

COURT-1

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

APL No. 399 OF 2025 & IA No. 1940 OF 2025 & IA No. 1983 OF 2025

Dated: 27th February, 2026

Present : Hon`ble Mr. Justice Ramesh Ranganathan, Chairperson
Hon`ble Mr. Ajay Talegaonkar, Technical Member (Electricity)

In the matter of:

Scatec India Renewable One Private Limited Appellant(s)

Versus

Central Electricity Regulatory Commission & Ors. Respondent(s)

Counsel on record for the Appellant(s) : Dinesh Pardasani
Bibin Kurian
Kaustubh Shrinarain
for App. 1

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

Shikha Ohri
Kartik Sharma
for Res. 2

Poorva Saigal
Pallavi Saigal
Rishabh Saxena
Shree Dwivedi
Shubham Arya
Reeha Singh
Kaavya Madaan
for Res. 3

Hitendra Nath Rath
for Res. 4

ORDER

The grievance of the Appellant as put forth by Mr. B.P. Patil, Learned Senior Counsel, is that, among several reasons which has caused immense prejudice to the Appellant, is also the undue delay on the part of the CERC in passing the impugned order. Since the delay in passing the impugned order by the CERC is also put in issue in the appeal, we deem it appropriate to take note of certain facts, albeit in brief.

This Tribunal, in its order in Appeal No.259 of 2024 dated 02.07.2024, noted that, unlike the earlier MoP order, the later order restricted the duration for which ISTS waiver could be extended; the Appellant was, in the light of the aforesaid orders of the CERC, now required to achieve financial closure on 03.07.2024 without their claim, that the MoP order dated 09.06.2023 was a change in law, being adjudicated by the CERC. This Tribunal, thereafter, observed that it was unnecessary for them to take note of this aspect as Learned Counsel for the Respondent- SECI and GRIDCO had expressed no objection for Petition No. 26/MP/2024, filed by the Appellant, being adjudicated by the CERC within a specified time frame.

This Tribunal further observed that, in the light of the orders passed by this Tribunal earlier, the Appellant's interest would be adequately safeguarded by passing the following order:

(1) Both the 2nd and 3rd Respondents herein shall file their reply to the said Petition No. 26/MP/2024 within one week from today, and the Appellant herein shall file their rejoinder within one week thereafter.

(2) None of the parties shall be entitled to seek extension of time to complete their respective pleadings. The CERC shall also ensure that none of the parties unduly delay proceedings.

(3) The CERC shall, with utmost expedition and in any event within two months from today, decide Petition No. 26/MP/2024 in accordance with law, after giving the parties to the proceedings a reasonable opportunity of being heard. It is made clear that we have not expressed any opinion on merits and the CERC shall adjudicate the Petition in accordance with law uninfluenced by any observations made in this order. Needless to state that, consequent on disposal of Petition No. 26/MP/2024 by CERC, the Appellant is at liberty to avail such remedies as are available to them in law, including for extension of timelines.

Both these Appeals are disposed of accordingly. All the IAs therein shall, consequently, stand dismissed.

The direction issued by this Tribunal to the CERC was to decide Petition No. 266/MP/2024 in accordance with law, after giving parties to the proceedings a reasonable opportunity of being heard, with utmost expedition, and in any event within two months from today ie 02.07.2024 or, in other words, on or before 02.09.2024. Curiously, in para 5 of the impugned order passed by the CERC on 28.11.2025, all that is noted is that this Tribunal, by a combined order dated 02.07.2024, had disposed of the appeals with a direction to the Commission to dispose of the Petition expeditiously, when in fact this Tribunal, after calling upon the Commission to decide the matter expeditiously, had also directed that the Petition should, in any event, be decided within two months from the date of the order passed by it ie. two months from 02.07.2024 ie or on before 02.09.2024.

Both SECI and GRIDCO filed their reply within one week ie. SECI filed their reply on 06.07.2024 & GRIDCO on 08.07.2024. The Appellant also filed its rejoinder within a week thereafter ie. 15.07.2024. The Appellant, however, filed IA No. 65 of 2024 on 30.07.2024 for amendment of their Petition seeking additional reliefs.

In para 6 of the impugned order, it is recorded that SECI objected to the IA, submitting that the said IA would delay proceedings, and should not be entertained since APTEL's direction was to dispose of the extant Petition expeditiously. Again, what is left unsaid in para 6 of the impugned order, is that this Tribunal had also directed CERC to decide the matter within two months. While IA No. 65 of 2024 was filed on 30.07.2024, the CERC does not appear to have even taken up the main Petition for hearing till SECI is said to have mentioned on 28.09.2024 bringing it to the notice of the Commission that the two month deadline, stipulated by this Tribunal, would expire on 02.09.2024. Possibly because of this submission by SECI, the Commission listed the matter on 09.09.2024, for arguments, one week after the deadline expired on 02.09.2024. On the same day, ie 09.09.2024, the Commission passed an order directing the Petitioner (ie the Appellant herein) to file the following information within a week:-

“(a) Status of implementation of its 300 MW Wind Power Project.

(b) Details of the steps taken and the investment made (head-wise), since grant of LOA to till date, towards the implementation of its 300 MW Wind Power Project.

.....4. Subject to the above, the Commission reserved the matter for order.

It is brought to our notice by Mr. B.P. Patil, Learned Senior Counsel, that the information sought by CERC was, in fact, furnished by the Appellant herein by way of an affidavit on 16.09.2024. While judgment was reserved in the Petition on 09.09.2024, the Impugned Order came to be passed more than 14 months thereafter on 28.11.2025. The impugned order does not disclose reasons why the CERC chose not to adhere to the timelines stipulated in the order passed by this Tribunal on 02.07.2024.

It was incumbent upon to the CERC, in case it had difficulty in complying with the appellate directions of this Tribunal dated 02.07.2024 and in passing the order within two months as directed by this Tribunal, to either file an application seeking extension of time, or at least address a letter to the Registrar of APTEL seeking their request, for extension of time to pass the order, be placed before the Bench hearing the matter. The impugned order does not reflect any such request having been made by the CERC.

Appellate orders of this Tribunal necessitate strict adherence and ought not to be ignored by Regulatory Commissions on whom the appellate directions are binding. While it does appear, prima facie, that the CERC has failed to comply with the appellate order of this Tribunal without justifiable cause, we deem it appropriate, before expressing any conclusive opinion in this regard, to give the CERC an opportunity to explain why they chose not to adhere to the appellate directions of this Tribunal whereby they were required to decide the Petition within two months ie. on or before 02.09.2024, and the reasons, if any, which, possibly disabled them from passing the impugned order, if not before 02.09.2024, at least within two months after the Appellant had furnished the information, sought by the CERC, by its affidavit dated 16.09.2024.

The CERC shall file an affidavit detailing the reasons, if any, why they neither chose to comply with the appellate order of this Tribunal dated 02.07.2024, nor sought extension of time to pass the impugned order, either by way of an application being filed before this Tribunal, or at least by way of a letter seeking extension of time. The copy of this order shall be made available to the CERC both by the Appellant and SECI as soon as it is uploaded, on the website.

Both parties shall also obtain due acknowledgment, of the order being communicated, from the Secretary of the CERC. The CERC shall file its affidavit in this regard latest by 06.03.2026.

Let the matter be listed on **09.03.2026.**

Ajay Talegaonkar
Technical Member (Electricity)

Justice Ramesh Ranganathan
Chairperson

sk/kns