

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 280/MP/2019

Subject : Reference from the Hon'ble High Court of Calcutta under Article 226 of Constitution of India in Writ Petition No. 17044 of 2015 Eastern Coalfields Limited & Anr. Vs. Eastern Regional Power Committee and Others.

Date of hearing : 27.9.2019

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

Petitioner : Eastern Coalfields Limited & Anr.

Respondent : Eastern Regional Power Committee and Others.

Parties present : Shri K. Shukla, Advocate, ECL
Shri Aabhas Parimal, Advocate, JUSNL
Shri Himanshu Shekhar, Advocate, JUSNL
Ms. Superna Srivastava, Advocate, PGCIL
Shri Anand K. Ganesan, Advocate, NTPC
Ms. Swapna Seshadri, Advocate, NTPC
Shri Ashwin Ramnathan, Advocate, NTPC
Ms. Ritu Apurva, Advocate, NTPC
Shri Amol Nair, Advocate, NTPC
Shri K.K. Jain, PGCIL
Shri Sukhvinder Singh, NTPC
Shri Rohit Chhabra, NTPC
Shri G. Sengupta, ECL
Shri S. Jana, ECL

Record of Proceedings

Learned counsel for the petitioner submitted that they have duly served all the respondents and have also uploaded the petition on the e-filing portal of the Commission. He submitted that Farakka-Lalmatia Transmission System (FLTS) was constructed by NTPC on the instructions and funds of Eastern Coalfields Limited (ECL). He submitted that NTPC has been providing O&M of the FLTS for which ECL is making regular payments to NTPC. In 1992, the erstwhile Bihar State Electricity Board (BSEB) approached Ministry of Coal with the proposal for transfer of FLTS to BSEB. However, this proposal did not materialize as the entire cost of the FLTS was borne by ECL. ERPC in its 29th meeting dated 13/14.2.2015 suggested ECL that O & M of FLTS may be handled by Jharkhand Urja Sanchar Nigam Limited (JUSNL) on certain commercial terms being finalized by the concerned parties that are agreeable to ECL. However, later ERPC in its meeting dated 24.3.2015 directed that FLTS system owned by ECL be transferred to JUSNL. Aggrieved by the decision of ERPC



dated 24.3.2015, ECL filed Writ Petition No. 17044 of 2015 before the Hon'ble High Court of Calcutta to hand over FLTS to JUSNL whereupon the Hon'ble High Court vide judgment dated 23.9.2016 directed to work out the modalities for lawful transfer of the line in question and also directed NTPC to operate and maintain the line under the ownership of ECL. According to the petitioner, JUSNL is using the line in question for transmission of power for its own commercial purposes and is not offering any benefit either commercial or discount in transmission charges to ECL. He submitted that ECL is the owner of the line and maintaining the line through NTPC on payment of certain charges. He further submitted that ECL has no objection for transfer of line to JUSNL provided ECL gets preferential tariff and commercial interests of ECL are taken care by JUSNL.

2. Learned counsel for NTPC submitted that against the judgment dated 23.9.2016 of Hon'ble High Court of Calcutta, NTPC filed Appeal contending that they are not in a position to maintain the line in question as NTPC is not specialised in maintaining the transmission line. Learned counsel submitted that since inception NTPC is maintaining the FLTS subject to payment of certain charges and are presently maintaining the line on direction of the Hon'ble High Court till the time the issues covered in the present petition are settled. She submitted that NTPC has received copy of the petition just one week back and requested to allow NTPC to place on record its Written Submissions. She submitted that the petitioner should apply for extension of time before the Hon'ble High Court.

3. Learned counsel for PGCIL submitted that there is no role for PGCIL for the present. However, if circumstances warrant PGCIL to do anything in the matter, they will follow the directions of the Commission.

4. After hearing the parties, the Commission directed the respondents to file their reply by 31.10.2019, if not already filed, with a copy to the petitioner and the petitioner to file rejoinder, if any, by 8.11.2019. The Commission permitted NTPC to file its Written Submissions and directed ERPC to file its reply on affidavit by 15.10.2019. The Commission further directed the parties to comply with the above directions within the specified date and observed that no extension of time shall be granted.

5. The Commission further directed to list the matter in November, 2019. The exact date of hearing will be intimated to the parties in due course of time.

By order of the Commission

sd/-
(V. Sreenivas)
Dy. Chief (Law)

