

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Review Petition No. 26/RP/2017  
in Petition No. 85/TT/2015**

**Coram:**

**Shri P. K. Pujari, Chairperson  
Dr. M.K. Iyer, Member**

**Date of Order : 13.03.2019**

**In the matter of:**

Petition for review and modification of the order dated 24.2.2017 in Petition No. 85/TT/2015.

**And in the matter of:**

Power Grid Corporation of India Limited  
"Soudamini", Plot No. 2, Sector 29  
Gurgaon -122001

**....Review Petitioner**

**Vs**

1. North Bihar Power Distribution Company Limited (NBPDCCL)  
Vidyut Bhawan, Bailey Road,  
Patna-800 001.
2. South Bihar Power Distribution Company Limited (SBPDCL)  
Vidyut Bhawan, Bailey Road,  
Patna-800 001.
3. West Bengal State Electricity Distribution Company Limited,  
Bidyut Bhawan, Bidhan Nagar,  
Block DJ, Sector-II, Salt Lake City,  
Kolkatta-700 091.
4. Grid Corporation of Orissa Limited,  
Shahid Nagar, Bhubaneswar-751 007.
5. Damodar Valley Corporation,  
DVC Tower, Maniktala, Civic Centre,  
VIP Road, Kolkatta-700 054
6. Power Department,  
Government of Sikkim, Gangtok-737 101,



7. Jharkhand State Electricity Board,  
In front of Main Secretariat,  
Doranda, Ranchi-834 002

.....Respondents

**For petitioner** : Shri Sitesh Mukherjee, Advocate, PGCIL  
Shri Deep Rao, Advocate, PGCIL  
Shri S.S. Raju, PGCIL  
Shri Rakesh Prasad, PGCIL

**For respondents** : None

### ORDER

Power Grid Corporation of India Limited (PGCIL) has filed the instant petition seeking review and modification of the order dated 24.2.2017 in Petition No. 85/TT/2015. The Commission in the aforesaid order dated 24.2.2017 determined the transmission tariff for **Asset-1**: Combined assets of LILO of Ckt.-I of 400 kV D/C Kahalgaon-Biharsharif at Lakhisarai alongwith associated bays; 400/132 kV 200 MVA ICT-I at Lakhisarai Sub-station alongwith associated bays; 400 kV 80 MVAR Bus Reactor alongwith associated bays at Lakhisarai Sub-station and 2 nos. 132 kV line bays at Lakhisarai Sub-station; **Asset-2**: 400/132 kV 200 MVA ICT-II alongwith associated bays at Lakhisarai Sub-station; **Asset-3**: LILO of Ckt.-II of 400 kV D/C Kahalgaon-Biharsharif at Lakhisarai alongwith associated bays with 2 nos. of 50 MVAR line reactor; **Asset-4**: 2 nos. 132 Line bays at Lakhisarai Sub-station; **Asset-5**: LILO of one circuit of Jamshedpur-Rourkela 400 kV D/C Transmission line at Chaibasa; **Asset-6**: 2 nos. 220 kV Line bays at Chaibasa; **Asset-7**: 80 MVAR Bus Reactor alongwith associated bay at Chaibasa Sub-station; and **Asset-8**: 400/220 kV 315 MVA ICT-II alongwith associated bays at Chaibasa Sub-station for the 2014-19 period under Eastern Region Strengthening Scheme-III (ERSS-III) in Eastern Region under Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (hereinafter referred to as 2014 Tariff Regulations).



## **Brief background**

2. PGCIL was entrusted with the implementation of transmission system associated with ERSS-III covering establishment of 7 nos. of new 400 kV sub-stations, 2 in Bihar viz. Lakshisarai and Banka, 2 in Jharkhand viz. Daltonganj and Chaibasa and 3 in Orissa viz. Bolangir, Keonjhar and Pandiabilli. As per the Investment Approval (IA) dated 7.7.2010, 8 assets covered in the instant project were to be put under commercial operation on 6.11.2012. However, the assets were commissioned after the scheduled date. Thus, there is time over-run in case of the instant assets ranging from 16 months to 36 months. A part of the time over-run in case of the instant assets was condoned in the impugned order. The details of the time over-run condoned and not condoned are given below:-

<b>Assets</b>	<b>Time over-run in commissioning of asset</b>	<b>Time over-run condoned</b>	<b>Time over-run not condoned</b>
Asset-1	16 months 23 days	12 months 27 days	3 months 26 days
Asset- 2	18 months 23 days	12 months 27 days	5 months 26 days
Asset- 3	21 months 26 days	12 months 27 days	8 months 29 days
Asset- 4	22 months 21 days	12 months 27 days	9 months 24 days
Asset- 5	24 months 26 days	6 months 15 days	18 months 11 days
Asset- 6	24 months 26 days	6 months 15 days	18 months 11 days
Asset- 7	36 months 19 days	20 months 15 days	16 months 04 days
Asset- 8	24 months 26 days	6 months 15 days	18 months 11 days

3. PGCIL has prayed for modification of the impugned order as the Commission has failed to consider the relevant documents placed in original petition relating to time over-run which constitute errors apparent on the face of record. PGCIL has further prayed that entire time over-run in case of the instant assets be condoned and consequently allow the IDC and IEDC which was disallowed in the impugned order.



4. The delay in filing the Review Petition was condoned and the Review Petition was admitted and notice was issued to the respondents. North Bihar Power Distribution Company Limited (NBPDC) and South Bihar Power Distribution Company Limited (SBPDCL), Respondents No.1 and 2, have filed a combined reply vide affidavit dated 19.4.2018.

5. PGCIL has submitted that there was time over-run in implementation of the instant assets due to various unforeseen and uncontrollable factors. PGCIL has submitted that certain relevant material facts regarding time over-run placed on record were not considered by the Commission while passing the impugned order. The said omission constitutes an error apparent on face of record and is a valid ground for review and modification of the order. PGCIL has made the following submissions for reviewing the time over-run in case of Lakhisarai Sub-station pertaining to Assets-1, 2, 3 and 4:-

**(a) Delay for the period from 9.8.2010 to 2.12.2010**

The time over-run in case of Assets 1, 2, 3 and 4 at Lakhisarai Sub-station was 16-22 months. For acquisition of land at Lakhisarai, PGCIL submitted the request for acquisition of land on 2.11.2009, which is 9 months prior to the IA. The entire process of land acquisition at Lakhisarai took 33 months. The matter was continuously followed up with the concerned authorities by way of letters dated 2.11.2009, 24.11.2009, 8.3.2010, 20.1.2011, 21.1.2011, 19.5.2011, 11.7.2011 to 10.8.2011, 21.11.2011, 15.2.2012, 16.2.2012, 23.2.2012 and 31.3.2012. Relevant details of aforesaid letters alongwith page numbers are given in the Review Petition and they were filed in the original petition as well. However, actual possession of the land was received in



August, 2012. PGCIL followed up the matter with the Land Acquisition Authorities during the period between 9.8.2010 to 2.12.2010 but the same was not considered by the Commission while passing the impugned order.

**(b) Delay for the period from 2.12.2010 to 31.3.2012**

The Commission overlooked the correspondences/letters exchanged between PGCIL and the State Government including 21.1.2011, 23.2.2011, 2.3.2011, 16.3.2011, 18.5.2011, 9.7.2011, 11.7.2011, 24/26.9.2011, 21.10.2011, 31.10.2011, 15.11.2011, 20.12.2011, 30.12.2011, 18.1.2012, 13.2.2012, 15.2.2012, 16.2.2012 and 23.2.2012 which were submitted in the original petition, details alongwith relevant page numbers are given in the present review petition. Perusal of the above correspondences between PGCIL and the State Government shows that PGCIL earnestly followed up the matter with the concerned Authorities to expedite the process of land acquisition. As such the Commission should re-consider the aspect of condonation of delay for the period between 2.12.2010 to 31.3.2013 in the light of the correspondences exchanged that are given in detail in the Review Petition and has prayed to condone the said time over-run.

**(c) Delay for the period from August, 2012 to 26.9.2013**

The Commission while deciding the delay for the period from August, 2012 to 26.9.2013 failed to take into account the fact that PGCIL was undertaking construction activity related to sub-station and transmission assets. As per standard practice/Master Network, it takes 20 months from start of construction activities to complete the work and in case of flood situation, it takes additional two months. PGCIL commissioned the system on 1.6.2014.



(d) **Delay in commencement of civil works due to Rain (period from August, 2012 to October, 2012)**

The Commission failed to take into consideration the rainfall data in Lakhisarai during September to October, 2012 which was 60% higher than the year 2011.

The photographs submitted show that the magnitude of devastation is heavy and the work could not be undertaken immediately. Hence, the delay of two months which is beyond the control of PGCIL be condoned on this ground.

PGCIL has submitted the following grounds for review of the time over-run in case of Chaibasa Sub-station pertaining to Assets-5, 6, 7 and 8.

(a) **Delay due to acquisition of land (period from 22.10.2010 to 19.5.2011)**

There was delay in declaring CODs of Assets- 6, 7, and 8 ranging from 16 to 37 months at Chaibasa Sub-station for the reasons beyond the control of PGCIL. Proposal for acquisition of around 40 acre land consisting of 22 acre land belonging to Government and remaining land around 18 acres to private persons at Mauza Anchu on Chaibasa-Saraikela road was sent by PGCIL to Deputy Commissioner, West Singhbhum (Chaibasa) on 31.8.2009. Stiff resistance of local villagers prevented the Government from acquiring the said land. Suitability of alternate land available at Ulijharee as suggested by the Authority was confirmed by PGCIL. To expedite the acquisition process of the said land at Ulijharee, PGCIL wrote a letter to Chairman, Jharkhand Vidyut Board on 7.10.2010 to pursue the matter with the State Government. Meetings for expeditious acquisition of the said land were also held with Principal Secretary, Land Record Department of Government of Jharkhand on 15.2.2011/22.2.2011. In a meeting dated 2.6.2011, the Principal Secretary (Revenue), Government of Jharkhand apprised that the aforesaid land was



identified for Rungta Mines Limited as such the District Authorities were to expedite the acquisition process of 2<sup>nd</sup> alternative land identified by PGCIL. This shows the fact that the delay from 22.10.2010 to 19.5.2011 (6 months and 27 days) was beyond the control of PGCIL.

**(b) Delay between 14.12.2011 to 16.6.2012 (6 months and 2 days)**

Letters dated 31.1.2012, 4.5.2012, 25.5.2012, 4.6.2012 and 8.6.2012 given in the Review Petition were placed in the original petition which indicate that PGCIL followed up the matter with Deputy Commissioner, West Singhbhum, Chaibasa for land acquisition, approval for publication of Notification under Section 4 of the Land Acquisition Act for 38.68 acre of land, declaration under Section 6 of the Land Acquisition Act from Principal Secretary, Department of Revenue and Land Reform, Jharkhand and grant for acquisition of land by the Land Record Department, Jharkhand respectively. The documents on record explicitly show that the State Government took more than 6 months' time to publish the Notification under Section 6 of the Land Acquisition Act.

**(c) Delay between 16.6.2012 to 14.2.2013 (7 months and 29 days)**

Subsequent to Notification under Section 6 of the Land Acquisition Act by the State Government, Jharkhand Voluntary Land Acquisition Rule, 2010, inter alia, mandated execution of Agreement with Land Acquisition Office of Jharkhand and individual land owners for acquisition of private land. PGCIL gathered relevant information from 16.6.2012 to 7.9.2012 relating to 38.86 acre of private land for execution of agreements with various land owners, submitted the Agreements as narrated above in terms of Jharkhand Voluntary Land Acquisition Rule, 2010 to District Land Acquisition Officer, Chaibasa. On



7.9.2012 District Land Acquisition Officer sought clarification from PGCIL regarding two Agreements under Schedule-II of the said Land Acquisition Rule, 2010. On 31.1.2013 revised Panchayat estimate of ₹5,91,51,088/- was approved for acquisition of 38.68 acre of land by the concerned Authority. After execution of Agreements with the land owners, PGCIL deposited 20% of cost of the land on 14.2.2013.

**(d) Time taken in acquisition of Government land (i.e. upto 31.1.2013)**

The Commission has failed to appreciate that acquisition process of private land is different from that of acquisition of government land. The Commission further failed to appreciate that Revenue Authority commenced the process of acquisition of private land and Government land simultaneously. PGCIL continuously follow up the matter at different levels of State Government which is evident by letters dated 31.8.2009, 12.8.2010, 16.9.2010, 19.5.2011, 2.6.2011, 12.8.2011, 9.9.2011 and 18.6.2013. Relevant details of these letters alongwith page numbers are given in the Review Petition which show how possession of the land was handed over to PGCIL in April, 2013.

(e) Though the effective date was 1.2.2012, however, due to land acquisition problem and unprecedented rain, PGCIL lost 48 months at the start of the commissioning work. This delay is not attributable to PGCIL and same be condoned. PGCIL is, therefore, entitled to IDC and IEDC consequent upon condonation of the aforesaid delays.

6. PGCIL has prayed for revision of the impugned order dated 24.2.2017 by condoning the time over-run and has requested to allow the corresponding IDC and IEDC.





7. The Respondents, North Bihar Power Distribution Company Limited (NBPDC) and South Bihar Power Distribution Company Limited (SBPDCL), have filed their common reply vide affidavit dated 19.4.2018. The respondents have prayed that the instant review being devoid of merits is liable to be dismissed with costs. The submissions of the respondents are as follows:-

**(a) Delay from 9.8.2010 to 2.12.2010**

The submissions made in the review petition do not show any continuous follow up during the period from 9.8.2010 to 2.12.2010. Further, it is the duty of the Review Petitioner to place on record the documents from the Land Acquisition Authority for the delay period from 9.8.2010 to 2.12.2010. Even otherwise the justifications submitted by PGCIL, if not expressly granted, shall be deemed to have been refused in terms of Commission's own order dated 27.8.2007 in Review Petition No. 70/2007.

**(b) Delay for the period from 2.12.2010 to 31.3.2012**

The Commission in its order had examined the documents and the submissions of PGCIL and observed that it was difficult to assess the time taken at various stages of land acquisition. Moreover, PGCIL had not submitted the documents like DPR, CPM Analysis and PERT chart/Bar chart. Therefore, the prayer of PGCIL to condone the delay is liable to be rejected.

**(c) Delay for the period from August, 2012 to 26.9.2013**

For the delay period from August, 2012 to 26.9.2013, no cogent reasons have been shown by PGCIL for review of the impugned order.

**(d) Delay in commencement of civil works due to rain (August, 2012 to**



**October, 2012)**

Though PGCIL had submitted the images of rain affected areas, it has not submitted any valid documentary evidence to substantiate that rain and water accumulation was abnormal. As regards submission of photograph in support of justification for delay, APTEL in its judgment dated 13.8.2015 in Appeal No. 281 of 2014 observed that filing of any photograph does not by itself lead to the proof of the facts shown in the photograph. Hence, there is no scope of review on this ground.

### **Analysis and Decision**

8. We have considered the submissions of PGCIL, NBPDCIL and SBPDCL and have also gone through the record. The submissions of PGCIL and respondents and our findings thereon are as follows.

### **Delay from 9.8.2010 to 2.12.2010**

9. With regard to delay from 9.8.2010 to 2.12.2010, the Commission in its order dated 24.2.2017 observed as under:-

“The petitioner wrote a letter to the District Land Acquisition Officer on 9.8.2010 and the next letter was written on 2.12.2010 to the District Officer requesting for land for sub-station in Lakhisarai. The petitioner has not explained intervening period between 9.8.2010 to 2.12.2010. Hence, the time over-run of 3 months and 23 days is not condoned.”

10. The main contention of PGCIL for condonation of delay for the intervening period between 9.8.2010 to 2.12.2010 is that the Commission should take into consideration the fact that it had submitted the request for acquisition of land 9 months prior to Investment Approval which in the instant case happens to be 2.11.2009 and it followed-up the matter several times with Government Authorities by liasioning with them. Merely because no documentary evidence was there in the



power and possession of PGCIL for the intervening period between 9.8.2010 to 2.12.2010, does not by itself mean that there were no follow-ups by PGCIL with the concerned Authorities. On the other hand, respondents contended that justifications submitted by PGCIL, if not expressly granted, shall be deemed to have been refused in terms of Commission's order dated 27.8.2007 in Review Petition No. 70/2007.

11. We have given our thoughtful consideration to the rival contentions of the parties and perused the record carefully. The Review Petitioner in the instant Review Petition has submitted as under:-

“10.4 ..... Thereafter, PGCIL followed up with the District Land Acquisition Officer, vide letter dated 09.08.2010, requesting to take immediate action by sending the reply to queries raised by the Director, Land Acquisition, Government of Bihar, so that the proposal under sections 4 and 6 of the Land Acquisition Act get approved without further delay.

10.5 However, the District Land Acquisition Officer failed to initiate the process. As a result, PGCIL, vide letter dated 02.12.2010, once again followed-up with the District Magistrate, Lakhisarai. PGCIL informed the District Magistrate that an application for acquisition of 38.5 acre land was submitted on 02.11.2009 and an amount of approximately Rs. 4 crores (Rupees Four Crores) was deposited by it as an initial amount on 25.02.2010, however, the procedure for acquisition of land is still incomplete and thus, requested to expedite the process.”

As per the submissions of the Review Petitioner, the Review Petitioner vide letter dated 9.8.2010 requested the District Land Acquisition Officer to take immediate action by sending the reply to queries raised by the Director, Land Acquisition. As the District Land Acquisition Officer failed to take any action, the Review Petitioner approached the District Magistrate, Lakhisarai on 2.12.2010. The Commission in its order dated 24.2.2017 observed that the Review Petitioner did not take action during the period 9.8.2010 to 2.12.2010 and thus this period was not condoned in the said order. The other explanation given in the Review Petition in para 10.5 pertains to the period between November, 2009 and February, 2010, which does not pertain to the



period under consideration which is 9.8.2010 to 2.12.2010. All these submissions of PGCIL were duly considered in the main petition while we passed the impugned order. PGCIL is trying to re-agitate the issue once again which is not permissible in review. We find no error apparent in our record on this count. Hence, review on this count is rejected.

### **Delay from 2.12.2010 to 31.3.2012**

12. As regards the delay for the period from 2.12.2010 to 31.3.2012, the Commission in the impugned order observed as under:-

“The petitioner received the certificate of possession of land on 31.3.2012. It took 15 months 29 days to get the letter of possession of land. Normally, land acquisition process involves various steps like social impact assessment, expert group appraisal, preliminary notification, declaration to award and award to possession of land by collector which the petitioner is expected to factor in the time schedule. The petitioner has not explained the period between 2.12.2010 to 31.3.2012 and it is difficult to assess the time taken at various stages of land acquisition. As such, we are not inclined to condone time over-run of 12 months on this account. Accordingly, out of 15 months 29 days period, 3 months 29 days is condoned.”

13. With regard to the spell of delay from 2.12.2010 to 31.3.2012, the contention of PGCIL is that the Commission overlooked the correspondences/letters exchanged between PGCIL and the State Government including 21.1.2011, 23.2.2011, 2.3.2011, 16.3.2011, 18.5.2011, 9.7.2011, 11.7.2011, 24/26.9.2011, 21.10.2011, 31.10.2011, 15.11.2011, 20.12.2011, 30.12.2011, 18.1.2012, 13.2.2012, 15.2.2012, 16.2.2012 and 23.2.2012 which are there in the original petition and explain the duration of time taken at various stages of land acquisition. It further shows that PGCIL was prudent in earnestly following up the matter with the concerned authorities to expedite the process of land acquisition. Per contra, respondents contended that in the absence of documents like DPR, CPM Analysis and PERT chart/Bar chart, the Commission rightly did not condone the delay.



14. We have considered the above contentions of the parties and perused the record. All the aforesaid letters, reference to which has been made now in the Review Petition, have been duly considered by us in our order dated 24.2.2017. No error apparent has been pointed out by PGCIL in our aforesaid order on this account. Rather, the Review Petitioner, PGCIL wanted us to reconsider the same de novo without there being any error. No ground is made out as to why the Commission should consider afresh the said documents and condone the delay between 2.12.2010 to 31.3.2012. Accordingly, review on this score is rejected.

**Delay from August, 2012 to 26.9.2013**

15. With regard to delay from August, 2012 to 26.9.2013, the Commission in the impugned order observed as under:-

“There is time over-run of 13 months 25 days. The petitioner has not submitted any documentary evidence for delay between August, 2012 to 27.5.2013. Hence, the period from August, 2012 to 27.5.2013 is not condonable.”

16. PGCIL has contended that the Commission has failed to take into consideration the fact that during the period from August, 2012 to 27.5.2013, after getting the possession of land, PGCIL was undertaking construction of the sub-station. According to PGCIL, as per standard practice/master network, it takes 20 months for carrying out construction activity (from August 2012 i.e. 1.4.2014). In the event of flood situation, it takes two months additional time. PGCIL commissioned the system on time on 1.6.2014. Per contra, respondents contended that the Commission has arrived at the finding after due consideration of the material on record and review of the impugned order on the contentions is baseless.

17. We have considered the rival submissions of the parties and perused the record. On record, no material is found which supports the above contention of the



petitioner. To consider the explanation that PGCIL was undertaking construction activity during the period from August, 2012 to 27.5.2013, it was incumbent upon PGCIL to place on record cogent and convincing material addressing the intervening period of August, 2012 to 26.9.2013 that it was undertaking construction activity. In the absence of specific details of activities undertaken from August, 2012 to 27.5.2013 corroborated by documentary evidence, we are unable to agree with the aforesaid contention of the Review Petitioner. We see no reason to review the order dated 24.2.2017 for condonation of delay for the intervening period from August, 2012 to 27.5.2013. Hence, review on this account is rejected.

**Delay in commencement of civil works due to rain (August, 2012 to October, 2012)**

18. With regard to delay in commencement of civil works due to rain from August, 2012 to October, 2012, the Commission in the impugned order observed that rain during August to October, 2012 is a normal phenomenon. PGCIL submitted the images of rain affected area but no sufficient documentary evidence was there on record to substantiate that rain and water accumulation was abnormal.

19. PGCIL has contended that it received the possession of land in August, 2012 when monsoon was in full swing which affected execution of land filling and boundary wall severely. Intense rain during September and October, 2012 led to water accumulation and unprecedented flood like situation. Resultantly, the work on site started only after October, 2012 causing time over-run of 2 months.

20. NBPDC and SBPDCL have contended that the Commission has rightly rejected the submissions of PGCIL in the main petition in the absence of valid documentary proof. Referring to the judgment of Appellate Tribunal for Electricity dated 13.8.2015 in Appeal No. 281 of 2014, respondents contended that filing of any



photograph does not, by itself, lead to the proof of the facts shown in the photographs.

21. We have considered the rival contentions of the parties and perused the record. All these contentions of PGCIL were duly considered by us while passing the order impugned in the instant Review Petition. Review Petition on this issue is mere repetition of the facts as pleaded in the main petition. We see no error apparent in our aforesaid order which requires review in the instant Review Petition. We are, therefore, unable to subscribe to the above contention of PGCIL. Hence review of the order impugned on this ground fails and is accordingly rejected.

**Chaibasa Sub-station, delay due to acquisition of land (Period 22.10.2010 to 19.5.2011)**

22. While deciding the issue relating to delay in acquisition of land of Chaibasa Sub-station for the period from 22.10.2010 to 19.5.2011 (6 months and 27 days), the Commission in the impugned order concluded that PGCIL did not explain the said period and as such delay of 6 months and 27 days was attributable to PGCIL and hence did not condone the same.

23. Assets-5, 6, 7 and 8 relate to Chaibasa Sub-station. PGCIL has further submitted that actual possession of private land was obtained on 22.4.2013 and Government land on 18.6.2013 with a delay of 16 to 37 months despite the fact that process of acquisition of private land was initiated approximately one year prior to IA on 31.8.2009. PGCIL has contended that proposal for acquisition of around 40 acre land (22 acre Government land and around 18 acre private land) at Mauza Anchu on Chaibasa-Saraikeela road was sent by it to Deputy Commissioner, Chaibasa on 31.8.2009, but the same was not materialized as local villagers prevented the Government from acquiring the said land. Alternate land available at Ulijharee was



confirmed by PGCIL. For speedy acquisition of the land at Ulijharee, Chairman Jharkhand Vidyut Board was also requested vide letter dated 7.10.2010 to take up the said matter with the State Government. Meetings took place for expeditious acquisition of the said land with Principal Secretary, Land Record Department Jharkhand on 15.2.2011/22.2.2011. In the meeting dated 2.6.2011, the Principal Secretary (Revenue), Government of Jharkhand apprised that the aforesaid land was identified for Rungta Mines Limited as such the District Authorities were to expedite the acquisition process of 2nd alternative land identified by PGCIL. In the above background, PGCIL has submitted that the Commission should reconsider that the delay for the period 22.10.2010 to 19.5.2011 (6 months and 27 days) was beyond the control of PGCIL.

24. We have carefully considered the above submissions of PGCIL and perused the order impugned and documents on record. We find that all the aforesaid submissions advanced by PGCIL were duly considered by us while passing the impugned order. In our opinion, PGCIL is trying to re-argue the same issue again in Review Petition which is not permissible. We are, therefore, unable to agree with the aforesaid contentions of PGCIL. Review of the order impugned on this ground fails and is accordingly rejected.

**Delay from 14.12.2011 to 16.6.2012 (6 months and 2 days)**

25. The Commission, in the impugned order, did not condone the delay from 14.12.2011 to 16.6.2012 (6 months and 2 days) observing that the same remained unsubstantiated by evidence.

26. The Review Petitioner has contended that letters dated 31.1.2012, 4.5.2012, 25.5.2012, 4.6.2012 and 8.6.2012, which are available in the original file, show





beyond shadow of doubt that PGCIL followed up the matter during 14.12.2011 to 16.6.2012 with the Deputy Commissioner, West Singhabhum, Chaibasa for land acquisition, approval for publication of Notification under Section 4 of the Land Acquisition Act for 38.68 acre of land, declaration under Section 6 of the Land Acquisition Act from Principal Secretary, Department of Revenue and Land Reform, Jharkhand and grant for acquisition of land by the Land Record Department, Jharkhand respectively, but the Commission failed to take into consideration the same. The documents on record show that the State Government took more than 6 months' time to publish the Notification under Section 6 of the Land Acquisition Act.

27. We have considered the contentions of PGCIL and perused the material on record. We find that all the submissions and contentions were given due consideration while passing the impugned order. We have already held in our order dated 24.2.2017 that any land acquisition process will require certain minimum time, including preliminary Notification, declaration of award and award to possession of land by Collector that is required to be factored in the time schedule. PGCIL should have been more prompt and persistent in its follow up action in order to get the work done from the concerned Authorities with proper record of issuance of letters and their receipts to explain the fact that inordinate delay occurred due to inaction on the part the concerned Authorities. Slackness, prolonged and/or intermittent interaction and lack of follow up action with the concerned Authorities cannot be a ground for condonation of delay. For these reasons, we are unable to deviate from our finding in the impugned order. Hence, review of the impugned order on this ground does not survive.



**Delay from 16.6.2012 to 14.2.2013 (7 months 29 days)**

28. The Commission did not condone the delay for the period between 16.6.2012 to 14.2.2013 (7 months and 29 days) observing that the same remained unexplained.

29. PGCIL has contended that the Commission failed to entertain the fact that subsequent to Notification under Section 6 of the Land Acquisition Act by the State Government, Jharkhand Voluntary Land Acquisition Rule, 2010, inter alia, mandated Agreement with Land Acquisition Officer of Jharkhand and individual land owners for acquisition of private land. In view of above statutory requirement, PGCIL gathered information of 38.86 acre of private land for execution of agreements with various land owners, submitted the Agreements as narrated above in terms of Jharkhand Voluntary Land Acquisition Rule, 2010 to District Land Acquisition Officer, Chaibasa from 16.6.2012 to 7.9.2012. On 7.9.2012 District Land Acquisition Officer sought clarification from PGCIL regarding two Agreements under Schedule-II of the said Land Acquisition Rule, 2010. Based on the approval of revised Panchayat estimate of ₹5,91,51,088/- by the concerned Authorities for acquisition of 38.68 acre of land, Agreements were entered into with the land owners and PGCIL deposited 20% cost of the land on 14.2.2013.

30. We have considered the above submissions of PGCIL and scrutinized the record. We find that the same submissions were advanced and considered in the main petition which is now before us in the review petition. No error apparent on record is pointed out by PGCIL. We have already observed in our order dated 24.2.2017 that all the aspects touching the subject-matter of land acquisition, statutory Notifications including declaration of award and possession of land from



Collector etc. are required to be conceived well in time through specialized group and the same should be factored into the time schedule. We see no reason to review our order for condonation of delay for the period 16.6.2012 to 14.2.2013. Review of the impugned order on this account also fails and is accordingly rejected.

**Time taken in acquisition of Government land (i.e. upto 31.3.2013)**

31. PGCIL has contended that the Commission has failed to appreciate that acquisition process of private land is different from that of acquisition of government land. The Commission has further failed to appreciate that the Revenue Authority commenced the process of acquisition of private land and Government land simultaneously. PGCIL has contended that the Commission should reconsider afresh its persistent follow up at various levels with State Government which is substantiated by letters dated 31.8.2009, 12.8.2010, 16.9.2010, 19.5.2011, 2.6.2011, 12.8.2011, 9.9.2011 and 18.6.2013 that show how possession of the land was handed over to it in April, 2013.

32. We have considered the above submissions of PGCIL and perused the record. We see no discrepancy at all in the order passed by us in the main petition as these letters and follow-up by PGCIL was considered by us before passing the order impugned in the present Review Petition. No factual errors in the above finding have been pointed out by PGCIL. We see no reason to deviate from our earlier findings in view of detailed reasoning given in the order dated 24.2.2017 which is under review in the instant petition. Hence, review on this ground is also rejected.



33. Review Petition No. 26/RP/2017 is disposed of in terms of the above discussions.

sd/-

**(Dr. M.K. Iyer)**  
**Member**

sd/-

**(P.K. Pujari)**  
**Chairperson**

