

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 20/MP/2024**

**Coram:**

**Shri Jishnu Barua, Chairperson**

**Shri Harish Dudani, Member**

**Date of Order: 28<sup>th</sup> November, 2024**

**In the matter of**

Petition under Section 142 of the Electricity Act, 2003 read with Regulations 111, 113, and 119 of the Conduct of Business Regulations, 1999 for the execution of order dated 01.11.2019 read with order dated 27.01.2022 passed by this Hon'ble Commission and directions and initiation of appropriate action against the Respondent for non-compliance of the directions issued under order dated 01.11.2019 read with order dated 27.01.2022 in Petition No. 298/MP/2018.

**And**

**In the matter of**

Damodar Valley Corporation,  
DVC Headquarters, DVC Towers,  
VIP Road, Kolkata-700054

**...Petitioner**

**Vs**

West Bengal State Electricity Distribution Company Limited  
Vidyut Bhawan (5th Floor, 'B' Block) Salt Lake City,  
Block - DJ, Sector – II, Kolkata - 700091

**...Respondent**

**Parties Present:**

Shri Venkatesh, Advocate, DVC  
Shri Mr. Amit Kapur, Advocate, WBSEDCL  
Shri. Akshat Jain Advocate, WBSEDCL  
Ms. Surbhi Gupta, Advocate, WBSEDCL

**ORDER**

**Background**

Petition No. 298/MP/2018 was filed by the Petitioner, Damodar Valley Corporation ('DVC') seeking declaration that the Respondent, West Bengal State Electricity Distribution Company Limited ('WBSEDCL') was liable to pay Rs.111,74,47,434 crores towards principal



and delayed payment surcharge at the rate of 1.5% per month, as on 31.8.2019, and for further interest at the said rate, effective from 1.9.2018, till the full payment and discharge of all outstanding dues. The Commission, after holding that the claim of the Petitioner was not barred by limitation, allowed the prayers of the Petitioner, vide order dated 1.11.2019. Aggrieved by the said order dated 1.11.2019, the Respondent WBSEDCL filed Appeal No. 20/ 2020 before the Appellate Tribunal for Electricity (in short 'APTEL') mainly on the issue of 'limitation' not being addressed in the said order. Accordingly, APTEL, based on the consent of the parties, by order dated 13.3.2020, remanded the matter to the Commission for a fresh consideration of the issue of 'limitation', after hearing the parties. In compliance with the direction of APTEL, the Commission, after hearing the parties on the issue of limitation, disposed of the said petition, vide order dated 27.1.2022, holding that the petition filed by DVC, in terms of the prayers therein is within the period of limitation and the claims of DVC are not barred by limitation. Aggrieved by the order dated 27.1.2022, WBSEDCL has filed an appeal (Appeal No. 265/2023) before APTEL.

2. During the pendency of the aforesaid appeal, DVC filed the present Petition under Section 142 of the Electricity Act, 2003, seeking the following reliefs:

- (a) *Admit the Petition and enforce/execute the order dated 01.11.2019 read with order dated 27.01.2022;*
- (b) *Direct the Respondent WBSEDCL to comply with the order dated 01.11.2019 read with the order dated 27.01.2022 and pay the amount due along with Late Payment Surcharge till the date of discharge of the dues immediately;*
- (c) *Direct the Respondent WBSEDCL, and its Directors to disclose on affidavit the status of all the assets (owned, possessed, controlled etc.) by WBSEDCL to enable the Hon'ble Commission to pass further orders in this execution;*
- (d) *Initiate the proceedings against WBSEDCL under Section 142 of the Electricity Act, 2003 for non-compliance of the order dated 01.11.2019 read with order dated 27.01.2022;*

3. This Petition was admitted on 19.4.2024, and notice was issued to the Respondent with the direction of the Petitioner to file certain additional information and for the parties to



complete their pleadings in the matter. In response, the Petitioner has filed the affidavit placing on record the additional information sought.

**Hearing dated 22.11.2024**

4. During the hearing of the Petition, the learned counsel for the Respondent, WBSEDCL, referred to the APTEL interim order dated 19.11.2024 in IA No. 977/2024 (in Appeal No.253/2023) and submitted that APTEL had stayed the operation of the Commission's order dated 27.1.2022 (in Petition No.298/MP/2018). The relevant portion of the APTEL's order is extracted below:

*“For reasons afore-mentioned, we direct interim stay of operation of the order of the CERC dated 27.01.2022, and direct the 2nd Respondent herein not to take coercive steps for recovery of the amounts claimed by them for the period June, 2014 to May, 2015, since we are prima facie of the view that the said claims are barred by limitation.”*

5. The learned counsel for the Petitioner DVC submitted that in the light of the APTEL's interim order dated 19.11.2024, the Commission may adjourn the hearing of this petition *sine die*. However, on a specific query by the Commission as to why the present Petition should be kept pending, in the light of the APTEL's interim order above, the learned counsel submitted that the Commission may permit the Petitioner DVC to withdraw the present petition, with liberty to approach the Commission based on the final decision of APTEL in the said appeal. He also prayed for adjustment of the filing fees paid against the petition to be filed in terms of the liberty granted.

6. In view of the above submissions, the Petitioner is permitted to withdraw the present Petition. However, liberty is granted to the Petitioner to approach the Commission with an appropriate petition based on the final decision of APTEL in Appeal No.265/2023. The filing fees deposited in respect of this petition shall be adjusted against the petition to be filed by the Petitioner in terms of the liberty granted.



7. Petition No. 20/MP/2024 stands disposed of as withdrawn in terms of the above.

**Sd/-**  
**(Harish Dudani)**  
**Member**

**Sd/-**  
**(Jishnu Barua)**  
**Chairperson**

