



SOLAR POWER DEVELOPERS ASSOCIATION

910, 9th Floor, Surya Kiran Building, 19, Kasturba Gandhi Marg, New Delhi- 110001

Phone: +91-8750394442, Email: spda@solarpda.com

Website: www.solarpda.com

SPDA/PG/2021/293

March 25, 2021

To,
Shri R K Singh
Hon'ble Minister of State (I/C)
for Power & New and Renewable Energy
Government of India
New Delhi

Subject: Request to expedite the appointment of Technical and Judicial at APTEL by increasing the number of benches to 4 to reduce pendency of matters.

Dear Sir,

Greetings from Solar Power Developers Association.

At the outset, we would like to thank the Ministry of Power (MoP) for all its support and responsiveness to the renewable energy (RE) sector, enabling us to effectively deal with the impact of the coronavirus (COVID-19) pandemic over the past year. As a result of the Government's support, the renewable energy (RE) sector is now slowly moving towards a path of recovery.

However, we would like to take this opportunity to highlight the issue of pendency of matters at the Appellate Tribunal for Electricity (APTEL) due to the limited number of benches available to adjudicate the matters pending before the court. As you are aware, with only one Technical member appointed for two benches, the alternate sitting of the two courts' benches has considerably increased the pendency of matters. Further, we understand that the Chairperson, who is also the Judicial Member in Court, is also due to retire on Aug 12, 2021.

Additionally, we would like to point out two notifications issued by APTEL on 26th February 2021. We draw your attention to the operative portion of one of the notifications:

'Due to prevailing medical emergency (COVID-19) and in continuation of the earlier Circular/Notification dated 16th March 2020 and 30th January 2021, it is notified that the hearing and part-heard matters (other than those already listed in VC) listed before the Hon'ble Benches of the Tribunal may be adjourned till 31st March 2021 by the court-masters in the following manner.'

We humbly submit that the part-heard and matters listed for final arguments/arguments have been adjourned sequentially until 22nd September 2021, starting from 6th September 2021. Therefore, this has severely delayed adjudication in matters that have been ongoing for several years – in some cases even from as far back as 2015.



SOLAR POWER DEVELOPERS ASSOCIATION

910, 9th Floor, Surya Kiran Building, 19, Kasturba Gandhi Marg, New Delhi- 110001

Phone: +91-8750394442, Email: spda@solarpda.com

Website: www.solarpda.com

Additionally, we also draw your attention to the second notification issued by APTEL on the same date, the operative portion of which is as below:

"The representation dated 26.02.2021 of the Energy Bar Association was considered for "hybrid" physical hearing, but due non-availability of requisite infrastructure at present, same cannot be implemented forthwith. Moreover, due to vacancy of a technical member all the matters cannot be taken up for hearing in video conferencing as well. Therefore, considering the reservations of Association in resuming physical hearings and the prevailing situation due to outbreak of the novel coronavirus (COVID-19) and in order to ensure the safety of the Hon'ble Chairperson, Hon'ble Members of the Tribunal, Members of the Energy Bar and the litigants etc., the Competent Authority of the Tribunal is pleased to order that the Tribunal may continue with the extant arrangement regarding the working of the both Hon'ble Benches and the Registrar Court, till 31.03.2021, as notified earlier vide notification dated 30.10.2020."

APTEL, as above, recognizes that the Bench's inability to function at full strength due to the vacancy of a Technical Member. Lack of requisite infrastructure is another constraint that is preventing APTEL from working at full strength.

The delays in the adjudication of matters in APTEL have impacted our members, many of whom are independent power producers (IPPs) in the Renewable Energy sector. The members constantly look up to the APTEL to issue orders, instructions, or directions as it may deem fit to different stakeholders for efficient and optimal performance of their statutory functions. However, delays in the issuance of orders/judgments by APTEL have caused considerable financial loss and hindered the smooth functioning of RE projects' operational activities at the national and state level.

Request:

In this regard, to decrease pendency of matters and ensure timely issuance of judgement on the issues in future, we would like to request your good offices to

- Advise APTEL to expeditiously procure the requisite infrastructure to resume hearings at full strength;
- Additionally, we would also request you to direct the concerned officers in MoP to expedite the technical and judicial members' appointment.
- Bring in necessary changes in the statutory framework and increase the number of benches to at least four to provide a long-term solution to address delays in adjudication.

Our members believe that quick implementation of the request as mentioned above will reduce pressure on a single bench to review multiple matters and help expedite the issuance of order/judgment on pressing matters.

We hope you will consider our request favourably.

Thanking you.



SOLAR POWER DEVELOPERS ASSOCIATION

910, 9th Floor, Surya Kiran Building, 19, Kasturba Gandhi Marg, New Delhi- 110001

Phone: +91-8750394442, Email: spda@solarpda.com

Website: www.solarpda.com

Yours Sincerely

Praveen Golash
Joint Secretary -SPDA