

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 225/MP/2022

Subject : Petition under Section 79(1)(a) of the Electricity Act, 2003 read with Regulations 76 and 77 of the CERC (Terms and Conditions of Tariff) Regulations, 2019 praying for declaration of deemed availability for the period from 10.5.2021 to 22.6.2021 in respect of Rihand Super Thermal Power Station Stage-II (1000 MW).

Petitioner : NTPC Limited

Respondents : TPDDL and 10 others

Date of Hearing : **2.5.2023**

Coram : Shri Jishnu Barua, Chairperson
Shri I.S. Jha, Member
Shri Arun Goyal, Member
Shri Pravas Kumar Singh, Member

Parties Present : Shri Venkatesh, Advocate, NTPC
Shri Shivam Kumar, Advocate, NTPC
Shri Parimal Piyush, NTPC
Shri Siddhant Pradhan, NTPC
Shri Rahul Kinra, Advocate, BRPL and BYPL
Shri Aditya Ajay, Advocate, BRPL and BYPL
Shri Prithu Chawla, Advocate, BRPL and BYPL
Shri Sameer Singh, BYPL

Record of Proceedings

During the hearing, the learned counsel for the Petitioner made detailed oral submissions in support of the prayer for declaration of deemed availability for the period from 10.5.2021 to 22.6.2021. He also submitted that on account of the outbreak of Covid-19 pandemic (2nd wave) and other related developments, particularly the difficulties in oxygen supply due to ban by MHA, GOI, the planned repair works were delayed and the unit was made operational only on 23.6.2021, thereby resulting in a total delay of 44 days (22 days i.e. 10.5.2021 to 31.5.2021 in low demand season 22 days i.e. 1.6.2021 to 22.6.2021 in high demand season). The learned counsel added that since the delay was beyond the control of the Petitioner, the reliefs prayed for may be granted.

2. The learned counsel for the Respondent BRPL & BYPL mainly submitted that the prayers sought for in the petition are not maintainable, since there is no provision for 'deemed availability' under the 2019 Tariff Regulations. He further submitted that the non-performance of the works by the contractor cannot be considered as a force majeure event, and the beneficiaries cannot be burdened on this count.



3. The Commission, after hearing the parties, reserved its order in the matter.

By order of the Commission

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

