

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 286/MP/2018

Coram:

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

Date of Order: 6th March, 2019

In the matter of

Petition under Section 79 of the Electricity Act, 2003 for execution of orders dated 14.3.2018 passed in Petition No. 13/SM/2017 and 16.3.2018 passed in Petition No. 1/MP/2017; and initiation of proceedings under Section 142 of the Electricity Act, 2003 against Tamil Nadu Generation and Distribution Corporation Ltd. in relation thereto.

And

In the matter of

GMR Warora Energy Limited
701/704, 7th Floor, Naman Centre
A-wing, Bandra Kurla Complex, Bandra
Mumbai- 400051

.....Petitioner

Vs

Tamil Nadu Generation and Distribution Corporation Ltd.
10th Floor, NPKRR Maaligai, 144,
Anna Salai, Chennai-600 002

.....Respondent

Parties present:

Shri Vishrov Mukerjee, Advocate, GMRWEL
Shri Yashaswi Kant, Advocate, GMRWEL
Ms. S. Amali, Advocate, TANGEDCO

Interim Order

The Petitioner, GMR Warora Energy Limited has filed this Petition seeking the following reliefs:

“(a) Direct TANGEDCO to comply with the Orders dated 14.03.2018 and 16.03.2018 passed by this Hon’ble Commission in Petition Nos. 13/SM/2017 and 1/MP/2017 and to pay the supplementary bills raised by the Petitioner;

(b) Pass an order for attachment of bank accounts and other immovable and movable properties of TANGEDCO for part or full satisfaction of the Orders dated



14.03.2018 and 16.03.2018;

(c) Award the costs of this proceedings in favour of the Petitioner and against TANGEDCO;

(d) Initiation of proceedings under Section 142 of the Electricity Act against TANGEDCO for failure to comply with the directions of this Hon'ble Commission; and

(e) Pass any such further order as this Hon'ble Commission may deem necessary in the interest of justice."

2. The Petition was admitted on 13.12.2018 and the Commission had issued notice to the Respondent, TANGEDCO. Reply to the Petition has been filed by TANGEDCO vide affidavit dated 27.12.2018.

3. During the hearing on 27.2.2019, the learned counsel for the Petitioner submitted that in terms of the Commission's Order dated 14.3.2018 in Petition No. 13/SM/2017 and Commission's Order dated 16.3.2018 in Petition No. 1/MP/2017, the Petitioner has raised supplementary bills on the Respondent, TANGEDCO for change in law events allowed by the Commission in the said orders. The learned counsel further submitted that in IA No. 1428 of 2018 in Appeal No. 289/2018 filed by the Respondent before the Appellate Tribunal for Electricity (Tribunal) against the Commission's order dated 16.3.2018 in Petition No. 1/MP/2017, the Tribunal by interim order dated 5.12.2018 has directed the Respondent to pay 80% of the outstanding amount and continue to pay 80% of claims as and when bills are raised by the Petitioner. The matter is sub-judice and the Respondent is yet to make payments to the Petitioner. The learned counsel accordingly submitted that the Commission in this proceeding may consider only the non-payment of outstanding dues amounting to ₹364963170/- towards GST Compensation Cess allowed vide Commission's order dated 14.3.2018 in Petition No. 13/SM/2017. The learned counsel stated that the Petitioner has been put to extreme financial distress and the project runs the risk of being declared as a Non- Performing Asset.



Accordingly, the learned counsel prayed that since the Respondent has willfully defaulted in payments of the aforesaid amount to the Petitioner, the Commission may pass directions for execution of order dated 14.3.2018, in addition to proceedings being initiated by the Commission against Respondent under section 142 of the Electricity Act, 2003.

4. On a specific query by the Commission as to why the Commission's Order dated 14.3.2018 has not been complied with, the learned counsel appearing for the Respondent prayed for grant of time to seek instructions from TANGEDCO.

5. The Commission after hearing the parties, directed the Respondent, TANGEDCO to make payment of ₹18 crore i.e. 50% of the total outstanding amount of ₹364963170/- to the Petitioner within ten days from the date of this order and submit report on affidavit.

6. Matter shall be listed for hearing on **19.3.2019**.

Sd/-
(I.S.Jha)
Member

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

Sd/-
(P.K.Pujari)
Chairperson

