



Delhi Electricity Regulatory Commission
Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 110017.

F.11(2291)/DERC/2024-25/8317

IA No. 01/2025
In
Petition No. 02/2025

In the matter of: Application seeking Adjustment of Amount of Rs.10,00,000/- (Rupees Ten Lakhs Only) filing charges/fee paid in Petition No. 29/2022

New Delhi Municipal Council (NDMC)

..Applicant/Petitioner

Coram:

Justice Umesh Kumar, Former Judge, Chairman, DERC
Sh. Ram Naresh Singh, Member
Sh. Surender Babbar, Member

Appearance:

- 1. Mr. Ravi Krishan, Advocate, NDMC**
- 2. Mr. Malyaj Sehgal, Advocate, NDMC**

ORDER

(Date of Order: 02.04.2025)

1. Petition No. 02 of 2025 has been filed by the Applicant/Petitioner, New Delhi Municipal Council (NDMC) seeking approval for procurement of 200MW Solar Power from its Solar Tranche –XI by NDMC including the Power Supply Agreement (PSA) pursuant to the provision of Section 86(1)(b), 86(1)(e), 61(h) of the Electricity Act, 2003 read with clause 4 and 9 of the Delhi Electricity Regulatory Commission (Renewable Purchase of Obligation and Renewable Energy Certificate Framework Implementation) Regulations, 2021.
2. The Petitioner, NDMC, had earlier filed a Petition bearing No. 29 of 2022 seeking approval of 100 MW Grid connected Solar Power which was dismissed as withdrawn by the Commission, vide Order dated 10.04.2024, because as per Solar Energy Corporation Ltd. (SECI), the power was not available as the Petitioner had not entered into the PSA. The Commission observed the following:

“Learned Counsel for SECI states that they have written to NDMC long back saying that power is presently not available in as much as the Petitioner has not entered into the PSA.

Learned Counsel for the Petitioner seeks to withdraw the petition stating that the Petitioner would file a fresh Petition as they are likely to enter into fresh arrangement with SECI.
..."

3. As regards the liberty given to the Petitioner/Applicant to file an application for waiver of fee, the Commission in said Order dated 10.04.2024 observed as under:

".....

He further prays that he be allowed to withdraw this Petition with an adjustment of the Petition fee. This issue is kept open. In case the Petitioner files a fresh Petition he may move an application with the Petition seeking this relief. Such an application will be considered, as per law.

....."

4. Accordingly, the Petitioner has filed Petition No. 02 of 2025 along with the Interlocutory Application (IA No. 01 of 2025) seeking waiver of the Court Fee and adjustment of Rs. 10,00,000/- (Ten Lacs Only) as Petition fee for the said Petition. The applicant has prayed the following in its IA:

- a. Pass an order thereby allowing the adjustment of amounts/Petition Fee of Rs. 10,00,000/- paid in Petition No. 29 of 2022 in the present Petition (02 of 2025)

I.A. No. 01 of 2025

5. The Applicant has submitted the following:

- i. The Petition No. 02 of 2025 is being filed seeking the approval with regard to 200MW Solar Power and the total Petition Fee as payable under the related provision is Rs. 20,00,000/-. In view of the liberty granted by the Commission, the Petitioner has already paid a sum of Rs. 10,00,000/- and is filing the present application for adjustment of the remaining amount of Rs. 10,00,000/-
- ii. Applicant/NDMC is public sector/Govt. of India undertaking and the Petition Fee has been paid out of the Public money.
- iii. It is an admitted fact on record that the Petition No. 29 of 2022 had not been decided on its merits rather had been withdrawn with a liberty to file a fresh Petition after entering into an arrangement and agreement with the SECI. The Applicant/Petitioner had paid an amount of Rs. 10,00,000/- according to the Chapter VII of DERC Comprehensive (Conduct of Business) Regulations, 2001 and the said amount is huge for the purpose of utilization of funds out of the public money.
- iv. The Applicant has already entered into a fresh agreement/arrangement with the SECI and the approval of the Commission is required. Also, no prejudice would be caused to the Respondent/SECI in case the present application is allowed. On the contrary, huge losses would be caused to the Applicant if the present application is not allowed.

Commission Analysis

6. The matter came up for hearing on 21.01.2025, wherein the Counsel for Applicant/Petitioner was directed to place on record the appropriate statutory provisions which may permit the Commission to grant him the adjustment of court fee.
7. On 25.02.2025, the Ld. Counsel for the Applicant/Petitioner stated that the only provision which permits the Commission to grant the relief as sought for, are the inherent powers of the Commission under Regulation 57 of DERC Comprehensive (Conduct of Business) Regulations, 2001. The relevant portion of the regulation is extracted below:
*"57. Saving of inherent power of the Commission- (1) Nothing in these regulations shall be deemed to limit or otherwise affect the inherent powers of Commission to make such orders as may be necessary for ends of justice or to prevent the abuse of the process of the Commission.
..."*
8. The matter has been considered. Simply because the Petition No. 29 of 2022 was not disposed of on merits, the adjustment of the filing fee of Rs. 10,00,000 towards filing the Petition No. 02 of 2025 cannot be a valid ground. The Commission has disposed of the earlier Petition after listing and has heard both the parties on various dates and have passed effective orders on such dates i.e., on 13.06.2023, 13.07.2023, 21.12.2023 and 10.04.2024.
9. In view of above, the prayer of the Applicant/Petitioner for waiver of Court Fee for filing the Petition No. 02 of 2025 and the IA. No. 02 of 2025 is rejected. As per Regulation 49 of DERC Comprehensive (Conduct of Business) Regulations, 2001, the fee to be charged for Petition No. 02 of 2025 is Rs. 20,00,000/-, out of which Rs. 10,00,000/- has already been paid by the Applicant/Petitioner. Accordingly, the Applicant/Petitioner is directed to deposit the remaining filing fee for the Petition No. 02 of 2025 within two weeks from the date of this Order.
10. Petition No. 02 of 2025 shall be listed for hearing in due course after deposit of the filing fee by the Applicant/Petitioner. IA No. 01 of 2025 is disposed of in terms of the above.
11. Ordered accordingly.

Sd/-
(Surender Babbar)
Member

Sd/-
(Ram Naresh Singh)
Member

Sd/-
(Justice Umesh Kumar)
Former Judge
Chairman DERC