

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 269/MP/2018

Subject : Petition under Section 142 of the Electricity Act, 2003, for non-compliance of the Commission's direction dated 28.9.2017 in Petition No. 97/MP/2017.

Petitioner : Adani Power Limited (APL)

Respondents : Uttar Haryana Bijli Vitran Nigam Limited and Ors.

Date of Hearing : **10.4.2024**

Coram : Shri Jishnu Barua, Chairperson
Shri Arun Goyal, Member
Shri P. K. Singh, Member

Parties Present : Shri Amit Kapur, Advocate, APL
Ms. Poonam Verma Sengupta, Advocate, APL
Shri Saunak Rajguru, Advocate, APL
Shri Subham Bhut, Advocate, APL
Shri M. R. Krishna Rao, APL
Shri Kumar Gaurav, APL
Shri Akash Lamba, Advocate, MSEDCL
Ms. Ashima Gupta, Advocate, MSEDCL
Shri Bipin Gupta, Advocate, Rajasthan Discoms
Shri Paramhans Sahani, Advocate, Rajasthan Discoms

Record of Proceedings

At the outset, the learned counsel for Respondent, MSEDCL, sought liberty to file its additional affidavit in terms of the liberty granted by the Commission vide Record of Proceedings for the hearing dated 21.2.2024. Learned counsel prayed for an adjournment on the ground of non-availability of the arguing counsel.

2. Learned counsel for the Respondent, HPPC, also sought liberty to file its affidavit in terms of the liberty granted by the Commission vide Record of Proceedings for the hearing dated 21.2.2024. Learned counsel further submitted that the Respondent has already moved an application before the Hon'ble Supreme Court Diary No. 14202/2024, seeking an extension of time for deciding the present matter as indicated in the Judgment dated 20.4.2023 ('Remand Judgment'). Learned counsel further submitted that, despite the directives of the Commission, the Petitioner has failed to furnish the requisite information /details.

3. In response, learned counsel for the Petitioner, APL submitted that the Petitioner has already filed an affidavit dated 18.3.2024 in compliance with the Commission's directions, vide Record of Proceedings for the hearing dated 21.2.2024.

4. However, in response to the specific observation of the Commission that the Petitioner has not furnished the specific details relating to sea mode of transportation

as requisition under para 7(b) of the Record of Proceedings, learned counsel for the Petitioner submitted that in terms of the remand of the Hon'ble Supreme Court, the Commission is required to work out only the cost of saving in the railway transportation of linkage coal to the Petitioner (Adani Mundra) under the IPT Scheme and hence, the data/information related to other mode of transportation such road & sea may not be relevant. Learned counsel also added that the Respondent, HPPC, has failed to produce all the details / reply furnished by Railways on the records as Western Railways (WR) had specifically intimated to the Respondent, HPPC, that WR had not transported any linkage coal to Adani, Mundra Project at all and this intimation has not been produced on record by the Respondent.

5. In response, learned counsel for Respondent, HPPC, submitted that the interpretation of the Petitioner, APL, that in terms of the Remand Judgment, this Commission is required to only work out savings on account of the railway transportation is not proper. Learned counsel further referred to paragraph 32 of the Remand Judgment and submitted that in the said paragraph, it had been clearly stated that the actual cost of transportation needs to be factored in. Learned counsel, accordingly, stressed that the Commission has to work out the savings made by the Petitioner in the cost of transportation due to the IPT Scheme, which would include all modes of transportation and cannot be limited to Railways as contended by the Petitioner, APL. In the course of submission, it was submitted that they intend to move to The SC for clarification as well as for time extension.

6. Learned counsel for the Petitioner, APL, however, submitted that, as per the Petitioner, the Remand Judgment is quite clear, and the Commission is required to work out the cost of saving in the railway transportation only on account of the Change in Law, i.e. IPT Scheme. Learned counsel sought liberty to file responses to the affidavits to be filed/filed by the Respondents.

7. Learned counsel for the Rajasthan Discoms submitted that despite having transferred and consumed linkage coal to Kawai Plant in Rajasthan under the PPA, Adani Power had claimed the cost based on imported cost from Rajasthan Discoms. Learned counsel submitted that the said aspect was raised before the Rajasthan Electricity Regulatory Commission, and the matter is presently pending before APTEL.

8. In response, learned counsel for the Petitioner, APL, submitted that the Rajasthan Discoms, in their affidavit, have merely indicated that they have no say in the matter.

9. Considering the submissions made by the learned counsel for the parties, the Commission ordered as under:

(a) The Respondents, HPPC, and MSEDCL are to file their affidavit, as indicated, within a week with a copy to the Petitioner, who may file its response thereon, if any, within two weeks thereafter.

(b) The Petitioner is to file all the details/ information as called for vide Record of Proceedings for the hearing dated 21.2.2024, including the details/ information relating to sea mode of transportation, within three weeks.

(c) Respondent, HPPC, to apprise the status of the application before the Hon'ble Supreme Court for an extension of time for deciding the matter as well as clarification by The Hon'ble Supreme Court, , on the issue of savings due to transportation of coal.

10. The Petition will be listed for the hearing on **11.6.2024**.

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