

**CENTRAL ELECTRICITY REGULATORY COMMISSION
New Delhi**

Petition No. 157/MP/2021

Subject	:	Petitioner under Section 79(1)(f), (c) and (k) and other applicable provisions of the Electricity Act, 2003 read with Regulation 111 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 along with Regulation 12 read with Regulation 32 and Regulation 33A of Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open access in inter-state Transmission and related matters) Regulations, 2009, against the arbitrary acts and omissions of Power Grid Corporation of India Limited, Respondent <i>inter-alia</i> towards cancellation of the Agreement for Long Term Access dated 31.7.2020 and the encashment of Application Bank Guarantee No. 0479119BG0000167 dated 30.5.2019 of ₹2.8 crore furnished by Petitioner to the Respondent.
Date of Hearing	:	18.11.2021
Coram	:	Shri P. K. Pujari, Chairperson Shri I. S. Jha, Member Shri Arun Goyal, Member Shri P.K. Singh, Member
Petitioners	:	Nuclear Power Corporation of India Limited (NPCIL)
Respondent	:	Power Grid Corporation of India Limited (PGCIL)
Parties Present	:	Ms. Akanksha Das, Advocate, NPCIL Ms. Amal Nair, Advocate, NPCIL

Record of Proceedings

Case was called out for virtual hearing.

2. The learned counsel for the Petitioner submitted that the Petitioner is developing 4X700 MW GHAVP (Gorakhpur Haryana Anu Vidyut Pariyojana) nuclear project at Fatehabad, Haryana in NR (Northern Region) and had, accordingly, approached PGCIL for Long Term Access (LTA) for accessing ISTS. The instant petition has been filed by the Petitioner against the arbitrary acts and omissions of PGCIL towards cancellation of the LTA Agreement dated 31.7.2020 and encashment of Application Bank Guarantee ("ABG") No. 0479119BG0000167 dated 30.5.2019 of ₹2.8 crore furnished by the Petitioner to PGCIL.



3. Learned counsel for the Petitioner made the following submissions:
- The Petitioner was granted LTA on 29.4.2020. However, the Petitioner could not execute agreement for LTA because of Covid-19 situation and finally LTA Agreement was signed on 31.7.2020.
 - Because of Covid-19 situation, there was delay of two months in submission of the Construction Bank Guarantee ('CBG') of ₹140 crore to PGCIL. CBG was submitted on 28.1.2021 and it is valid upto 30.9.2026.
 - The delay in submission of CBG was due to the prevailing Covid situation and the PGCIL was informed about the same. However, PGCIL encashed the ABG of ₹2.8 crore on 22.1.2021.
 - As per the 2009 Connectivity Regulations, the ABG can be encashed by PGCIL only on withdrawal of the application or relinquishment of LTA. None of these requirements were fulfilled but PGCIL had encashed its ABG.
 - The Regulations do not contemplate invocation of ABG in case of delay in issuance of CBG and, therefore, invocation and encashment of ABG by the Respondent is contrary to the Regulations and is liable to be set aside by the Commission. She further submitted that GHAVP under implementation and huge financial and operational resources have been invested.. Accordingly, she prayed for restoration of LTA Agreement dated 31.7.2020 and direction to PGCIL to return ABG along with 18% interest.
4. The Commission admitted the petition and directed to issue notice to the Respondent. The Commission further directed the Petitioner to implead CTU as a Respondent and to file revise Memo of Parties and serve a copy of the petition on CTU by 29.11.2021.
5. The Commission further directed the Petitioner to provide the following information on affidavit, by 15.12.2021, with an advance copy to the Respondents:
- Application for LTA submitted to PGCIL.
 - Intimation of grant of LTA issued by PGCIL.
 - Copy of signed TSA under Central Electricity Regulatory Commission (Sharing of Inter-state transmission charges and losses) Regulations, 2010.
6. The Commission directed the Respondents to file their reply by 15.12.2021 on affidavit with a copy to the Petitioner and the Petitioner to file rejoinder, if any, by 30.12.2021. The Commission further directed the parties to comply with the directions within the timeline specified and observed that no extension of time will be granted.
7. The Petition shall be listed for hearing in due course for which a separate notice will be issued.

By order of the Commission

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(V. Sreenivas)
Deputy Chief (Law)

