

**2509
2025**

THURSDAY

Court : MB-07
Item : AD-01
Status : OP
ID : 266057
AR : NANDY

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

**WPA 15487 OF 2024
CAN 1 OF 2025**

**WBSEDCL & ANR.
VS.
UNION OF INDIA & ANR.**

**MR. KISHORE DATTA, LD. ADVOCATE GENERAL
MR. CHAYAN GUPTA, ADVOCATE
MR. DEBAYAN SEN, ADVOCATE
MR. NIKET OJHA, ADVOCATE**

.....for the Petitioners

**MR. ANJAN SENGUPTA, ADVOCATE
MR. DEBAPRIYA GUPTA, ADVOCATE**

.....for the Union of India

CAN 1 OF 2025

1. This application has been preferred primarily praying for an interim order restraining the respondents from enforcing compliance with the Renewable Purchase Obligation (RPO) / Renewable Consumption Obligation (RCO) targets against the petitioners.
2. Mr. Dutta, learned Advocate General appearing on behalf of the petitioner, submits that the petitioner, which is a distribution licensee within the meaning of Section 2(17) of the Electricity Act, 2003, cannot be treated as a consumer, much less a "designated consumer" as defined in Section 2(g) read with Section 14(e) of the Energy Conservation Act, 2001. Mr. Dutta argues that a distribution licensee cannot be considered the end user of electricity. He further submits that the respondents have unilaterally fixed a uniform target for the consumption of renewable energy for all States, with the rider that non-fulfillment of such target may attract the imposition of substantial penalties. He submits that such target has been fixed uniformly without taking into account factors specific to the State of West Bengal.
3. Drawing my attention to paragraph 60 of the writ petition, he submits that the target fixed by the Ministry of Power (MoP) is extensive and it is impossible to achieve that target. He submits that the resources would not be available to the petitioner overnight and, therefore, the shortfall will persist in the coming years as well. Inviting my attention to annexure P-7 to the writ petition, he submits that a bare

perusal of the chart prepared by the competent authority would clearly show that such shortfall is inevitable. Referring to the contents of paragraph 35 of the affidavit-in-opposition, he submits that the respondents have not denied that such renewable resources are available in the State. However, the respondents have claimed that our country now has one nation, one grid, and one frequency, which enables the transfer of power from one corner of the country to another, and therefore, any State not having renewable sources of its own can tie up renewable power from a renewable-rich State and meet the target. Therefore, Mr. Dutta argues that the respondents cannot deny the availability of renewable resources in the State, but they are insisting that the petitioner to tie up with a renewable-rich State. He submits that this also cannot be done overnight. He further submits that the issue raised in this writ petition requires consideration on its merits, and until these issues are addressed effectively, the respondents may be restrained from insisting that the petitioner submit a compliance report, as such report would amount to a non-compliance report. He submits that the respondents be directed to refrain from imposing any penalty, taking a pragmatic view in this matter.

4. Mr. Sengupta, learned Advocate representing the respondents, submits that a direction may be given upon the parties to maintain the status quo, and a date may be fixed for final hearing of the matter immediately after the reopening of this Court following the Puja Vacation for the year.
5. Therefore, the issue of whether the categorization of a distribution licensee as a “designated consumer” by virtue of Notifications issued in 2015 and 2020 is justified needs to be addressed. It prima facie appears that, by way of an amendment, a provision under Section 14(x) was incorporated into the Energy Conservation Act, 2001, which empowers the Central Government to specify such targets by Notification, and that the Central Government was empowered to fix such targets in consultation with the Bureau of Energy Efficiency.
6. Whether factors specific to any State were taken into consideration while fixing such targets requires

consideration on the merits. While dealing with the averments made in paragraph 60 of the writ petition, the respondents, in paragraph 35 of their affidavit-in-opposition, did not deny that such renewable sources are available in the State. However, they have advised the petitioner to tie up with a State having such resources.

7. Therefore, taking note of the facts and circumstances of this case and the stands taken by the parties, I am of the view that a good arguable case has been made out by the petitioner and issue raised in the writ petition requires consideration on merit.
8. In view thereof, let there be an interim order in terms of prayer 'b' as prayed in the application being CAN 1 of 2025, till 15.11.2025 or until further order, whichever is earlier.
9. The respondents shall be at liberty to apply for vacating, modification and cancellation of this interim order, if they so desire and are so advised.
10. List the matter for further consideration On **06.11.2025**.

(PARTHA SARATHI CHATTERJEE, J.)