

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 71/MP/2023

Subject : Petition under Section 79(1)(f) of the Electricity Act, 2003, seeking relief on account of Force Majeure and Change in Law events under the Power Purchase Agreements dated 22.12.2021 and 24.12.2021 executed between the Petitioner and Respondent No. 1 and Respondent No. 2 respectively.

Petitioner : MB Power (Madhya Pradesh) Limited (MBPMPL)

Respondents : PTC India Limited and Anr.

Date of Hearing : **11.2.2025**

Coram : Shri Jishnu Barua, Chairperson
Shri Ramesh Babu V., Member
Shri Harish Dudani, Member

Parties Present : Shri Amit Kapur, Advocate, MBPMPL
Shri Akshat Jain, Advocate, MBPMPL
Shri Shikhar Verma, Advocate, MBPMPL
Shri Krishan S Rana, Advocate, MBPMPL
Shri Ravi Kishore, Advocate, PTCIL
Ms. Anlin Francis, Advocate, PTCIL
Ms. Deepa Chawan, Senior Advocate, TPL
Ms. Swapna Seshadri, Advocate, TPL
Ms. Reshamarani, Advocate, TPL
Ms. Harsha V Rao, Advocate, TPL
Ms. Luna Pal, TPL

Record of Proceedings

Learned counsel for the Petitioner submitted that since the primary prayer(s) of the Petitioner contests the validity of the Power Purchase Agreement dated 24.12.2021, the matter needs to be referred to the arbitration in terms of the judgment of the APTEL dated 28.8.2024 in Appeal No. 308 of 2019 in the matter of MPPMCL v. DVC and Anr., which has also been upheld by the Hon'ble Supreme Court. Learned counsel further placed the emphasis on paragraphs 22, 24, 25 & 26 of the said judgment.

2. In response, the learned senior counsel for the Respondent, TPL, submitted that there is no arbitration agreement between the Petitioner and TPL, and in the absence thereof, no reference can be made to the arbitrator. Learned senior counsel further submitted that while there is an arbitration clause in the agreement entered into between the Respondents, TPL, and PTCIL, PTCIL has entered into the said agreement in the capacity of a merchant trader. She pointed out that the various prayers made by the Petitioner are only in respect of the Agreement as entered into by the Petitioner with PTCIL. Learned senior counsel added that since this issue has been raised by the Petitioner for the first time, the Respondent may be granted another opportunity for an oral hearing to make the detailed submissions on the above aspect.

3. Considering the above, the Commission adjourned the matter. The Commission directed both sides to file their brief note of arguments on the aspect of arbitrability of the dispute(s) involved at least a week before the next date of hearing.
4. The matter will be listed for hearing on **8.4.2025**.

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