

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 265/MP/2023

Coram:

Shri Jishnu Barua, Chairperson

Shri Ramesh Babu V., Member

Shri Harish Dudani, Member

Date of Order: 14th November, 2024

In the matter of

Petition under Section 79(1)(f) of the Electricity Act, 2003 read with Article 12.4 of the PPA executed between the NTPC Vidyut Vyapar Nigam Limited and Bangladesh Power Development Board, under back-to-back basis with DVC pursuant to PSA dated 6.9.2018 entered between DVC and NNVN for supply of 300 MW of power from DVC's generating stations to BPDB.

And

In the matter of

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

...Petitioner

Vs

1. NTPC Vidyut Vyapar Nigam Limited
Core-7, NTPC Bhawan, SCOPE Complex,
7 Institutional Area, Lodi Road, New Delhi-110003

2. Bangladesh Power Development Board,
WAPDA Building, 1st Floor, Motijheel Commercial Area,
Dakha-1000, Bangladesh

...Respondents

Parties Present:

Shri Venkatesh, Advocate, DVC
Shri Ashutosh Shrivastav, Advocate, DVC
Shri. Nihal Bhardwaj, Advocate, DVC
Shri. Kartikeya Trivedi, Advocate, DVC
Shri Harsh Vardhan, Advocate, DVC
Shri Shivam Kumar, Advocate, DVC
Shri Kshitij Pandey, Advocate, DVC
Shri Adarsh Tripathi, Advocate, NNVN
Shri Ajitesh Garg, Advocate, NNVN



ORDER

The Petitioner, Damodar Valley Corporation (DVC), has filed the present Petition under Section 79(1)(f) of the Electricity Act, 2003, mainly seeking the following reliefs:

- (a) *Allow the present Petition;*
- (b) *Declare the directions issued by Ministry of Power to DVC for procurement of imported coal as a change in law event;*
- (c) *Direct NVVN/BPDB to reimburse the additional expenditure incurred by DVC in procurement of imported coal as specified at Paras 8.5 to 8.17 of the present Petition for supply of 300MW power;*
- (d) *Declare the MoEF&CC Notifications dated 25.01.2016 read with Notification dated 31.12.2021 regarding fly ash transportation as a change in law event;*
- (e) *Direct NVVN/BPDB to reimburse the additional expenditure incurred by DVC to comply with MoEF&CC Notifications dated 25.01.2016 read with Notification dated 31.12.2021 as specified at Para 8.18 to 8.25 of the present Petition for supply of 300MW power;*
- (f) *Allow DVC to recover the fly ash transportation charges on a monthly basis with annual reconciliation;*
- (g) *Declare the MoEF&CC Notification dated 07.12.2015 read with Notification dated 05.09.2022 mandating installation of Emission Control System as a change in law event;*
- (h) *Allow DVC to recover supplementary charge based on weighted average pool rate of supplementary charges for all the thermal power plants of DVC to the extent of pooled thermal generation of power supplied to NVVN/BPDB.;*

2. A Power Supply Agreement (PSA) has been executed between NTPC Vidyut Vyapar Nigam Limited (NVVN) and Bangladesh Power Development Board (BPDB) on a back-to-back basis on 26.9.2018, pursuant to the Power Purchase Agreement (PPA) dated 6.9.2018 executed between DVC and NVVN for the supply of 300 MW of power from DVC's generating stations to BPDB. Accordingly, DVC has sought the declaration of the events viz. directions to DVC for procurement and blending of imported coal; MoEF&CC Notifications dated 25.1.2016 read with 31.12.2021 mandating 100% ash disposal; and MoEF&CC Notification dated 7.12.2015, whereby the revised emission norms have been specified, as change in law events and for the reimbursement of the additional capital expenditure for the same from NVVN/BPDB.



Hearing dated 19.1.2024

3. During the hearing on 'admission,' on 19.1.2024, the Commission, after hearing the learned counsel for the Petitioner, admitted the Petition and directed to issue notice to the Respondents. The Commission also directed the parties to complete their pleadings in the matter. In compliance with the said direction, the Respondent NVVN has filed its reply.

Hearing dated 30.9.2024

4. During the hearing on 30.9.2024, the learned counsel for the Petitioner submitted that due to certain developments in the matter, it may be permitted to 'withdraw' the present Petition. Accordingly, the Commission, accepted the submissions and reserved its order in the matter.

5. However, prior to the issuance of the order, the Petitioner, vide affidavit dated 22.10.2024, has submitted the following:

"1. That the present matter was listed for hearing before this Hon'ble Commission on 30.09.2024.

2. During the course of the hearing, on account of communication gap, an inadvertent statement to withdraw the captioned Petition was made on behalf of DVC. However, upon review and clarification, it is submitted that the intent of the DVC was not to withdraw the matter, but rather to continue with the proceedings.

3. It is humbly submitted that the statement made was inadvertent and on account of miscommunication of the instructions, and we respectfully submit that the same was a result of bona fide misunderstanding of DVC's instructions.

4. In light of the above, DVC respectfully submits that the matter may kindly not be treated as withdrawn, and the proceedings may be allowed to continue to ensure the completion of pleadings.

5. Thus, it is most respectfully prayed that this Hon'ble Commission may kindly list the matter at the earliest convenient date to enable the parties to complete the pleadings and advance their arguments."

6. In view of the above, the affidavit is taken on record and the prayer of the Petitioner not to treat the Petition 'as withdrawn' and to continue with the proceedings, is allowed.



7. Accordingly, the Registry is directed to list the Petition for hearing on **5.12.2024**.

Sd/-
(Harish Dudani)
Member

Sd/-
(Ramesh Babu V.)
Member

Sd/-
(Jishnu Barua)
Chairperson

