

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**I.A. No. 29 of 2017
In
Review Petition No.19/RP/2017
In
Petition No. 94/TT/2014**

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

Date of Order :29th May 2017

IN THE MATTER OF:

Greenko Budhil Hydro Power Private Limited
(Formerly Lanco Budhil Hydro Power
Private Limited)

**APPLICANT/
REVIEW PETITIONER**

VERSUS

Powergrid Corporation of India Limited & Others

RESPONDENTS

AND IN THE MATTER OF:

Application seeking modification of the Record of Proceedings dated 11.5.2017

PARTIES PRESENT:

Shri S.Ganesh, Senior Advocate for the Applicant
Shri Hemant Singh, Advocate for the Applicant
Shri Matrugupta Mishra, Advocate for the Applicant
Ms Jyoti Prasad, Representative of PGCIL
Ms Manju Gupta, Representative of PGCIL

ORDER

This Interlocutory Application has been filed by Greenko Budhil Hydro Power Private Limited (hereinafter the Applicant or the Review Petitioner), seeking modification of the order in Record of Proceedings dated 11.5.2017 in IA No. 23/2017 in Review Petition No. 19/RP/2017 in Petition No. 94/TT/2011 in terms of

para 15 of the IA and further seeking a direction to restrain PGCIL, the 1st Respondent herein, from taking any coercive actions against the Applicant pursuant to letter dated 23.5.2017, pending disposal of the Review Petitions in Petition Nos.18/TT/2015, 528/TT/2014, 92/TT/2011 and 94/TT/2011, subject to payment of transmission charges to PGCIL as agreed by the Applicant in the IA.

2. The Applicant has submitted that on 9.5.2017, PGCIL issued a notice to the Applicant threatening to curtail STOA with effect from 15.5.2017 unless the Applicant paid the outstanding transmission charges of Rs. 33.03 crore alongwith applicable surcharge. Pursuant to mentioning of the IA No.23/IA/2017 on 11.5.2017 by the learned counsel for the Applicant, the Commission vide Record of Proceedings of the said date directed the Applicant to make a payment of at least 50% of the outstanding transmission charges for the disputed period (November 2011 to June 2012) in respect of 400/220 kV 315 MVA ICT-I and ICT-II under Chamera II GIS pooling station at Rajera with 80 MVAR Bus reactor at Pooling point under Chamera II System and transmission line from Chamera Pooling Station-Chamera II HEP 400 kV S/C line and 220 kV D/C Chamera Pooling station-Chamera III transmission lines. Aggrieved by the said directions, the Applicant approached the Hon'ble High Court of Delhi and the Hon'ble Appellate Tribunal for Electricity. As the order of the Commission was not interfered with by the Hon'ble High Court and the Appellate Tribunal, the Applicant has filed the present application seeking modification of the directions in the Record of Proceedings dated 11.5.2017 to the extent that the Applicant be allowed to furnish a Bank Guarantee to PGCIL equivalent to 50% of the transmission charges mentioned in the letter dated 9.5.2017

within 10 days of the issue of directions which would not only secure the interest of the Applicant but also the amount of PGCIL.

3. Learned Senior Counsel appearing for the Applicant mentioned the matter during the hearing on 25.5.2017 and requested to take up the IA in view of the urgency of the case. Learned Senior Counsel submitted that PGCIL vide its letter dated 23.5.2017 has informed the Applicant that if the dues are not paid, PGCIL would take necessary action to curtail the STOA with effect from 0000 Hrs of 25.5.2017 in line with the notice dated 9.5.2017. Learned Senior Counsel submitted that the Applicant is prepared to furnish a Bank Guarantee equivalent to 50% of Rs.33.03 crore in order to secure the interest of PGCIL till the Review Petitions are disposed of by the Commission. The Representative of PGCIL who was present in the court submitted that PGCIL was not aware that the IA has been filed and therefore, PGCIL is at a disadvantage to be represented through a counsel before the Commission, should the IA be taken up for hearing on the basis of the mentioning. The Representative of PGCIL submitted that the Applicant should be directed to make payment in terms of the directions of the Commission in the Record of Proceedings dated 11.5.2017 as the Applicant has not been successful to get any directions from the Hon'ble High Court and the Appellate Tribunal against the directions of the Commission in ROP dated 11.5.2017.

4. Before we proceed to deal with the IA, we intend to clarify that if any aggrieved party intends to seek urgent hearing of the matter, it should first ensure that the Application/Petition is filed online followed by submission of required number of hard copies in the Registry free from all defects, service of advance copy on the

party against whom direction is sought and intimation about the intended date of mentioning so that the concerned party is represented before the Commission at the time of mentioning. In future, the Commission will not entertain any mentioning about a fresh matter or IA unless the above procedure is followed.

5. After carefully considering the submission of the Learned Senior Counsel for the Applicant and Representative of PGCIL, we are inclined to modify our interim directions given in Record of Proceedings dated 11.5.2017 to the extent that the Applicant shall make a payment of Rs.6 crore to PGCIL and furnish a Bank Guarantee to PGCIL for the balance amount (i.e. 50% of outstanding dues of Rs.33.03 crore less Rs.6 crore) by 31.5.2017. Learned Senior Counsel for the Applicant requested that the Applicant be allowed to make payment in two installments by 5th June 2017. Considering the submissions of learned Senior Counsel, we extend the date for compliance with our directions till 5.6.2017. It is clarified that if the above directions are not complied with by the Applicant by 5.6.2017, PGCIL shall be at liberty to take any action as permissible under law.

6. IA No. 29 of 2017 is disposed of in terms of the above.

sd/-
(Dr M. K. Iyer)
Member

sd/-
(A. S. Bakshi)
Member

sd/-
(A.K. Singhal)
Member

sd/-
(Gireesh B Pradhan)
Chairperson