

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Review Petition No. 24/RP/2020
in
Petition No. 367/MP/2019**

**Coram:
Shri P.K. Pujari, Chairperson
Shri I.S. Jha, Member
Shri Arun Goyal, Member**

Date of order: 28th February, 2022

In the matter of

Review 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 on behalf of West Bengal State Electricity Distribution Company Limited seeking review of Order/directions dated 30.6.2020 passed by this Commission in Petition No. 367/MP/2019 recorded in the ROP for the hearing on 30.6.2020.

**And
In the matter of**

West Bengal State Electricity Distribution Company Limited,
Vidyut Bhawan, 7th Floor, DJ Block, Sec-II Slat Lake,
Kolkata-700 091

....Review Petitioner

Vs.

Adhunik Power and Natural Resources Limited,
9B, 9th Floor, Hansalaya Building,
15 Barakhamba Road, Connaught Place,
New Delhi-110 001

....Respondent

Parties Present:

Shri Vishrov Mukerjee, Advocate, WBSEDCL
Shri Janmali Manikala, Advocate, WBSEDCL
Shri Yashasvi Kant, Advocate, WBSEDCL
Shri Damodar Solanki, Advocate, WBSEDCL
Ms. Priyanka Vyas, Advocate, WBSEDCL
Shri Deepak Khurana, Advocate, APNRL
Shri Ashwini Kumar Tak Advocate, APNRL



ORDER

The Review Petitioner, West Bengal State Electricity Distribution Company Limited ('WBSEDCL') has filed the present Review Petition seeking review of the Record of Proceedings for the hearing dated 30.6.2020 in Petition No. 367/MP/2019 under Regulation 103 of of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999.

2. Adhunik Power and Natural Resources Limited ('APNRL') has filed Petition No. 367/MP/2019 seeking execution of order dated 30.4.2019 read with Corrigendum dated 29.5.2019 in Petition No. 255/MP/2017 and initiation of proceedings under Section 142 read with Section 149 of the Electricity Act, 2003 (hereinafter referred to as "the Act"), against WBSEDCL for non-compliance of the order dated 30.4.2019 read with Corrigendum dated 29.5.2019 along with the following prayers:

"(a) Direct the Respondents to comply with the Order dated 30.4.2019 read with corrigendum dated 29.5.2019 passed in Petition No. 255/MP/2017 and to forthwith pay the pending amounts to the Petitioner as detailed in the present Petition i.e., an amount of Rs. 111.72 Crores (for power supplied during the period July, 2013 to July 2019) and further to continue to pay the Supplementary Invoices towards Change In Law being raised by the petitioner;

(b) Initiate appropriate action against the Respondents, jointly and severally under Section 142 of the Electricity Act,2003 and/or any other appropriate provision/s of the Electricity Act,2003 for contravention and disobedience of the directions issued by the Commission in Order dated 30.4.2019 read with corrigendum dated 29.5.2019 passed in Petition No. 255/MP/2017;

(c) Issue appropriate directions of the Order dated 30.4.2019 read with corrigendum dated 29.5.2019 passed in Petition No. 255/MP/2017."

3. The said Petition was heard on 30.6.2020 through video conferencing. After hearing the learned counsels for the parties, vide Record of Proceedings for the hearing dated 30.6.2020, WBSEDCL was directed to pay Rs. 40 crore to APNRL



towards outstanding Change in Law claims raised pursuant to the order of the Commission dated 30.4.2019 read with Corrigendum dated 29.5.2019 in Petition No. 255/MP/2017. The relevant extract of Record of Proceedings for the hearing dated 30.6.2020 is extracted as under:

“4. After hearing the learned senior counsel for the Petitioner and the learned counsel for the Respondent, WBSEDCL, the Commission observed that vide RoP for the hearing dated 21.5.2020, the Commission had expressed that the entire claims of the Petitioner ought not to be held up pending assessment/verification by WBSEDCL and had accordingly directed WBSEDCL to indicate the amount it was willing to pay to the Petitioner. WBSEDCL indicated its willingness to pay Rs. 10 crore to the Petitioner against the outstanding dues of Rs. 138.56 crore (upto April, 2020). The Commission found the offer of WBSEDCL to pay Rs. 10 crore totally inadequate considering that the liability to pay the dues had arisen much before the current Covid-19 pandemic. The Commission directed WBSEDCL to pay Rs. 40 crore to the Petitioner towards Change in Law claims raised pursuant to the Commission’s order dated 30.4.2019 read with corrigendum dated 29.5.2019, on or before 10.7.2020. Taking into account WBSEDCL’s apprehensions over the computation of claims, the Commission clarified that pursuant to the reconciliation/verification, if the claims of the Petitioner work out to less than Rs. 40 crore, the Petitioner will return the excess amount paid by WBSEDCL along with interest at the rate of 1.50% per month. Learned senior counsel for the Petitioner agreed to the said proposition.”

4. Aggrieved by the aforesaid direction, Review Petitioner, WBSEDCL has filed the present Review Petition seeking limited review of the Record of Proceedings for the hearing dated 30.6.2020. The Review Petitioner has made the following prayers:

*“(a) Admit the present Review Petition;
(b) Review/modify the Order dated 30.6.2020 in Petition No. 367/MP/2019 in terms of the submissions made in the present Review Petition and set aside the direction of payment of Rs. 40 crores to APNRL; and
(c) Pass such other order(s) as the Commission may deem fit and proper in the facts and circumstances of the case.”*

5. The present Review Petition along with Petition No. 367/MP/2019 was listed for hearing on 24.2.2022 through video conferencing. During the course of hearing, learned counsel for the Respondent, APNRL submitted that the discussions between the parties to amicably resolve the issues are on-going and that further meeting/discussion in this regard has been scheduled for 24.2.2022 also. Accordingly, learned counsel requested to adjourn the matters. Learned counsel for the Review



Petitioner confirmed the submissions made by the learned counsel for the Respondent.

6. The Commission observed that the Review Petitioner, WBSEDCL has filed the present Review Petition against the Record of Proceedings for the hearing dated 30.6.2020 in Petition No. 367/MP/2019 directing the Review Petitioner, WBSEDCL to pay an interim amount towards Change in Law claims of the Respondent, APNRL arising out of the Commission's order dated 30.4.2019 read with Corrigendum dated 29.5.2019 in Petition No. 255/MP/2017. The Commission also observed that since the parties are in discussions to amicably resolve the issues and the Petition No. 367/MP/2019 is already pending, no purpose will be served to keep the present Review Petition pending.

7. Accordingly, the Review Petition is disposed of, with consent of the learned counsels for both the sides, without prejudice to either party and with liberty to raise all issues in Petition No. 367/MP/2019.

8. The Review Petition No. 24/RP/2020 is disposed of in terms of the above.

Sd/-
(Arun Goyal)
Member

sd/-
(I.S. Jha)
Member

sd/-
(P.K. Pujari)
Chairperson

