

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No.217/MP/2016**

Subject :Petition seeking compensation on account of Changes in Law under Section 79 of the Electricity Act, 2003 read with statutory framework governing procurement of power through competitive bidding and Article 10 of the Power Purchase Agreement dated 1.4.2013 entered into between Thermal Powertech Corporation India Ltd. and the Distribution Companies in the States of Andhra Pradesh and Telangana.

Date of hearing : 20.12.2016

Coram : Shri Gireesh B. Pradhan, Chairperson  
Shri A.K. Singhal, Member  
Shri A.S. Bakshi, Member  
Dr. M.K. Iyer, Member

Petitioner : Thermal Powertech Corporation India Ltd.(TPCIL)

Respondents : Southern Power Distribution Co. of Telangana Ltd. & Others

Parties present : Shri Amit Kapur, Advocate, TPCIL  
Ms. Sugandha Somani, Advocate, TPCIL

**Record of Proceedings**

Learned counsel for the petitioner submitted that the present petition has been filed invoking Article 10 of the PPA read with Section 79 (1) (b) of the Electricity Act, 2003 seeking reliefs due to Change in Law events during operating period of the generating station, namely (a) increase in royalty on coal and additional levies (DMF and NMET levy), (b) Increase in Clean Energy Cess, (c) imposition of Excise Duty on coal, (d) increase in Service Tax, (e) Decrease in Customs Duty on imported coal, (f) imposition of Countervailing Duty on imported coal, (g) increase in Busy Season Surcharge, (h) increase in Development Surcharge, (i) increase in the rate of Minimum Alternate Tax, (j) increase in the Central Sales Tax, and (k) imposition of coal terminal surcharge on railway freight.

2. Learned counsel for the petitioner further submitted that the generating station of the petitioner fulfills the condition of composite scheme under Section 79 (1) (b) of the Act. Learned counsel for the petitioner further submitted that the case of the petitioner is covered under the Commission's orders dated 27.4.2015 and 15.6.2016 in Petition Nos. 463/MP/2014 and 185/MP/2015 respectively. Learned counsel requested to issue notice to the respondents.

3. Chief (Legal) of the Commission subsequently brought to the notice of the Commission that High Court of Judicature at Hyderabad vide its interim order dated 28.6.2016 and 14.7.2016 in WPMP No. 20633 & 25668 of 2015 in WP No. 15848 & 19894 of 2015 and WPMP No. 28097 of 2016 in WP No. 22850 of 2016 respectively

has stayed the Commission's orders dated 27.4.2015 and 15.6.2016 in Petition Nos. 463/MP/2014 and 185/MP/2015 respectively which are still continuing.

4. The Commission directed that the copy of the interim orders of the High Court of Hyderabad be sent with the RoP to the learned counsel for the petitioner.

5. The Commission directed to keep the petition pending and granted liberty to the petitioner to mention the case for listing after the stay is vacated either by the Hon'ble High Court or the issue is finally decided by the Hon'ble High Court upholding the jurisdiction of the Commission in respect of the generating stations supplying power to the States of Andhra Pradesh and Telangana after the bifurcation of the erstwhile State of Andhra Pradesh.

**By order of the Commission**

**Sd/-  
(T. Rout)  
Chief (Law)**