

TAMIL NADU ELECTRICITY REGULATORY COMMISSION

Order of the Commission dated this the 21st day of January 2025

PRESENT:

Thiru K. Venkatesan

... **Member**

Thiru B. Mohan

... **Member (Legal)**

S.R.No.110 of 2024 dated 27.09.2024

M/s. SEPC Power Private Limited
Represented by its Vice President
MEIL House, First Floor
395, Anna Salai, Teynampet
Chennai – 600 018.

....Petitioner
(M/s.J. Sagar Associates)

Vs

Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO)
Rep. by its Chairman cum Managing Director
NPKRR Maaligai,
144, Anna Salai
Chennai 600 002.

..... Respondent
(Adv. Richardson Wilson)

A Dispute Resolution Petition was filed by the Petitioner M/s. SEPC Power Private Ltd., before the Registry which has been assigned above S.R.No.110 of 2024 dated 27.09.2024. The petitioner paid the minimum fee of Rs.75,000/- as applicable to Dispute Resolution Petition under the Fees & Fines

Regulation but the Registry of the Commission returned the petition advising the petitioner to pay 1% court fee on the provisionally quantified cost of Rs.749.09 crores as laid down in Regulation 6(10) of the Fees & Fines Regulation 2022. The prayer of the petitioner in the S.R.No.110 of 2024 is as follows.

- (a) Approve the promulgation of new environmental norms vide MOEFCC's Notification dated 07.12.2015 (along with its amendments) as Change in Law under Article 14 of the PPA;
- (b) Grant in-principle approval, pending final determination of all costs, to the provisional EPC cost of installation of FGD;
- (c) Direct TANGEDCO to pay SEPC the cost of litigation i.e., court fee paid by SEPC for filing the present petition.

As the petitioner is yet to pay the fees as advised by the Registry, the petition is yet to be numbered and listed.

This Petition in S.R.No.110 of 2024 and the request for withdrawal of the same by the petitioner coming up for final hearing on 07.01.2025 and upon hearing the arguments of the petitioner counsel and on perusal of relevant material records and the matter having stood over for consideration till this date this Commission passes the following

ORDER

1. The petitioner SEPC Power Private Limited has come forward with a prayer seeking permission to withdraw the main unnumbered petition with liberty to file a fresh petition and for refund of the court-fees paid on the petition.

2. Records disclose that the main petition preferred by the petitioner seeking specific reliefs is yet to be numbered and taken on file. Situated thus as per the rigour of Sub-Regulation (1) of Regulation 10 of TNERC Fees and Fine Regulations 2022 absolutely there is no legal impediment in ordering refund of the court fees less the reasonable expenses incurred in processing the petition. In an identical matter (i.e) M/s Kandoi Clean, this Commission had ordered deduction of a sum of Rs.5,000/- the same being reasonable expense incurred in processing the petition. This Commission decides that adopting the same methodology in the present case would be just and proper. Hence this Commission decides that ordering refund of Rs.70,000/- to the petitioner after deducting sum of Rs.5,000/- towards reasonable expenses would meet the ends of justice.

3. In regard to the grant of leave to file a fresh petition on the same subject matter, even though Sub-Regulation (2) of Regulation 10 of TNERC Fees and

Fines Regulation 2022 create a bar in filing a fresh petition on the same subject matter in case of withdrawal of an unnumbered petition, from the submission made by the petitioner's counsel it is pellucid that the petitioner intends to file a fresh petition not only based on the same cause of action but also the cause of action that had occurred subsequent to the filing of the petition. When the petitioner is entitled to a particular relief on the basis of a subsequent cause of action or when the relief claimed in the pending petition will not be an efficacious or adequate one, to avoid multiplicity of proceedings, the petitioner has to be necessarily granted permission to withdraw the petition with liberty to file a fresh petition, more so when Regulation 10 of TNERC Fees and Fines Regulation 2022 do not deal with a situation where leave is sought for to withdraw the petition with liberty to file a fresh petition.

4. Based on the preceding discussions and reasoning, this Commission decides that in the instant case liberty has to be granted to the petitioner to file a fresh petition upon withdrawal of the unnumbered petition in SR No.110 of 2024 dated 27.09.2024.

5. In the result this Commission doth order as hereunder:-

- a) The petitioner is permitted to withdraw the petition with liberty to file a fresh petition on the subject matter of the petition.

b) As a sum of Rs.5000/- is being ordered to be deducted towards reasonable expenses incurred in processing the petition, out of the court fee of Rs.75,000/- paid by the petitioner, a sum of Rs.70,000/- is ordered to be refunded to the petitioner.

(Sd.....)
Member (Legal)

(Sd.....)
Member

/True Copy /

**Secretary
Tamil Nadu Electricity
Regulatory Commission**