

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Petition No. 305/MP/2015
alongwith I.A. No. 82/2017**

- Subject : Petition under Section 79 of the Electricity Act, 2003 read with the provisions of the Power Supply Agreement dated 5.1.2011 and Power Purchase Agreement dated 25.3.2011 for directions to make Energy Charges as pass through based on the actual fuel cost incurred by the petitioner.
- Date of hearing : 22.12.2017
- Coram : Shri A.K. Singhal, Member
Shri A.S. Bakshi, Member
Dr. M.K. Iyer, Member
- Petitioner : Adhunik Power and Natural Resources Limited (APNRL).
- Respondents : West Bengal State Electricity Distribution Company Limited and Others
- Parties present : Shri Sanjay Sen, Senior Advocate, APNRL
Shri Matrugupta Mishra, Advocate, APNRL
Shri Nishant Kumar, Advocate, APNRL
Shri Hemant Singh, Advocate, APNRL
Shri Vishrov Mukherjee, Advocate, WBSEDCL
Ms. Raveena Dhamija, Advocate, WBSEDCL
Shri Aashish Anand Bernad, Advocate, PTC
Shri Paramhans, Advocate, PTC
Ms. Ranjitha Ramachandran, Advocate, Prayas

Record of Proceedings

Learned senior counsel for the petitioner submitted that the petitioner has filed an Interlocutory Application (IA) seeking amendment of the petition on account of subsequent developments relating to the change in law events pursuant to the Hon'ble Supreme Court's judgment dated 11.4.2017 in Civil Appeal Nos. 5399-5400 of 2016. Learned senior counsel further submitted that the petitioner has also filed the amended petition seeking compensation qua the change in law claims.

2. Learned counsel for WBSEDCL opposed the jurisdiction of the Commission on the ground that the petitioner has already approached JSERC with regard to supply of

power to the State of Jharkhand and cannot be permitted to invoke concurrent jurisdiction of both the Central Commission as well as the State Commission as the Supreme Court vide its judgment dated 11.4.2017 has held that if the parties have agreed to approach the State Commission, then, the State Commission would have the jurisdiction in that matter and there would be no scope of approaching the Central Commission. Learned counsel further submitted that the petitioner has not impleaded other beneficiaries of the project as parties to the petition and requested that before considering the IA seeking amendment, the petition be heard on the issue of maintainability.

3. Learned counsel for Prayas submitted that Prayas has not been served with the copy of the petition.

4. After hearing the learned senior counsel for the petitioner and learned counsels for the respondents, the Commission directed to issue notice to the respondents on the IA.

5. The Commission directed the petitioner to implead the beneficiaries of the project as parties to the petition and file an amended memo of parties to that effect by 1.1.2018. The Commission further directed the petitioner to serve the copy of the petition and IA on all the respondents and procurers immediately, if not served already. The Commission directed the respondents to file their replies on affidavit by 15.1.2018 with an advance copy to the petitioner, who may, file its rejoinder, if any, by 25.1.2018. The Commission directed that due date of filing the replies and rejoinder should be strictly complied with. No extension shall be granted on that account.

6. The petition shall be listed for hearing on maintainability as well as on merits on 8.2.2018.

By order of the Commission
Sd/-
(T. Rout)
Chief (Legal)