



GOVERNMENT OF KERALA

Abstract

Local Self Government Department - Cancellation of the approval granted to the project of M/s.G.J.Nature Care Consortium for the implementation of a Waste to Energy project at Brahmapuram, Kochi and termination of the Concession Agreement between Kochi Municipal Corporation and M/s.G.J. Eco Power Pvt. Ltd. - Orders issued.

LOCAL SELF GOVERNMENT (DC) DEPARTMENT

G.O.(Rt)No.805/2020/LSGD Dated,Thiruvananthapuram, 30/04/2020

- Read:- 1. G.O.(Ms.) 01/2016/LSGD dated 04.01.2016
2. Order dated 06/03/2018 of Kerala State Electricity Regulatory Commission in Petition No.OP 7/2017.
 3. G.O.(Rt.) 144/2020/LSGD dated 16.01.2020
 4. G.O.(Rt.) 259/2020/LSGD dated 31.01.2020
 5. Letter No.KW2E- Equity participation dated 27/02/2020 from the Chairman & Managing Director, M/s. G.J.Eco Power Pvt.Ltd
 6. Minutes of the 34th meeting of the State Level Advisory Committee on Waste Management chaired by Chief Secretary held 13/03/2020.

ORDER

As per G.O read as 1st paper above Government had approved the project of M/s G.J.Nature Care Consortium submitted by KITCO for the implementation of a Waste-to-Energy project at Brahmapuram, Kochi and allied areas at a total cost of Rs 295 Crore. Accordingly Kochi Municipal Corporation (Authority) and M/s. G.J.Eco Power Pvt.Ltd (Concessionaire) executed a Concession Agreement for the implementation of the project on Design, Build, Finance, Operate and Transfer basis, on 17th February, 2016.

2. Subsequent to the signing of Concession Agreement, Kochi Municipal Corporation, on 20/01/2017, filed Petition No.OP 7/2017 before Kerala State Electricity Regulatory Commission for determining the Tariff for Electricity generated from the Waste-to-Energy Project at Brahmapuram. As per the Order read as 2nd paper above Kerala State Electricity Regulatory Commission approved the levelised tariff for the entire electricity generated from the proposed Waste-to-Energy Project at Brahmapuram at Rs.6.17/Unit, with

accelerated depreciation, for a period of 20 years from the date of commercial operation of the project. It was also ordered therein that, KSEB Ltd. shall purchase the entire electricity generated from the proposed Project at Brahmapuram @ Rs.6.17/Unit, irrespective of the merit order dispatch.

3. The Director, M/s. G.J.Eco Power Pvt.Ltd as per the letter dated 11/10/2018 requested that the company requires the balance payment mechanism to meet the expenses over and above the power tariff fixed by Kerala State Electricity Regulatory Commission (KSERC), in order to overcome the hurdles for achieving the financial closure. Accordingly Government issued the G.O read as 4th paper above specifying the mode of payment of the expenses over and above the power tariff fixed by KSERC. It was also ordered therein that, M/s G.J.Eco Power Pvt.Ltd shall achieve the financial closure within 30 days from the date of order i.e. 31.01.2020, failing which necessary action will be initiated to terminate the Concession Agreement in accordance with the relevant clauses therein. The time limit so allowed to M/s. G.J.Eco Power Pvt.Ltd to achieve the financial closure expired on 01.03.2020. But the Concessionaire has not demonstrated the financial closure till date.

4. In the meanwhile, the 97th meeting of the State Environment Impact Assessment Authority (SEIAA) held on 24th September, 2019 had accorded environmental clearance to M/s. G.J.Eco Power Pvt. Ltd. for the proposed Waste-to-Energy Project at Brahmapuram.

5. Even though the Concession Agreement for the setting up of Waste-to-Energy Project at Brahmapuram was executed on 17th February, 2016, the Company has not taken any fruitful steps for achieving the Financial Closure as mandated in Article 3.1(a)(vii) of the Concession Agreement; instead as per letter read as 5th paper above, the Chairman & Managing Director, M/s. G.J.Eco Power Pvt.Ltd has informed that, 100% State Government Guarantee is needed for debt fund approval from NABARD. The 34th meeting of the State Level Advisory Committee (SLAC) on Waste Management chaired by Chief Secretary held on 13/03/2020 discussed the matter and called for details from the Concessionaire regarding their financial capability. But the Concessionaire was unable to produce satisfactory evidence for the same. Therefore the SLAC decided to proceed further as the Concessionaire has not yet achieved the financial closure for the project.

6. Government have examined the matter in detail. Article 3.1(a) of the Concession Agreement clearly specified that, the award of the Concession shall be subject to the satisfaction of the "Conditions Precedent" mentioned therein. One of the Conditions Precedent [3.1(a)(vii)] is the furnishing of the Concessionaire's Financing Plan and Financing Documents for the project and demonstrating Financial Close. In Article 3.2 it is stated that, the Conditions Precedent shall be complied with within 180 days of the date of Agreement. But the Concessionaire has not yet furnished the Financing Plan and Financing Documents for the project and demonstrated the Financial Close even 1400

days after the signing of the agreement, and has been asking for relaxations and modified support like converting the concessionaire agreement into lease agreement, providing 100% Government guarantee etc, which have only served to delay execution and raise questions about the ability of the company to achieve financial closure.. There is really no extenuating circumstance on account of which the inordinate delay from the part of M/s G.J.Eco Power Pvt.Ltd in achieving the financial closure and commencing the construction works of the project can be justified. Neither Government Guarantee nor conversion of Concession Agreement into Lease Agreement were conditions of the Agreement executed.

7. Moreover as per Article 6.4 (Obligation of the Concessionaire) of the Concession Agreement the Concessionaire shall give written notice to the Authority (Kochi Municipal Corporation) within 7 days, of any material modification or change to any of the Financing Document and/or **any Equity Documents**, provided that, no such modification/amendment will be made, if it in any manner whatsoever has the effect of imposing an additional financial obligation or increasing the financial obligation of the Authority in addition to that contemplated under the Financing Documents provided on Financial Close, without prior written consent of the Authority.

8. In the above circumstance, the approval granted to the project of M/s.G.J.Nature Care Consortium for the implementation of a Waste to Energy project at Brahmapuram, Kochi as per G.O. read as 1st paper above, is hereby cancelled. The Secretary, Kochi Municipal Corporation shall take immediate steps to terminate the Concession Agreement executed with M/s G.J.Eco Power Pvt.Ltd for the implementation of the project following the procedure laid down in Article 16 of the Agreement.

9.The Managing Director, KSIDC (the Nodal Agency for the implementation of Urban Solid Waste Management Initiative) is authorized to take immediate steps to float an RFP for the selection of a suitable Concessionaire to set up a Waste-to-Energy Plant at Brahmapuram, Kochi with the broad terms and conditions ordered in G.O.(Ms.)No. 82/2018/LSGD dated 11/06/2018 and G.O.(Ms.)No. 174/2018/LSGD dated 22/11/2018.

(By order of the Governor)

SARADA MURALEEDHARAN IAS
PRINCIPAL SECRETARY

To:

The Hon'ble Mayor, Kochi Municipal Corporation (With C/L)

The Managing Director, KSIDC, Thiruvananthapuram

The Managing Director, GJ Ecopower Pvt.Ltd., 3rd Floor, Sarayu Complex, Sea Port-Air Port Road, Kakkanad, Kochi 682 030

Director of Urban Affairs,Thiruvananthapuram
Secretary, Kochi Municipal Corporation
Accountant General (A&E/ Audit), Kerala , Thiruvananthapuram
The Executive Director, IKM
The Information & Public Relations (Web & New Media) Department
Stock File/ Office Copy

Forwarded /By order

Section Officer

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PA to Principal Secretary (LSGD)
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