2019 or on the date on which new Renewable Energy Regulations come into force as per the provisions of Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determination) (First Amendment) Regulations, 2018, whichever is earlier; and
> (ii) such project is commissioned on or before 31.03.2020.

45. As per Clause 6.2 (b) of Article 6 of the PPA, approved by the Commission, the tariff as allowed shall be firm and fixed and shall not be subject to any indexation, escalation, adjustment or review due to any reason whatsoever and the said rate shall be applicable in case the entire capacity of the Project is commissioned on or before

31.03.2020 and if the commissioning is delayed beyond 31.03.2020, the rate determined by the Commission for category under which the total capacity of the Project falls for the financial year(s) in which the capacities are commissioned for the respective capacity(ies) or the rate of Rs. 4.20 per kWh, whichever is lower, shall be applicable. Article 6.2 (b) (i) is reproduced as under:-

> *"(b) The rate of Rs. 4.20 per kWh as per clause (a) above is firm and fixed and shall not be subject to any indexation, escalation, adjustment or review due to any reason whatsoever except for the adjustment on the following line and for specific provisions under Section 8.8.*
> *(i) The rate given above shall be applicable if the entire capacity of the project is commissioned on or before 31.03.2020 i.e. 31st March of the year immediately succeeding the financial year in which PPA is signed after approval of the Commission. However, if the commissioning of the project is delayed beyond 31.03.2020, the rate determined by the Commission for the category under which the total capacity of the project falls for the financial year(s) in which the capacities are commissioned for the respective capacity(ies) or the rate of Rs. 4.20 per kWh as above whichever is lower, shall be applicable.*
> *For this purpose, weighted average rate based on the capacity(ies) commissioned during different financial year(s) and respective applicable rates as per above provisions shall be worked out from time to time."*

46. Apparently, the Petitioner has neither commissioned the Project on the due date of SCOD nor before 31.03.2020, therefore, the tariff

of Rs. 4.20 per kWh cannot be made applicable to the Project as agreed by the Petitioner in the approved PPA.

47. As per the Petitioner, it could not commission the Project on or before 31.03.2020 due to lockdown where the borders were closed and procurement of equipment was not permissible. However, as per Article 4 of the approved PPA, the Petitioner was required to give the HSPEBL atleast 60 days advance written notice of the date on which it intends to synchronize a unit to the grid system. Article 4 of the approved PPA is reproduced as under:-

"4.1 SYNCHRONIZATION:

4.1.1. The Company shall give the HPSEBL at least sixty (60) days advance written notice of the date on which it intends to Synchronize a Unit to the Grid System Synchronization Date for the first Unit, such notice shall be given at least 180 In case the Company intends to Synchronize a Unit carlier than the Scheduled days in advance. If power cannot be evacuated smoothly under the regular arrangement envisaged in the Agreement, the Parties may mutually agree to an interim arrangement as per the provisions of Section 4.4.

4.1.2 Subject to Section 4.1.1, the Company shall declare a Unit to be ready for Synchronization with the Grid System when:-

(i) it has been installed in accordance with the required technical specifications and Prudent Utility Practices;

(ii) it meets all related conditions prescribed in applicable Indian Standard(s)/Code(s) then in effect and otherwise meets the provisions of the Electricity Act, 2003 and the Rules or Regulations framed there under, or any other requirements for Synchronization to the Grid System;

(iii) it is capable of being operated safely and the Company has obtained the approval of the Chief Electrical Inspector of the Government for energisation; and

(iv) the Company has entered into a separate agreement for execution, operation and maintenance of the Interconnection Facilities as per Section 3.3.

4.1.3 The Company shall notify the HPSEBL, as soon as the requirement of Section 4.1.2 has been met and the Unit is ready to be synchronised to the Grid System in accordance with the Agreement.

4.1.4 The HPSEBL, and/or its authorised representative(s) shall inspect any Unit which the Company intends to Synchronize to the Grid System within five (5) days after being notified in writing by the Company, pursuant to Section 4.1.3, to determine whether the requirements of Section 4.1.2 have been met. The Company shall provide the HPSEBL with such access to the Station as is reasonably required to make such determination.

4.1.5 If the HPSEBL is satisfied that the Unit is ready to be Synchronized in accordance with Section 4.1.2 and 4.1.4, it shall within three days of the completion of the inspection of the Unit(s) notify the Company to that effect and provide the Company with all reasonable assistance in Synchronizing the Unit and also for conducting Commissioning Test(s).”

48. Therefore, in order to claim the benefit of Clause 8 (D) of the order dated 25.07.2018 in Suo Moto Petition No. 26 of 2018 vide which the validity of the tariff was upto 31.03.2020, the Petitioner was required to intimate the HPSEBL atleast 60 days before 31.03.2020 that its Project is ready for synchronization. This notice of 60 days is mandatory but the entire Petition is silent about the same. Therefore, the Petitioner’s Project was not ready for synchronization on or before

31.03.2020 and thus, the Petitioner cannot invoke OM dated 13.08.2020 that it was prevented from synchronizing the Project. In fact, the Petitioner was required to justify that it had the intention to complete the construction of the Project on or before 31.03.2020 and had served the notice in case of its intention to synchronize the Project by 31.03.2020 and having failed to construct the Project as required, it cannot invoke the force majeure clause and the MNRE OM dated 13.08.2020 which is not applicable to the facts and circumstances of the case. Therefore, the Petitioner's claim for allowing tariff of Rs. 4.20 per kWh was rightly not considered by the HPSEBL.

49. The record further shows that the tariff of Rs. 3.98 per kWh was allowed for the Project due to inadvertence and subsequently, the tariff has been reduced to Rs. 3.41 per kWh after the Petitioner raised the energy bills as evident from letter dated 01.09.2021 (Annexure P-6) which reads as under:-

> *"subject: Regarding applicability of tariff in respect of solar power project with delayed commissioning beyond cutoff date of tariff.*
>
> *XXXXX*

The Dhar Solar PV Project has been delayed from its commissioning beyond 31-03-2020 and commissioned on 18-09-2020 during FY 2020-21. As such the tariff determined by the HPERC for FY 2020-21 i.e. 3.41/kWh for projects having capacity upto 1MW Projects set up in other than industrial areas/urban areas is applicable for this project. The IPP raised monthly energy bills to HPSEBL at the tariff determined by the Hon'ble Commission for FY 2019-20 @3.98 per unit and HPSEBL inadvertently has also processed these monthly energy bills @ 3.98 per unit i.e. tariff of the year immediately preceding the financial year in which the project has commissioned which was the tariff applicable in case PPA signed under RE Tariff Regulations, 2012. the PPA dated 14-03-2019 for this project has been signed under RE Tariff Regulations 2017 and as such in case of delay in commissioning beyond cutoff date, the rate determined by Commission for the financial year in which the project is commissioned or rate as specified in the PPA whichever is lower is applicable. The project has been commissioned on 18.09.2020 and therefore as per the clause 6.2 (b) of the PPA the tariff applicable for this power project is Rs 3.41 per unit."

50. As observed above, Article 6 of the approved PPA provides that in cases where the commissioning is delayed (31.03.2020 in the case of the Petitioner), the rate determined by the Commission for the category under which the total capacity of the Project falls for the financial year(s) in which the capacities are commissioned for the respective capacity(ies) or the rate of Rs. 4.20 per kWh, whichever is lower, shall be applicable.

51. Admittedly, the Project has been commissioned on 18.09.2020. The Commission vide order dated 15.01.2021 in Suo Moto Petition No. 79 of 2020 had determined the tariff for FY 2020-21 which was

applicable for the projects having been commissioned on 18.09.2020, as such, the tariff of Rs. 3.98 per kWh had been wrongly made applicable by the HPSEBL which was rightly withdrawn and the tariff of Rs. 3.41 per kWh has been allowed which was determined by the Commission for FY 2020-21. In the circumstances, the tariff of Rs. 3.41 per kWh has been rightly allowed by the HPSEBL as per the order dated 15.01.2021 of the Commission. In the circumstances, the law laid down by the Hon'ble APTEL in Appeal No. 330 of 2022 titled ACME Heergarh Powertech Private Limited Vs. Maharashtra Electricity Regulatory Commission and Another decided on 31.01.2025 as also the order dated 05.03.2021 passed by the Ld. Delhi Electricity Regulatory Commission in Petition No. 34 of 2020 and Ld. Maharashtra Electricity Regulatory Commission's order dated 24.08.2022 in Case No. 33 of 2022 have no application to the facts and circumstances of the case. Similarly, the letter dated 28.03.2020 or the extension of provisional registration by the HIMURJA also do not ameliorate the sufferings of the Petitioner.

52. In view of the aforesaid, the Petitioner has miserably failed to establish on record that due to Covid-19 induced lockdown, the

Petitioner had failed to commission the Project during the validity of the generic levellized tariff for FY 2018-19, determined by the Commission vide order dated 25.07.2018 in Suo Moto Petition No. 26 of 2018 or that it is entitled for the tariff of Rs. 4.20 per kWh being 1.0 MW capacity Project, as determined by the Commission vide order dated 25.07.2018 in Suo Moto Petition No. 26 of 2018 and as approved vide order dated 01.02.2019 in Petition No. 05 of 2019. Points No. 1 and 2 are accordingly decided against the Petitioner.

Final Order

53. In view of the aforesaid discussions and findings, the Petition fails and is accordingly dismissed.

54. The pending applications, if any, are also deemed to have been disposed off.

55. Let a copy of this order be supplied to the parties forthwith.

The file after needful be consigned to the records.

Announced
05.05.2026

-Sd-	**-Sd-**
(Shashi Kant Joshi)	**(Yashwant Singh Chogal)**
Member	**Member (Law)-cum-Chairman**