

2. Heard the Learned Advocate Shri Gaurav Rana. He submitted that Applicant/Petitioner has approached seeking indulgence of this Commission for exempting the Petitioner company having co-generation based captive power plants from compliance of the RPO targets specified by the Commission with consideration of judgement of the Hon'ble APTEL. He further submitted that the Commission may adjourn the matter till any date for 2 weeks since Advocate Shri P. Nagesh who is the arguing counsel on behalf of the Petitioner in the present matter is having some personal difficulty.

3. In response to query from the Commission regarding status of pending LPAs before the Hon'ble High Court as recorded in Daily Order dated 24.10.2018, he submitted that LPA No. 598 of 2015 & allied matters are still pending and no further date of hearing is available on website of the Hon'ble Gujarat High Court possibly on account of ongoing COVID - 19 pandemic. With regard to the IAs filed in the present Petition, he submitted that I.A. No. 01 of 2018 has been filed by the Applicant/Petitioner seeking interim relief of exempting the Petitioner from RPO till the Notification is issued by GERC and till such time the Petitioner be protected from any penal provision under the RPO, whereas; IA No. 12 of 2020 has been filed for urgent listing and disposing the main matter alongwith IA No. 01 of 2018. He further submitted that during the next hearing, Ld. Advocate Shri P. Nagesh will endeavour to demonstrate that present matter is different and distinct from the aforesaid matters pending before Hon'ble High Court. He also submitted that as such he is not arguing the matter but only requesting that the Petitioner may be protected in the interregnum by granting the prayers as prayed for in IA No. 01 of 2018, till the main matter and IA thereto is taken up for hearing by the Commission because as such an adjournment is being sought by the Petitioner.

4. We note that the Commission in its Daily Order dated 24.10.2018 has already noted that the GERC (Procurement of Energy from Renewable Energy Sources) Regulations, 2010 notified by the Commission were challenged before the Hon'ble High Court of Gujarat in SCA No. 171 of 2011 and allied matters. The Hon'ble High Court passed judgment dated 12.03.2015 in aforesaid matters and upheld the definition of cogeneration as stated by the Commission and also held that the power plants with fossil fuel claiming co-generation plant are not qualified at par with

renewable energy generating plant and energy generated from such plants does not qualify for the fulfilment of RPO. The aforesaid judgment of Hon'ble High Court has been challenged by some of the parties before the Hon'ble High Court of Gujarat by filing LPA No. 598 of 2015 & allied matters with Civil Application No. 4315 of 2015 & allied matters. The Hon'ble Gujarat High Court vide Order 05.05.2015 while disposing the Civil Application decided that the Commission may notify the Regulations for applicability of RPO on captive generating plant and open access users subject to final decision in the LPAs.

5. Since the Ld. Advocate has sought adjournment for a period of two weeks on account of non-availability of Sr. Advocate, we adjourn the matter.
6. The next date of hearing will be intimated separately.
7. We order accordingly.

Sd/-
[S. R. Pandey]
Member

Sd/-
[Mehul M. Gandhi]
Member

Place: Gandhinagar.

Date: 28/06/2021.