

COURT-1

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

EP No. 9 OF 2025 & IA No. 1618 OF 2025

Dated: 17th April, 2026

Present : Hon`ble Ms. Seema Gupta, Officiating Chairperson
Hon`ble Mr. Virender Bhat, Judicial Member

In the matter of:

National Solar Energy Federation of India (s)

Versus

Tamil Nadu Electricity Regulatory Commission & Ors. Respondent(s)

Counsel on record for the (s) : Arijit Maitra
Pallavi Bagchi Maitra
for App. 1

Counsel on record for the Respondent(s) :
for Res. 1

Anusha Nagarajan
Rahul Ranjan
for Res. 2

S. Vallinayagam
for Res. 3

S. Vallinayagam
for Res. 4

ORDER

Report has already been filed by POSOCO in terms of order passed by us on 20.03.2026. In this report, the POSOCO has based its findings on the earlier report submitted in the year 2020 in pursuance of the order dated 26.08.2020 passed by this Tribunal in Appeal No. 197 of 2019. We may note that in the judgment dated 07.08.2021 passed in the said appeal, which is sought to be executed by way of this Executive Petition, this

Tribunal has accepted the earlier report of POSOCO and passed following directions:

“134In the light of above discussions, we issue following directions:

(i). For the period 01.03.2017 to 30.06.2017, the Respondents shall pay compensation for 1080 blocks considered by POSOCO, during which curtailment instructions were issued for reasons other than grid security, at the rate of 75% of PPA tariff per unit within 60 days from the date of this order. The computation shall be made separately for individual members of the Appellant Association based on the curtailment period/blocks falling in 1080 blocks.

(ii). POSOCO shall carryout similar exercise for the period up to 31.10.2020 on the same lines and submit report to Respondent Commission within 3 months. Tamil Nadu SLDC and Appellant are directed to submit details to POSOCO. Based on POSOCO report, State Commission shall allow compensation for the backed down energy at the rate of 75% of the PPA tariff per unit.

(iii). Curtailment quantum shall be considered as per POSOCO report.

(iv). The Respondents shall pay compensation along with interest at 9% for the entire period.

It is therefore evident that while passing the said judgment, this Tribunal had entirely accepted the said earlier report of POSOCO with regard to the extent of curtailment done by the Respondents and had accordingly passed these directions. We have also gone through the said earlier report of POSOCO in which the extent of curtailment is mentioned in Column 7 on pages 247 and 248.

In the report submitted in pursuance of our last order dated 20.03.2026, the POSOCO has also quantified the amounts payable by the

Respondents to the generators on account of the curtailment instructions given to them. It has further been stated in the report that one generator SEI Kathiravan Power Pvt. Ltd. has raised invoices reflecting PPA tariff Rs. 5.10/kWh. Learned Counsel for the 2nd Respondent submits that the said Respondent has no objection to such tariff projected by the said generators.

We do not find any dispute as regards to the extent of curtailment or the quantification of amounts to be paid by the Respondents on account of such curtailment.

We may also note here that on the last date of hearing. Mr. S. Vallinayagam, Learned Counsel for the 3rd Respondent had raised objection to the effect that some of the Execution Petitioners were not members of the organisation i.e. National Solar Foundation of India on the date of filing of the Petition before the Commission and therefore no benefit of this Tribunal's judgment dated 02.08.2021 can be made available to them.

Mr. S. Vallinayagam, Learned Counsel for the 3rd Respondent has drawn our attention of the order dated 11.07.2022 passed by the Hon'ble Supreme Court in Civil Appeal No. 2572 of 2022 which had been filed against the said judgment of this Tribunal dated 07.08.2021, wherein it has been observed that :

Diary No (s). 32337/2021

Permission to file appeal is granted.

Application for exemption from filing C/C of the impugned judgment is allowed.

Learned counsel for the appellant contends that in para 135 general directions had been passed which could in effect have an impact even on the appellant who was not party to the proceedings in which these general directions have been passed.

Admit.

Mr. E.C. Agrawala, learned counsel accepts notice on behalf of respondent No. 1.

Mr. D. Kumanan, learned counsel accepts notice on behalf of respondent Nos. 3, 4 & 5.

Notice in addition dasti to respondent Nos. 2 & 6 through standing counsel.

The directions in the impugned judgment for the time being will be only implemented qua the parties to the original proceedings.

The submission of Mr. S. Vallinayagam is that as per the said order of the Supreme Court, the Execution Petitioners who were not the members of the association on the date of filing of the Petition before the Commission should not get benefit of this Tribunal judgment dated 02.08.2021.

We are unable to accept the submissions of the Ld. Counsel. It is manifest that what was pointed out in the Supreme Court at the time of passing of the said order were the general directions issued by this Tribunal in para 135 of the judgment dated 07.08.2021. However, what is sought to be executed by way of this Execution Petition are the directions given in para 134 of the said judgment. The order of the Supreme Court does not refer to the directions passed by this Tribunal in para 134 of the judgment.

Further we may also note that the details with regard to these five Execution Petitioners i.e. the extent of curtailment of power instructions given to them etc. are also noted by the POSOCO in the report filed before this Tribunal in the year 2020 which have been considered and relied upon in judgment dated 07.08.2021. No objection appears to have been raised before this Tribunal at the time of hearing of the said appeal No. 197 of 2019 on this aspect. Even no objection has been raised in this regard before the Hon'ble Supreme Court also.

Further, we may also note that in the affidavit dated 16.04.2026 filed on behalf of Execution Petitioners in pursuance to the last order dated 20.03.2026 of this Tribunal in this Execution Petition, it has been stated that M/s Sun Edisan Private Ltd is the founding member of the Association since 2013 and the said company is the owner of five solar plants which are being run by the five Execution Petitioners and therefore, they having stepped into the shoes of decree holder are entitled to the benefit of judgment dated 07.08.2021. Even though Mr. S. Vallinayagam has opposed these assertions of the Execution Petitioners yet nothing contrary has been pointed out from the record. The Execution Petitioners have made such statement in oath in the affidavit to which no rebuttal affidavit has been filed by the Respondents and hence, it would be unjustified to disbelieve these statements of the Petitioners.

In view of these facts and circumstances, we do not find any force in the objection raised by Mr. S. Vallinayagam.

In view of the above, we direct to Respondents to pay to the generators the amounts as reflected in the invoices raised by the generators on the basis of these two reports of POSOCO.

We now expect that Respondents shall pay all invoices of the generators within four weeks from today. Needless to add here that the Execution Petitioner would be entitled to interest also @9% on the compensation amount as per the judgment dated 07.08.2021.

List the matter for compliance/further proceedings on **20.05.2026.**

(Virender Bhat)
Judicial Member

(Seema Gupta)
Officiating Chairperson