

**CENTRAL ELECTRICITY REGULATORY COMMISSION
New Delhi**

Petition No. 212/MP/2019

Subject : Petition under Section 79 of the Electricity Act, 2003 read with Power Supply Agreement dated 18.2.2016 executed between Sembcorp Energy India Limited and the discoms for release of amounts arbitrarily and wrongfully withheld by Respondents from fuel charges legally payable to Sembcorp Energy India Limited

Petitioner : Sembcorp Energy India Limited

Respondents : Southern Power Distribution Company of Telangana & 2 ors

Date of Hearing : **13.7.2021**

Coram : Shri P.K. Pujari, Chairperson
Shri I.S. Jha, Member
Shri Arun Goyal, Member
Shri Pravas Kumar Singh, Member

Parties Present : Shri Vishrov Mukherjee Advocate, SEIL
Shri Ameya Vikram Mishra, Advocate, SEIL
Shri Milind Nigudkar, SEIL
Shri Pankaj Kapoor, SEIL
Shri Anand Ganesan, Advocate, Telangana Discoms
Shri Damodar Solanki, Advocate, Telangana Discoms
Shri D.N Sharma, Telangana Discoms

Record of Proceedings

Case was called out for virtual hearing.

2. During the hearing, the learned counsel for the Respondent, Telangana Discoms referred to the various provisions of PSA dated 18.2.2016 and argued that there is no merit in the prayer of the Petitioner. The learned counsel submitted that the principles of Section 70 of the Indian Contract Act, 1872 (unjust enrichment) and the principle of estoppel have no application in cases where sale and purchase of electricity is guided by contract entered into by the parties (*judgments of the Hon'ble Supreme Court in MTNL v TCL (2019) 5 SCC 341 and APTRANSCO v Sai Renewable Power (2011) 11 SCC 34* were referred to). He also contended that as per settled principles of law, the Petitioner cannot be permitted to take advantage of its own wrong to gain a favourable interpretation of law (*judgment of the Hon'ble Supreme Court in K.P.Singh v State of Bihar & ors (2007) 11 SCC 447* was referred to). The learned counsel, however, sought permission to file written submissions in the matter.

3. The learned counsel for the Petitioner clarified that the Respondents have, based on the fuel mix proposed by the Petitioner, accepted the supply of power by issuing dispatch instructions. He, accordingly, submitted that the Respondents having benefitted from the said supply of power cannot withhold any payments to the



Petitioner. The learned counsel, however, prayed for time to file its response to the written submissions of the Respondents.

4. The Commission after hearing the parties, directed the Respondents to file their written submissions along with the judgments relied upon, by 30.7.2021 and serve copy of the same to the Petitioner, who shall file its response, on or before 9.8.2021.

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

By order of the Commission

Sd/-
(B. Sreekumar)
Joint Chief (Law)

