

COURT-I

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)**

**IA NO. 918 OF 2019 IN
DFR No. 2103 of 2019**

Dated: 03rd May, 2019

**Present: Hon'ble Mrs. Justice Manjula Chellur, Chairperson
Hon'ble Mr. S.D. Dubey, Technical Member**

In the matter of:

Pinnacle Renewable Energy Pvt. Ltd.

...Appellant(s)

Versus

Uttar Pradesh Electricity Regulatory Commission & Ors. ...Respondent(s)

Counsel for the Appellant(s) : Mr. Ruchir Ranjan Rai

ORDER

**IA No. 918 of 2019
(Application for urgent listing)**

Heard for urgent listing and also on the reason for urgent listing.

Since learned counsel insisted for listing the stay application, on perusal of the impugned order, it seems that right from the 26.02.2019, the matter was coming up and petitioner was allowed to commission their plant by 15.04.2019 subject to imposition of liquidated damages as per PPA. No doubt, the Commission also directed UPPCL to provide connectivity to the Petitioner from 33 KV Kanduni substation on payment of cost of Bay within next 15 days from the date of order. Provided, Petitioner would deposit cost of laying the 132 KV transmission line with UPPCL in next 15 days.

The matter came up on 16.04.2019 to know what happened to the earlier directions. On 16.04.2019, though learned counsel for petitioner before the Commission said that their plant was ready for commissioning but they have not been provided Bay at 33 KV substation to start evacuation of power. Enquiry was made with senior Project Officer, and it was found that as per NEDA's information, recent survey of the plant, NEDA found that only 35 % of Solar Module had been erected although construction of Bay has been started by UPPCL. It was also submitted that liquidated damages amount was not deposited, as directed on 05.03.2019.

The contention of the Appellant that since mechanism for evacuation of power was not completed, therefore, they cannot evacuate power cannot be appreciated for the simple reason that if Appellant generator had completed the setting up of solar plant in full, then only the question of generation of power and then evacuating the same would arise. One can say that there was no fault with the Appellant only if Appellant establishes the installation of solar plant in full form, then only he can complain that evacuation process was not completed.

In spite of above observation, the Commission allowed Appellant to deposit liquidated damages with NEDA by 30.04.2019 and in the meantime entire work has to be completed and project will be commissioned.

Further, since right from 05.03.2019, the direction was to commission the plant subject to deposit of liquidated damages, we do not find any fresh direction issued by order dated 30.04.2019. If Appellant was aggrieved

with the direction to deposit of liquidated damages to Commission as a pre-condition to commission the project, the Appellant ought to have challenged the order dated 05.03.2019 itself.

In that view of the matter, we are of the opinion that there is no need for listing the matter on urgent basis. The Application is disallowed.

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Issue notice to the Respondents returnable on 21.05.2019. Dasti, in addition is permitted.

List the matter for admission on **21.05.2019**, if defects are cured.

(S.D. Dubey)
Technical Member

Pr/pk

(Justice Manjula Chellur)
Chairperson