

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Petition No. 14/RP/2020
in
Petition No. 305/MP/2015**

- Subject : Petition under Section 94(1)(f) of the Electricity Act, 2003 read with Regulation 103 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 for seeking review of the order dated 29.1.2020 in Petition No.305/MP/2015 along with IA No. 24 of 2019.
- Petitioner : Adhunik Power and Natural Resources Limited (APNRL)
- Respondents : West Bengal State Electricity Distribution Company Limited (WBSEDCL) and Ors.
- Date of Hearing : 16.7.2020
- Coram : Shri P. K. Pujari, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member
- Parties present : Shri M.G. Ramachandran, Sr. Advocate, APNRL
Shri Deepak Khurana, Advocate, APNRL
Shri Tejasv Anand, Advocate, APNRL
Shri Amit Griwan, APNRL

Record of Proceedings

The matter was heard through video conferencing.

2. Learned senior counsel for the Review Petitioner submitted that the instant Review Petition has been filed seeking review of the Commission's order dated 29.1.2020 in Petition No. 305/MP/2015 (in short 'the impugned order') to the extent it holds that cancellation of Ganeshpur coal block is not a Change in Law event in terms of Article 10 of the Power Purchase Agreement (PPA) dated 25.3.2011. Learned senior counsel submitted as under:

(a) In the impugned order, the Commission has not considered the implications of the decision of the Appellate Tribunal for Electricity (in short 'the Appellate Tribunal') in Appeal No. 193 of 2017, in the matter of GMR Kamalanga Energy Limited v. Central Electricity Regulatory Commission and Ors. (in short 'GMR Kamalanga Case').

(b) The Appellate Tribunal in GMR Kamalanga Case has clearly held that the cancellation of coal block on account of the judgment of Hon'ble Supreme Court is a Change in Law event. However, despite this position, the Commission in the impugned order has held that the cancellation of



Ganeshpur coal block is not a Change in Law event in terms of Article 10 of the PPA.

3. In response to a specific query of the Commission as to whether the Review Petitioner has filed an appeal before the Appellate Tribunal against the said order, learned senior counsel for the Review Petitioner replied in the affirmative and submitted that it is well settled principle that an appeal against order can be filed within the limitation period, without affecting the appellant's right to file Review Petition. In this regard, reliance was placed on the judgement of Hon'ble Supreme Court in the case of Thungabhadra Industries Limited v. Govt. of Andhra Pradesh [(1964) 5 SCR 174].

4. After hearing the learned senior counsel for the Review Petitioner, the Commission reserved order on 'admissibility' of Review Petition.

By order of the Commission

**Sd/-
(T.D. Pant)
Deputy Chief (Law)**

