



2025:HHC:34735-

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 5752 of 2020

Decided on: 09.10.2025

M/s Greenko Astha Projects (India) Hydro Power Pvt. Limited
... Petitioner

Versus

Directorate of Energy, State Agency, Himachal Pradesh
... Respondent

Coram

Hon'ble Mr. Justice Ajay Mohan Goel, Judge.

Whether approved for reporting?¹ Yes

For the petitioner : Mr. Rajnish Maniktala, Senior
Advocate with Mr. Dinkar Bhaskar,
Advocate.

For the respondent : Mr. Pushpender Jaswal, Additional
Advocate General with Mr. Rajat
Chauhan, Assistant Advocate
General.

Ajay Mohan Goel, Judge [Oral]

By way of this writ petition, the petitioner has *inter alia*
prayed for the following relief:-

“A) That the Order dated 11.11.2019 (Annexure P-6) issued by
the respondent may be quashed and set aside and respondent
may be directed to consider the application for grant of
accreditation within 30 days for issuance of Renewable Energy
Certificate in accordance with law.”

2. Brief facts necessary for the adjudication of this petition
are that according to the petitioner, a memorandum of understanding

¹ Whether reporters of the local papers may be allowed to see the judgment?

was executed between the petitioner and the respondent for preparation of a Detailed Project Report for Dehar Hydroelectric Project in District Chamba. The implementation agreement for the execution thereof was entered into between the petitioner and the State of Himachal Pradesh on 30.03.2000. The power purchase agreement was entered into between the petitioner and HPSEB on 21.04.2004 as per the terms of the notification of the Himachal Pradesh Government. The project became commercially operative on 30.07.2004.

3. In the year 2010, the Central Electricity Regulatory Commission (Terms and Conditions for issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010, were framed for issuance of Renewable Energy Certificates.

4. According to the petitioner, it applied for grant of accreditation by filing an application on 03.10.2019 before State Agency in accordance with the relevant Regulations. The grievance of the petitioner is that the application has been rejected by the State Agency on 11.11.2019 and in these circumstances, the petitioner has approached this Court.

5. Learned Senior Counsel for the petitioner has drawn the attention of the Court to Annexure P-4/A appended with the petition, i.e. the Regulations issued by the Central Electricity Regulatory Commission in the year 2010 and by referring to Regulation 2

thereof, he submitted that in terms of Regulation 2(1)(b), 'Central Agency' means the agency as may be designated by the Commission under Clause (1) of Regulation 3. By referring to Regulation 3, learned Senior Counsel submitted that in terms thereof, the Commission, which as per the definition means Central Electricity Regulatory Commission, shall designate an agency as Central Agency after satisfying itself that the said agency has the required capability of performing its functions as provided under these Regulations and the functions of the Central Agency *inter alia* shall be registration of eligible entities as also issuance of certificates. By referring to Regulation 5 thereof, learned Senior Counsel submitted that a generating company engaged in generation of electricity from renewable energy sources shall be eligible to apply for registration for issuance of and dealing in Certificates if it fulfills the conditions as are mentioned therein. By referring to Annexure P-4/B, communication dated 16.03.2018, learned Senior Counsel submitted that the procedure for accreditation of Renewable Energy Generation Project or Distribution Licensees is mentioned in the Annexure appended with this communication and Clause 3.3. thereof *inter alia* provides that after receipt of physical application for accreditation, the State Agency shall conduct a preliminary scrutiny to ensure that the Application Form is complete in all respect alongwith necessary documents and processing fees and the State Agency shall undertake

preliminary scrutiny of the Application within 7 working days from the date of receipt of such Application. Learned Senior Counsel by referring to Clause 3.5-Step 5 submitted that thereafter while considering any application for accreditation, the State Agency shall verify and ascertain availability of the information mentioned therein. He thus submitted that the scheme of Regulation and communication dated 16.03.2018 is clear that the State Agency has to do the needful as is provided therein while forwarding the application of an entity like the petitioner but as far as the issuance of Certificates is concerned, the same has to be done by the Central Agency only.

6. By referring to the impugned order, learned Senior Counsel submitted that in the present case, in terms of the impugned order dated 11.11.2019, the application filed by the petitioner for accreditation stands rejected by the respondent by assigning erroneous reason and by relying upon Clause 5(1)(c) of the 2010 Regulations without appreciating that said Clause of the 2010 Regulations does not confer any power upon the State Agency to reject the application and eligibility and registration certificates as per Regulation 5, which wrongly stands referred to as Clause 5 in the impugned order, is to be undertaken by the Central Agency only. Accordingly, learned Senior Counsel prays that the impugned order be set aside and a mandamus be issued to the respondent to consider the application for grant of accreditation within 30 days

from the issuance of Renewable Energy Certificate in accordance with law in terms of Annexure R-4/B.

7. On the other hand, learned Additional Advocate General has submitted that there is no infirmity in the impugned order and reasoning assigned therein is justifiable in law. No other argument was advanced.

8. Having heard learned Senior Counsel for the petitioner and learned Additional Advocate General and having carefully perused the impugned order, this Court is of the considered view that there is merit in the contention of learned Counsel for the petitioner. The impugned order is dated 11.11.2019, relevant portion whereof reads as under:-

“Please refer to your office letter under reference vide which application along with supporting documents was submitted to this office, for accreditation of 05 MW, DEHAR HEP as a Renewable Energy generation project under REC mechanism.

On the scrutiny of submitted documents following is submitted:

1. The Project developer M/s Greenko Astha Projects (India) Pvt. Ltd, has entered into a Power Purchase Agreement dated 21st April, 2004 for sale of power of Dehar Hydro Electric Power Project (05 MW) to Himachal Pradesh State Electricity Board, Vidyut Bhawan Shimla-171004 at a fixed price of Rs.

2.50/- per unit for 40 years (mutually agreed in between the parties).

2. As per CERC (Term and Conditions for recognition and issuance of renewable energy certificate for renewable energy generation) regulations 2010 and further amended time to time under clause 5 (1) o generating company engaged in generation of electricity from renewable energy sources is eligible for issuance of REC certificates if it sells the electricity generated to the distribution licensee of the area in which entity is located at a pooled cost of power purchased of such distribution licensee as determined by appropriate commission, i.e. APPC rate.”

Further. In view of above facts and project developer earlier commitment with HPSEBI, for sale of power for 40 years from the Dehar Hydro Electric Power Project (05 MW) on other than APPC mode to DISCOM, I am directed to convey that your request for accreditation cannot be considered please.”

9. A perusal of impugned order demonstrates that the application filed for accreditation by the petitioner has been rejected by the respondent by assigning the reasons mentioned therein. A perusal of the 2010 Regulations which are appended with the petition as well as communication dated 16.03.2018 (Annexure P4/B) demonstrates that the accreditation certificate which stands defined in clause 2(c) of the 2010 Regulations means the renewable energy certificate issued by the Central Agency in accordance with the

procedures laid down by it and under the provisions specified in said Regulations. Thus, 'certificate' means the renewable energy certificate issued by the Central Agency. Central Agency is the one which is to be designated by the Central Electricity Regulatory Commission as per Regulation 3. As far as the role of the State Agency is concerned, it has to process the application strictly in terms of Clause 3 of Annexure appended with communication dated 16.03.2018, however, final decision as to whether or not the certificate has to be granted to an entity like the petitioner is to be taken by the Central Agency and not the State Agency. Not only this, Regulation 5 of the 2010 Regulations, which deals with the eligibility and registration for certificates *inter alia* provides that a generating company engaged in generation of electricity from renewable energy sources shall be eligible to apply for registration for issuance of and dealing in Certificates if it fulfills the conditions which are mentioned therein. Therefore, but obvious whether or not a generating company engaged in generation of electricity from renewable energy sources is eligible to apply for registration for issuance of and dealing in Certificates has to be decided by the Central Agency and not by the Stage Agency. This extremely important aspect of the matter has been ignored by the respondent while rejecting the application of the petitioner for grant of accreditation by relying upon Regulation 5(1)(c) of the 2010 Regulations. In fact, the application for accreditation is to be

assessed by the respondent in terms of communication dated 16.03.2018 (Annexure R-4/B) and annexure appended therewith, relevant portion whereof is being quoted herein below:-

“STEP-WISE DESCRIPTION OF THE PROCEDURE

The basic procedure for accreditation of the RE generation project or Distribution Licensee, as the case may be, shall cover following steps:

3.1.STEP 1: An application for availing accreditation shall be made by the applicant to the host State Agency, as defined under Clause 2(1) (n) of the CERC REC Regulations. The applicant shall apply for Accreditation on the Web Based Application and shall also submit the same information in physical form to the State Agency.

For RE Projects

The application for accreditation by the generating company shall contain (i) owners details, (ii) operator details (in case the owner and operator are different legal entities), (iii) Generating Station details, (iv) Connectivity details with concerned licensee (STU/DISCOM), (v) metering details, (vi) Statutory Clearance details, (vii) Undertaking of not having entered into any power purchase agreement for the capacity related to such generation to sell electricity, with the obligated entity for the purpose of meeting its renewable purchase obligation, at a tariff determined under section 62 or adopted under section 63 of the Act by the Appropriate Commission for

which participation in REC scheme is sought as per the CERC REC Regulations, (viii) In case, the Applicant has multiple RE generation projects then, separate Applications will have to be submitted by the Applicant for each RE generation project Accreditation of each RE generation project shall be carried out separately. In case, the applicant has single unit, break up in capacity for application of Accreditation will not be allowed. The RE Generation Project shall comply with the requirements of Connectivity standards for Grid Connectivity at particular injection voltage/grid interface point as specified by State Transmission Utility or concerned Distribution Licensee, as the case may be. The Application made for accreditation of RE generation shall be accompanied by a non-refundable processing fee and accreditation charges (one time and annual, if any) as determined by the Appropriate State Electricity Regulatory Commission from time to time, and (ix) any other relevant information as per the enclosed format (FORMAT-1.1: Application for Accreditation of RE Generation Project).

For Distribution Licensee:

The application for accreditation by the distribution licensee shall contain the details as per format 1.1.1. The applicant shall also submit the physical copy of declaration with applicable clauses as per section D of the format 1.1.1. The Application made for accreditation shall be accompanied by a

non-refundable processing fee and accreditation charges (one time and annual, if any) as determined by the Appropriate State Electricity Regulatory Commission from time to time.

3.2. STEP 2: The applicant shall be assigned a unique acknowledgement number for accreditation of its RE generation project or Distribution Licensee, as the case may be, for any future correspondence and after accreditation, Accreditation Number shall be used for the same.

3.3.STEP 3: After receipt of physical application for accreditation, the State Agency shall conduct a preliminary scrutiny to ensure Application Form is complete in all respect along with necessary documents and applicable processing fees. The State Agency shall undertake preliminary scrutiny of the Application within 7 working days from date of receipt of such Application.

3.4.STEP 4: After conducting the preliminary scrutiny, the State Agency shall intimate in writing to the Applicant within 7 days for submission of any further information, if necessary, to consider the application for accreditation or reject application.”

Therefore, in light of above observations, as obviously the impugned passed by the respondent is not sustainable in the eyes of law, this petition is allowed by setting aside the impugned order and with further direction to the respondent to consider the application of the petitioner for the grant of accreditation for the purpose of issuance of Renewable Energy Certificate in accordance with law, i.e.

as prescribed in Annexure R-4/B. Pending miscellaneous applications, if any, also stand disposed of accordingly.

(Ajay Mohan Goel)
Judge

October 09, 2025
(*narender*)

High Court of MP