

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No.** : **92/MP/2018 Along with I.A No. 15/2018**

**Subject** : Petition seeking direction to Respondent No. 1 to pay a sum of Rs. 112.39 crore, being the financial loss suffered by the Petitioner, on account of delay in commencement of the Long Term Access granted to the Petitioner, due to delay in implementation of the transmission system falling in the scope of respondent No. 1's obligations, alongwith interest on the same till the date of payment of the amount by respondent No. 1 to the Petitioner. (Interlocutory application for referring the disputes to Arbitration).

**Date of Hearing** : 25.6.2021

**Coram** : Shri P. K. Pujari, Chairperson  
Shri Pravas Kumar Singh, Member

**Petitioner** : Shiga Energy Pvt. Ltd (SEPL)

**Respondents** : Power Grid Corporation of India Limited (PGCIL) & Anr.

**Parties present** : Shri Deepank Yadav, Advocate SEPL  
Shri Bimal Aggarwal, Advocate, SEPL  
Shri Vijay Kumar, Advocate, SEPL  
Ms. Suparna Srivastava, Advocate, PGCIL  
Shri Tushar Mathur, Advocate, PGCIL  
Ms. Soumya Singh, Advocate, PGCIL  
Shri Mohd. Shahzeb, Advocate, PGCIL  
Shri Raghvendra Kumar, Advocate, State of Sikkim

**Record of Proceedings**

The matter was called out for virtual hearing

2. The learned counsel for the Petitioner submitted that the instant petition has been filed for compensation of Rs.112.39 crore from PGCIL or in the alternative from Government of Sikkim towards the financial loss suffered by the Petitioner, on account of delay in commencement of the Long Term Access (LTA) granted to the Petitioner due to delay in implementation of the transmission system falling under the scope of PGCIL. He further submitted that in order to prove its claim for the losses and damages incurred/ caused to the Petitioner due to delay in implementing the transmission system for the Tashiding Hydro Electric Project (THEP) of the Petitioner, oral and documentary evidence are required in the instant case. Accordingly, the Petitioner has filed an Interlocutory Application No.15/IA/2018 for referring the present dispute to arbitration under Section 79(1)(f) read with Section 158 of the Electricity Act, 2003. He submitted that the Government of Sikkim has



been made a party to the instant proceedings and reply and rejoinder by the parties have also been filed. Therefore, the pleadings are complete.

3. The learned counsel for PGCIL submitted that the issues raised in the instant petition are of civil nature and all the documents including the correspondences between the parties are admitted documents. She further requested the Commission to examine whether it is a fit case to be referred for arbitration and also sought time to file its reply to the I.A. She submitted that the Government of Sikkim entered into a Memorandum of Understanding (MoU) with PGCIL on 22.4.2014, for implementing its portion of the comprehensive Transmission Strengthening Scheme approved by the Government of India. She further submitted that PGCIL is the "Project Management Consultant" and, therefore, it is acting as the "agent" of the Government of Sikkim. The said implementation was to be done with funds being directly released to PGCIL by the Government of India to meet the actual cost of the project along with consultancy fee @12% of actual executed cost of the project. The Petitioner was always aware that the Legship-New Melli transmission assets were being implemented by PGCIL as per the MoU dated 22.4.2015 entered into between PGCIL and the Government of Sikkim. She submitted that as PGCIL is only acting as an agent of the Government of Sikkim, the Petitioner cannot raise a claim against PGCIL towards compensation for alleged losses suffered by it on account of any delays and breaches in implementing the said transmission assets.

4. In response to the query of the Commission regarding the basis on which PGCIL is being made liable for the losses/ damages by the Petitioner, the learned counsel for the Petitioner by placing reliance on LTA Agreement dated 19.10.2011 entered into between the Petitioner and PGCIL and the extracts of minutes of meeting dated 25.5.2015 submitted that it was the obligation of PGCIL to complete the implementation of the transmission system falling under its scope. In response, the learned counsel for PGCIL by placing reliance on letter dated 7.4.2015 submitted that the Petitioner was well aware since the grant of LTA that the Legship-New Melli transmission assets were being implemented by PGCIL as per the MoU dated 22.4.2015 entered into between PGCIL and the Government of Sikkim. It was the responsibility of the Government of Sikkim to implement the transmission system and PGCIL was only acting as an agent of Government of Sikkim.

5. The Commission directed the Respondents to file their reply on I.A No.15/2018 on affidavit by 12.7.2021 with an advance copy to the Petitioner, who may file its rejoinder, if any, by 23.7.2021 and reserved the order on I.A. The Commission further directed the parties to comply with the directions within the timeline specified and observed that no extension of time shall be granted.

6. If required, Petition No. 92/MP/2018 will be listed in due course for which separate notice will be issued.

**By order of the Commission**

sd/-  
(V. Sreenivas)  
Deputy Chief (Law)

