

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.265/MP/2021

- Subject : Petition invoking Section 79(1)(c) and (f) of the Electricity Act, 2003 read with Regulation 111 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 seeking compensation/ relief for additional expenditure incurred by the Petitioner during the construction of the Project due to certain Change in Law and Force Majeure events, as per the applicable provisions of the Transmission Service Agreement dated 22.9.2015.
- Date of Hearing : **25.10.2023**
- Coram : Shri Jishnu Barua, Chairperson
Shri Arun Goyal, Member
Shri P. K. Singh, Member
- Petitioner : Alipurduar Transmission Limited (ATL).
- Respondents : South Bihar Power Distribution Co. Limited and 10 Ors.
- Parties Present : Ms. Poonam Verma Sengupta, Advocate, ATL
Ms. Gayatri Aryan, Advocate, ATL
Shri Arjun Pall, Advocate, Bihar Discoms
Ms. Divya Jhalani, Advocate, Bihar Discoms
Umang Anand, Bihar Discoms
Shri Vishrov Mukherjee, Advocate, WBSEDCL
Shri Janmali Manikala, Advocate, WBSEDCL
Shri Damodar Solanki, Advocate, WBSEDCL

Record of Proceedings

The learned counsel for the Petitioner submitted that the present Petition has been filed seeking compensation for the additional expenditure incurred by the Petitioner on account of a Change in Law and Force Majeure events. Learned counsel further submitted that the matter has already been argued at length by the parties on 12.7.2023 and subsequently, the Petitioner has also placed on record the additional documents/details as called for by way of an additional affidavit. Learned counsel submitted that in terms of the liberty granted by the Commission vide Record of Proceeding for the hearing dated 12.9.2023, the Respondents, Bihar Discoms have filed their joint reply wherein Bihar Discoms have mainly reiterated their submissions already covered during the course of arguments and the Petitioner has also filed its rejoinder thereof.

2. The learned counsel for the Respondent, WBSEDCL submitted that vide Record of Proceeding for the hearing dated 12.7.2023, the Petitioner was directed to file documents/information demonstrating that the increased compensation as sought by the Petitioner regarding Right of Way (RoW) has occurred under the order/direction of an Indian Government Instrumentality. The learned counsel submitted that the

documents placed on record by the Petitioner in terms thereof, namely, orders/ letters issued by the District Magistrate/District Judge do not contain any directions with respect to the payment of excess compensation or any compensation at all. The learned counsel further prayed for a short accommodation on the grounds of the non-availability of the arguing counsel due to personal difficulty.

3. The learned counsel for the Respondents, Bihar Discoms submitted that the Respondents are objecting to the maintainability of the Petition as well as the liability and the quantum of monetary reliefs sought in the present petition. The learned counsel pointed out that despite this Commission having refused to consider the delay in statutory approval, floods and resistance faced by landowners as force majeure events (plea of force majeure was accepted only to the extent of delay on account of injunctions/stay granted by the Courts) in the order dated 23.6.2023 in Petition No. 470/MP/2019, the quantum of the compensation claimed by the Petitioner in the present case has not been adjusted to reflect the findings of the Commission in the order dated 23.6.2023. Due to paucity of time, arguments of the learned counsel of Bihar Discoms could not be completed.

4. Keeping in view the request of the learned counsel for WBSEDCL and paucity of time, the Commission adjourned the matter.

5. The Petition shall be listed for hearing on **10.1.2024**.

By order of the Commission
Sd/-
(T.D. Pant)
Joint Chief (Law)