

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 383/MP/2018

Coram:

Shri P. K. Pujari, Chairperson

Dr. M. K. Iyer, Member

Shri I. S. Jha, Member

Date of Order : 28th of August, 2019

In the matter of:

Petition under Section 142 of the Electricity Act, 2003 read with Regulation 111 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999, inter alia seeking initiation of appropriate action against the Respondents for non-compliance of the order dated 27.4.2018 passed by the Commission in Petition No. 126/MP/2016.

And

In the matter of:

Bharat Aluminium Company Limited
Balco Nagar, Korba-495684,
Chhattisgarh

Versus

1. The Chairman cum Managing Director
Tamil Nadu Generation and Distribution Corporation Limited,
6th Floor, Eastern Wing,
144, Anna Salai, Chennai
2. The Chairman cum Managing Director
Tamil Nadu Generation and Distribution Corporation Limited,
6th Floor, Eastern Wing,
144, Anna Salai, Chennai
3. Chief Engineer, Private Power Project
Tamil Nadu Generation and Distribution Corporation Limited,
6th Floor, Eastern Wing,
144, Anna Salai, Chennai

Parties Present:

1. Shri Hemant Singh, Advocate, BALCO
2. Shri Nishant Kumar, Advocate, BALCO
3. Ms. Soumya Singh, Advocate, BALCO
4. Shri G. Umamathay, Advocate, TANGEDCO
5. Shri S. Vallinayagam, Advocate, TANGEDCO



ORDER

The Petitioner, Bharat Aluminium Company Limited, has filed the present Petition under Section 142 of the Electricity Act, 2003 for non-compliance of the Commission`s order dated 27.4.2018 in Petition No.126/MP/2016. The Petitioner has made the following prayers:

“(a) Initiate appropriate action against the Respondents, jointly and severally, under Section 142 of the Electricity Act, 2003 and/or any other appropriate provisions of the Electricity Act, 2003, for contravention and wilful disobedience of the directions issued by the Commission in order dated 27.4.2018 passed in Petition No. 126/MP/2016;

(b) Direct the Respondents to forthwith comply with the order dated 27.4.2018 passed in Petition No. 126/MP/2016 and forthwith pay the amounts under the Supplementary Invoices raised by the Petitioner; and

(c) Direct the Respondents to comply with the order dated 14.3.2018 passed by this Commission in Petition No. 13/SM/2017”

2. During the course of hearing, the learned counsel appearing on behalf of the Respondent, Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO) submitted that TANGEDCO has approached the APTEL against the Commission`s order dated 27.4.2018 in Petition No. 126/MP/2016 and APTEL vide its order dated 25.3.2019 in Appeal No. 22 of 2019 had directed TANGEDCO to pay 50% of the amount claimed by the Petitioner towards change in law compensation. Accordingly, TANGEDCO is paying the amount to the Petitioner as per direction of the APTEL.

3. The learned counsel for the Petitioner submitted that the APTEL vide its order dated 30.4.2019 in IA No 36 of 2019 in Appeal No. 22 of 2019 had further observed as under:

“In terms of the affidavit mentioned above, according to appellant the change in law compensation works out to Rs. 122.88 crores as on 31.12.2018. They have also undertaken at para 4 of the affidavit to make payment of 50% out of



Rs. 112.88 crores to Respondent Generating Company in 8 equal monthly instalments commencing from May, 2019 onwards which could end in December, 2019. This is on the plea of financial crunch to mobilise funds according to appellant which of course is seriously contested by Respondent.

We assume, the difference/disputed amount seems to be about Rs. 22 crores till December, 2018 (change in law compensation) which can be considered at the time of final hearing of the appeal on merits. Meanwhile, appellant shall abide by the commitment or undertaken given in the form of affidavit. All contested issues are kept open.”

4. The learned counsel for the Petitioner sought permission to withdraw the Petition with liberty to approach the Commission at later stage in accordance with law.
5. The prayer of the learned counsel for the Petitioner is allowed. Accordingly, Petition No.383/MP/2018 is disposed of as withdrawn.
6. Petition No.383/MP/2018 is disposed of in terms of the above.

Sd/-

(I.S. Jha)
Member

sd/-

(Dr. M.K. Iyer)
Member

sd/-

(P. K. Pujari)
Chairperson

