

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 269/MP/2018**

Subject : Petition under Section 142 of the Electricity Act, 2003 for non-compliance of direction dated 28.9.2017 in Petition No. 97/MP/2017.

Date of Hearing : 7.2.2019

Coram : Shri P. K. Pujari, Chairperson  
Dr. M. K. Iyer, Member  
Shri I.S. Jha, Member

Petitioner : Adani Power (Mundra) Limited

Respondents : Uttar Haryana Bijli Vitran Nigam Limited & Ors.

Parties present : Shri Amit Kapoor, Advocate, APML  
Ms. Abiha Zaidi, Advocate, APML  
Ms. Tanesha Singh, Advocate, APML  
Shri Harish Priyani, APML  
Shri M.G. Ramachandran, Advocate, Haryana Utilities  
Ms. Ranjitha Ramachandran, Advocate, Haryana Utilities  
Ms. Anushree Burdhan, Advocate, Haryana Utilities

**Record of Proceeding**

At the outset learned counsel for the Petitioner submitted that during the proceedings of Petition No. 97/MP/2017, Haryana Utilities had filed an IA No. 21 of 2018 on the issue of Inter Plant Transfer (IPT). Subsequently, the Commission in its order dated 31.5.2018 in Petition No. 97/MP/2017 and IA 21 of 2018 decided that Inter Plant Transfer of coal is permissible under the CIL's IPT policy and therefore, the coal supplied under the FSA dated 9.6.2012 to other plants of the Petitioner has to be accounted for against the generation and supply of power to Haryana Utilities from Units 7, 8 and 9 of Mundra. The Commission also held that all claims for change in law with respect to the PPA dated 7.8.2008 shall be considered after taking into account the coal diverted under IPT. However, Haryana Utilities have unilaterally adjusted Rs. 566.83 crore from the compensation determined as per order in Petition No. 97/MP/2017 towards domestic coal shortfall and Rs.328.58 crore towards the compensation for change in law events of taxes and duties approved by the Commission in its order dated 6.2.2017 in Petition No. 156/MP/2014 from the monthly bills and supplementary bills raised by the Petitioner. Learned counsel submitted that since all documents have already submitted in respect of taxes and duties claim, the Respondent may be directed to release the payment immediately.

2. Learned counsel for Haryana Utilities submitted that the present Petition is not maintainable as the amount of compensation has not been determined. Learned counsel referred the judgments of Hon`ble Supreme Court and Appellate Tribunal dated

19.4.2019 and 13.9.2017 in the cases of K.N.Dey and others Vs. Bhagyabati Pramanik and B.M.Verma Vs. Uttarakhand Electricity Regulatory Commission respectively and submitted that the proceedings under Section 142 of the Electricity Act, 2003 cannot be used for the purpose of recovery of money as sought for by Adani Power. Such a methodology used by Adani Power for using Section 142 proceedings to execute any order is not authorized under the Electricity Act, 2003. Learned counsel for the Haryana Utilities submitted as under:

(a) The Petitioner has not submitted the certificate from Mahanadi Coalfield Ltd (MCL) about the actual availability of domestic coal as per the direction of the Commission in Para 47 of the order dated 31.5.2018 in Petition No. 97/MP/2017.

(b) The Petitioner may be directed to submit the details about compensation which it has received from the coal company against the shortage in supply of coal.

(c) Full effect of IPT needs to be incorporated in terms of reduction in transportation cost due to IPT.

(d) The issue of taxes and duties has to be considered as per the actual coal consumed by the Petitioner in terms of the order dated 6.2.2017 in Petition No. 156/MP/2014. If the Petitioner does not actually consume domestic coal, it cannot claim such compensation from the Procurers.

3. In response, learned counsel for the Petitioner submitted that the Petitioner in its submission dated 12.1.2019 has already clarified that no such compensation has been received by Adani from MCL/ SECL.

4. After hearing the learned counsel for the Petitioner and the Respondents, the Commission directed the Petitioner to provide the following details to the Respondents on or before 15.2.2019:

- (i) MCL certificates on coal availability, if any, and
- (ii) Compensation, if any, paid by coal companies for shortage of coal supply.

5. The Commission directed the Respondents to process the claims payable to the Petitioner within seven days after receiving the above information and respond to the claims positively or otherwise, with reasons.

6. The Petition shall be listed for hearing in due course for which separate notice will be issued.

**By order of the Commission**

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