



Search



Home > Case Status > Case Status

← back

Status: **Pending**

Case Number: **WP 13260/2026**
(KAHC010285652026)

Classification: **GM KEB**

Date of Filing: **17/04/2026**
11:27:42

Petitioner: **NATIONAL SOLAR
ENERGY FEDERATION OF
INDIA**

Petitioner Advocate: **PRATEEK
RATH**

Respondent: **UNION OF INDIA**

Respondent Advocate:

Filing No.: **WP 12980/2026**

Judge: **K S HEMALEKHA**

Last Posted For: **ORDERS**

Last Date of Action: **27/04/2026**

Last Action Taken: **NOTICE**

Next Hearing Date:

Daily Orders: WP 13260/2026

1	<u>27/04/2026</u>	K S HEMALEKHA	NOTICE
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The petitioners have challenged the vires of Regulations 6 (2) (b) and 8 (4) of the Central Electricity Regulatory Commission (CERC) (Deviation Settlement Mechanism and Related Matters) Regulations, 2024, (for short 'the Regulations, 2024') which sought to alter the formula for computation of deviation and imposed stringent deviation bands and enhanced penalties with effect from 01.04.2026.

2. It is the case of the petitioners that the DSM framework regulates deviation from scheduled generation and imposes financial consequences to maintain grid discipline. It is stated that renewable energy generation (solar/wind) is inherently weather dependent and uncontrollable, unlike conventional sources.

3. Sri. Sajan Poovayya, the learned Senior Counsel appearing for the petitioners contends that the impugned Regulations 6 (2) (b) and 8 (4) of the Regulations, 2024 have been notified without compliance of mandatory prior publication under Section 178 (3) of the Electricity Act, 2003. It is submitted that the draft notification did not contain the revised deviation formula as ultimately notified, and therefore stakeholders were denied a meaningful opportunity to object to the substantive change. In support of his contention, the learned Senior Counsel places reliance on the decision of the Apex Court in Ramakrishna Vivekananda Mission vs State of West Bengal and Others (Ramakrishna Vivekananda Mission) wherein it has been held that the objections and suggestions received pursuant to a draft notification are required to be duly considered before taking a decision to publish the Rules in the official gazette and that such process is not a mere formality. Further reliance is placed on Dr. Avinash Ramkrishna Kashiwar v. State of Maharashtra and Others (Dr. Avinash Ramkrishna Kashiwar) of the Mumbai High Court, wherein it has been reiterated that the requirement of prior publication, inviting objection and suggestion is not an empty formality, but is intended to ensure that persons likely to be affected are adequately informed and afforded an opportunity to respond. It is held that such objection and suggestion must be considered prior to issuance of the final notification. It is therefore contended that where the final regulation introduced a material departure from the draft without affording an opportunity to stakeholders to respond, the very purpose of publication stands defeated rendering the impugned provision arbitrary and violative of principles of natural justice. It is submitted that there is no rationale behind change in deviation% formula (Regulation 6 (2) (b)) and tightening bands (Regulation 8 (b)) and is totally contrary to the expert inputs and consultation process.

3.1. The learned Senior Counsel for the petitioner submits that without prejudice to the rights and contentions, the petitioners are willing to continue to adhere to the earlier DSM regime and pay deviation charges accordingly including for deviation up to 15%, as was permissible under the last uncontested framework under the CERC (Deviation Settlement Mechanism) Regulation, 2014.

4. Having regard to the submission made and a prima facie case being made out, pending consideration of the writ petition and that the petitioners are willing to continue under the earlier DSM regime and comply with the existing deviation norms, the operation of Regulations 6 (2) (b) and 8 (4) of the DSM Regulations, 2024 shall not be enforced against the petitioners to the extent of revised formula and enhanced penalties, till the next date of hearing.

The petitioners shall continue under the earlier DSM regime, deviation up to 15% shall be governed in terms of the earlier framework and the petitioners shall pay deviation charges accordingly.

Issue emergent notice to respondent Nos.3, 5, 6 and 7 returnable by 10.06.2026.

The respondents are at liberty to seek for vacating or modification of the interim order.

Last Updated On: 2026-04-27 18:44:57

2	<u>25/04/2026</u>	K S HEMALEKHA	NOTICE
<p>Learned ASG to accept notice for respondent Nos.1, 2 and 4. List this matter for order on consideration of interim prayer on 27.04.2026.</p> <p>Last Updated On: 2026-04-27 11:19:30</p>			



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