

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 172/MP/2013

- Subject : Petition under section 79 of the Electricity Act, 2003 read with statutory framework governing procurement of power through competitive bidding and Article 13 and 17 of the Power Purchase Agreement dated 10.9.2008 executed between Jharkhand Integrated power Limited and Jharkhand State Electricity Board and 17 others for compensation due to Change in Law during the construction period.
- Date of hearing : 28.5.2015
- Coram : Shri Gireesh B. Pradhan, Chairperson
Shri A.K. Singhal, Member
Shri A.S. Bakshi, Member
- Petitioner : Jharkhand Integrated Power Limited (JIPL)
- Respondents : Jharkhand State Electricity Board and others
- Parties present : Shri J.J. Bhatt, Sr. Advocate, JIPL
Shri Aditya Panda, Advocate, JIPL
Shri Kamal Gupta, JIPL
Shri V.K. Deo, JIPL
Ms Anushree Badhan, Advocate, HPPC, Rajasthan & GUVNL
Ms Poorva Saigal, Advocate, HPPC, Rajasthan & GUVNL
Shri Alok Shankar, Advocate, TPDDL
Shri Yashish Chandra, Advocate, TPDDL
Shri Rajiv Srivastava, Advocate, UPPCL
Shri Himanshu Shekhar, Advocate, JSEB
Shri G. Umamathy, Advocate, MPPMCL
Shri Aabhas Parimal, JUVNL

Record of Proceedings

Learned senior counsel for the petitioner submitted that IA has been filed seeking permission to withdraw the present petition. He further submitted that since the petitioner has terminated the PPA vide its Notice of Termination dated 28.4.2015, the present petition has become infructuous. Learned senior counsel requested to grant permission to withdraw the petition.

2. Learned counsels for the parties submitted that termination of the PPA is premature and misconceived. The application for withdrawal of the petition on the ground of termination of PPA vide notice dated 28.4.2015, was filed before the Commission even before the notice terminating the PPA could be served to the respondents. They further submitted that the very next day of the date of purported notice, on 29.4.2015, the petitioner filed Civil Suit No. 1180 of 2015 before Hon`ble High Court of Delhi in which the petitioner prayed for declaration that the termination notice dated 28.4.2015 is valid and binding on the parties. Learned counsel submitted that till the Hon`ble High Court pass a decree in the said suit, the petition may not become infructuous on the ground of the PPA having been terminated vide notice dated 28.4.2015.

3. Learned counsel for UPPCL submitted that UPPCL has no objection for withdrawal of the petition if it is a withdrawal simplicitor, but the petitioner cannot take the ground of termination of PPA for withdrawal of the petition as the issue of termination is *sub-judice* before the Hon`ble High Court.

4. Learned senior counsel for the petitioner submitted that the petitioner is only withdrawing the petition which it filed for certain relief under 'Change in Law' and if it does not succeed before the High Court, it will again approach the Commission in accordance with law.

5. After hearing the learned senior counsel for the petitioner and counsels of the respondents, the Commission directed them to file their written submissions by 19.6.2015.

6. The Commission directed the petitioner to place on record all relevant documents including a copy of appeal filed before the Delhi High Court seeking validation of the termination notice dated 28.4.2015 by 19.6.2015.

7. Subject to the above, order in the petition was reserved.

By order of the Commission

**Sd/-
(T. Rout)
Chief (Law)**