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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 15477/2022 & CM APPL 48145/2022**

INDIAN WIND POWER ASSOCIATION NORTHERN REGION
COUNCIL Petitioner

Through: Mr. Sajan Poovayya, Senior Advocate
alongwith Mr. Venkatesh, Mr. Bharath
Gangadharan, Mr. Nihal Bhardwaj, Ms. Raksha
Aggarwal & Mr. Kartikay, Advocates

Versus

UNION OF INDIA & ORS. Respondents

Through: Mr. Apoorv Kurup, CGSC alongwith
Mr. Yash Tandon, G.P. with Mr. Ojasva Pathak,
Advocates for UOI/Respondent No. 1
Mr. Nikhil Nayyar, Senior Advocate alongwith
Mr. TVS Raghavendra Sreyas & Mr. Divyanshu
Rai, Advocates for Respondent No. 2

+ **W.P.(C) 16824/2022 & CM APPL 53244/2022**

INDIAN SUGAR MILLS ASSOCIATION Petitioner

Through: Mr. Shri Venkatesh, Mr. Bharath
Gangadharan, Mr Nihal Bharadwaj & Mr.
Kartikay Trivedi, Advocates

Versus

UNION OF INDIA & ORS. Respondents

Through: Mr. Asheesh Jain, CGSC alongwith Mr.
Keshav Mann, Mr. Gaurav Kumar & Mr. Vishal
Kumar, Advocates for Respondent Nos. 1 & 5
Mr. Sethu Ramalingan, Advocate for Respondent
No. 3
Mr. Gautam Narayan, ASC, for GNCTD.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

20.12.2022

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1. The present petitions are filed under Article 226 of the Constitution of India impugning the Central Electricity Regulatory Commission (Terms and Conditions for Renewal Energy Certificates for Renewable Energy Generation), Regulations, 2022, (hereafter the 2022 Regulations). The 2022 Regulations were published in the Gazette of India on 28.05.2022. By virtue of a notification dated 31.10.2022, the 2022 Regulations have come into force with effect from 05.12.2022.
2. The petitioners are, essentially, aggrieved by the removal of the floor price in respect of Renewal Energy Certificates (REC), which they have acquired pursuant to generation of energy from renewable sources.
3. The learned counsel appearing on behalf of the petitioners submits that in terms of the amendment to the earlier regulations (2010 Regulations), which came into effect from 01.04.2017, the floor price for REC was reduced from Rs.1500/- to Rs.1000/-. The same was subject matter of challenge before the Appellate Tribunal for Electricity, New Delhi, and thereafter before the Supreme Court in Civil Appeal No. 6083/2017.
4. By an order dated 14.07.2017, the Supreme Court had modified the earlier interim order and had directed the Obligated Entities purchasing the RECs to deposit the difference between the two floor prices (i.e. Rs.1000/- and Rs.1500/-). The said order was operative for RECs issued prior to

01.04.2017. The learned counsel for the petitioners contends that the said date was fixed as the amendment of the 2010 Regulation, impugned before the Supreme Courtin was brought in force retrospectively from the said date.

5. The 2022 Regulations repeal the 2010 regulations. The 2022 Regulations, which are impugned in the present petitions, have removed the floor price altogether. In this context, learned counsel for the petitioners pray that the 2022 Regulations be stayed pending the consideration of the present petitions. It is contended that the members of the petitioners had engaged in generation of energy on the assurance that the RECs would have a minimum value and the 2022 Regulations, in effect, denude them of their vested rights.

6. We are not inclined to stay the 2022 Regulations at this stage. However, as a pro-tem measure pending consideration of the portioners' request for an interim order, we consider it apposite that trading in the RECs issued prior to 31.10.2022 be suspended for a period of six weeks. It is so directed.

7. Let the counter affidavit be filed within a period of two weeks from today. Rejoinder, if any, be filed within a period of one week thereafter.

8. List for consideration on 31.01.2023.

VIBHU BAKHRU, J

PURUSHAINDRA KUMAR KAURAV, J

DECEMBER 20, 2022

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