

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 378/MP/2023

Subject : Petition under Section 79(1)(f) of the Electricity Act, 2003 for adjudication of disputes on the issue of wrongful deduction of compensation towards alleged non-supply and non-submission of contract performance bank guarantee.

Petitioner : Manikaran Power Limited

Respondents : MSEDCL and 2 others

Date of Hearing : **16.4.2026**

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

Corrigendum to RoP for the hearing dated 16.4.2026

For paragraph 3, the following paragraphs shall be substituted:

“3. The learned senior counsel for the Respondent, MSEDCL, submitted that the present Petition pertains to the adjudication of alleged wrongful deduction of compensation on account of non-supply or insufficient supply under a concluded contract. The learned senior counsel, while advancing arguments on merits, submitted as under:

- a) Clause 15.4 presupposes submission of the Contract Performance Guarantee (CPG), and, therefore, would not apply in cases where the Petitioner failed to furnish the CPG. Further, Clause 23 is inapplicable to cases of complete non-supply.*
- b) Clause 23, dealing with liquidated damages, is confined to deviation in scheduled energy beyond the permissible threshold and does not extend to instances of total non-supply or stoppage of power. Accordingly, liability cannot be restricted under the said clause, and in the absence of a specific contractual stipulation, MSEDCL is entitled to recover unliquidated damages, computed on the basis of the differential cost incurred in procuring alternative power.*
- c) As per the settled position in earlier orders of the Commission, different breaches attract distinct consequences, i.e., non-acceptance of Letter of Intent (LoI) results in forfeiture of EMD; non-performance of contractual obligations attracts forfeiture of CPG; and deviation in scheduled energy is governed by Clause 23. In this context, it was contended that the LoI under*



ET-58 for the period 1.10.2018 to 15.10.2018 was duly accepted by the Petitioner, resulting in a concluded contract. Despite such acceptance, the Petitioner failed to arrange for supply and permitted the diversion of power to the exchange, thereby compelling MSEDCL to procure power at higher rates, resulting in financial losses and load shedding.

- d) *Reliance was also placed on the Doctrine of sub silentio, with reference to the judgment of the Hon'ble Supreme Court in Odisha State Financial Corporation v. Vigyan Chemical Industries (2025). Further, various clauses of the tender document were relied upon, including Clauses 6.2.3, 15.3, 15.4 and Clause 23.*
- e) *In the absence of any specific contractual provision governing such non-supply, MSEDCL is entitled to recover damages corresponding to the actual losses incurred, and such recovery cannot be limited to the liquidated damages under Clause 23.”*

2. Except for the above, all other terms contained in RoP dated 16.4.2026 in Petition No. 378/MP/2023 shall remain unchanged.

By order of the Commission

**Sd/-
(T.D. Pant)
Joint Chief (Law)**

