

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**I.A No. 21/2018  
in  
Petition No. 97/MP/2017**

- Subject : Interlocutory application under Section 79 (1) (b) and (f) of the Electricity Act,2003 read with Regulation 68 and 111 of the Conduct of Business Regulations and other applicable Regulations notified by the Commission.
- Date of Hearing : 19.4.2018
- Coram : Shri P. K. Pujari, Chairperson  
Shri A. K. Singhal, Member  
Shri A. S. Bakshi, Member  
Dr. M. K. Iyer, Member
- Applicants : Uttar Haryana Bijlee Vitran Nigam Limited and Others
- Respondent : Adani Power Limited
- Parties present : Shri M. G. Ramachandran, Advocate, Haryana Utilities  
Ms. Ranjitha Ramachandran, Advocate, Haryana Utilities  
Ms. Anushree Bardhan, Advocate, Haryana Utilities  
Shri Ravi Juneja, HPPC  
Shri Amit Kapoor, Advocate, APL  
Ms. Poonam Verma, Advocate, APL  
Ms. Abida Zaidi, Advocate, APL

**Record of Proceedings**

Learned counsel for the Haryana Utilities argued the matter at length and mainly submitted as under:

- a) The Commission vide order dated 28.9.2017 in IA. No. 57 of 2017 had observed that Adani Power has been supplying power to the Haryana utilities by arranging coal from alternative sources to the extent of shortfall in supply of domestic coal by Mahanadi Coalfields Limited (MCL) and directed Haryana Utilities to pay 75% of the compensation claimed by the petitioner, subject to the adjustment after issue of order in the main petition.
- b) The basis of the interim order dated 28.9.2017 was that the Adani Power has not been receiving the full quantum of coal from MCL with whom it has the FSA dated 9.6.2012 for 6.405 million tonnes.
- c) Adani Power had filed an affidavit dated 8.5.2015 before the Hon'ble Appellate Tribunal for Electricity in Appeal No. 100 of 2013 inter- alia stating that the entire

quantum of domestic coal available from MCL under the FSA dated 9.6.2012 was to be exclusively used for generation and supply of electricity to the Haryana Utilities under the PPA dated 7.8.2008.

d) As per the minutes of RCCC Meeting held with Coal Companies on 27.6.2013, the petitioner was satisfied with the quality of coal despatched by MCL and the short supply was negligible.

e) On an independent inquiry/ investigation made by Haryana Utilities, it has been revealed that Adani Power has been diverting the coal supplied from MCL and SECL under FSA dated 9.6.2012 which is in regard to Units 7, 8 and 9 of Adani Power (Mundra) Project to its other power plants and thereafter pleading the shortage of availability of coal from MCL and SECL for generation and supply of electricity to the Haryana Utilities entitling Adani Power to claim compensation on ground of Change in Law.

f) HPPC vide its letter dated 12.2.2018 requested MCL to provide information regarding supply of coal under the FSA dated 9.6.2012. The information received from MCL revealed that part of the coal allocation by MCL has been transferred to SECL. It further revealed that coal so received from MCL has been diverted to Adani Power Maharashtra Limited and Adani Power Rajasthan Limited and has not been used entirely for generation and supply of electricity to Haryana Utilities.

g) HPPC vide its letter dated 14.2.2018 sought information from SECL on supply of coal from SECL in relation to FSA dated 9.6.2012. The information received from SECL revealed that Adani Power has transferred coal to Adani Power Maharashtra and Adani Power Rajasthan through Inter State Transfer (IPT) Scheme. The letters received from Railways also reveals about transportation of coal to other plants of Adani Power.

h) On 1.3.2018, Adani Power has signed the statement of Reconciliation of Change in Law claim compensation in Petition No. 235/MP/2015 confirming that no domestic coal has been used in Adani Power Mundra Plant for Units 7, 8 and 9 during the financial years 2016-17 and 2017-18 upto November 2017.

i) Adani Power has concealed material details, data and documents from the Commission while alleging shortage in the supply of domestic coal. Adani Power has deliberately not filed the certificates from MCL and SECL in regard to the total quantum of domestic coal.

j) Learned counsel requested the Commission to withdraw the directions for the payment contained in the interim order dated 28.9.2017.

2. Learned counsel for Adani Power submitted as under:

a) During the hearing dated 10.8.2017, learned counsel appearing on the behalf of Haryana Utilities had submitted that the Commission may grant interim relief to the petitioner and learned counsels for Prayas had adopted the submissions of Haryana utilities.

b) If, Haryana Utilities had any objection against the interim order, they should have filed the Review Application. However, no such application has been filed by Haryana Utilities.

c) The Inter-plant transfer scheme is legitimate mechanism carried out under the Scheme announced by Government of India which is available in public domain.

d) Compensation claimed in change in law relief by Adani Power and accepted by Haryana Utilities is only with respect to shortfall of coal in terms of FSA irrespective of the quantity of coal being utilized in the power plant at Mundra.

3. After hearing the learned counsel for the parties, the Commission directed Adani Power, to file its reply and written submission by 26.4.2018, with an advance copy to the Haryana Utilities, who may file their response and written submission, if any, by 1.5.2018.

4. Subject to the above, the Commission reserved the order in the IA.

**By order of the Commission**

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