

Record of proceedings dated 21.08.2023

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
O. P. No. 72 of 2022	M/s. Sunshakti Solar Power Projects Private Limited	TSNPDCL & its officer

Petition filed seeking extension of SCOD and consequential reliefs.

Ms. Meghana Sarma, Advocate representing Sri. P. Soma Shekar Reddy, counsel for petitioner and Sri. Mohammad Bande Ali, Law Attachee for respondents are present. The advocate representing the counsel for petitioner stated that a similar matter in which appeal has been filed before the Hon'ble ATE and the same is pending consideration, in view of the above, this matter may be adjourned to a longer date. The representative of the respondents has no objection for adjourning the same. In view of the request of the advocate representing the counsel for petitioner, the matter is adjourned.

Call on 20.11.2023 at 11.30 AM.

Sd/-
Member

Sd/-
Member

Sd/-
Chairman

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
O. P. No. 74 of 2022	M/s. Dinkar Technologies Private Limited	TSSPDCL

Petition filed seeking extension of SCOD and consequential reliefs.

Ms. Meghana Sarma, Advocate representing Sri. P. Soma Shekar Reddy, counsel for petitioner and Sri. Mohammad Bande Ali, Law Attachee for respondents are present. The advocate representing the counsel for petitioner stated that a similar matter in which appeal has been filed before the Hon'ble ATE and the same is pending consideration, in view of the above, this matter may be adjourned to a longer date. The representative of the respondents has no objection for adjourning the same. In view of the request of the advocate representing the counsel for petitioner, the matter is adjourned.

Call on 20.11.2023 at 11.30 AM.

Sd/-
Member

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Member

Sd/-
Chairman

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
R. P. No. 2 of 2023 in O. P. No. 61 of 2018	M/s. Sarvotham Care	TSTRANSCO & TSSPDCL

Review Petition filed seeking review of the impugned order dated 11.06.2023 passed by the Commission in O. P. No. 61 of 2018 to the extent of not granting consequential relief in compensating the petitioner on account of power fed into grid during the delayed period i.e., from 30.11.2015 to 13.01.2016 as confirmed by the Commission.

Sri. Challa Gunaranjan, counsel for review petitioner and Sri. Mohammad Bande Ali, Law Attachee for respondents are present. The counsel for review petitioner stated that the review petition is filed against the order dated 11.04.2023 in O. P. No. 61 of 2018 filed by the petitioner. This order has been passed by the Commission pursuant to and in compliance of the directions issued by the Hon'ble ATE in Appeal No. 260 of 2021 filed by the respondents. The Hon'ble ATE framed specific questions while disposing of the appeal and directed the Commission to decide the matter afresh limited to the questions framed therein.

The counsel for review petitioner started that aggrieved by the said order of the Commission, the review petitioner approached the Hon'ble High Court for suitable relief. The review petitioner filed W. P. No. 13739 of 2023 questioning the order passed by the Commission for the relief of granting consequential directions in the context of the findings rendered by the Commission which was not granted thereof. The Hon'ble High Court noticing that the order passed by the Commission is incomplete and gave liberty to the petitioner to approach the Commission itself by filing a review petition for grant of proper consequential relief as prayed for originally in the petition.

The counsel for review petitioner stated that the Commission had, while considering the original petition, granted the relief to the petitioner. The Hon'ble ATE while disposing of the appeal filed by the respondents herein had allowed the appeal by setting aside the original order of the Commission dated 02.01.2019. Therefore, the Commission is required to pass a consequential order further to the finding in respect of the points of issue required to be considered as per the observations of the Hon'ble ATE. Suffice it to state that the Commission had already considered the relief insofar as the points of issue placed by the Hon'ble ATE for consideration in

favour of the petitioner. Thus, the main aspect would be to grant consequential relief towards the energy injected into the grid for the relevant period.

The counsel for petitioner pointed out that insofar as unjust enrichment is concerned, submissions were already made by relying on section 70 of the Contract Act, 1872. At the same time, the petitioner had not pressed for any finding as to the applicability of the regulation prospectively or retrospectively, as it had no bearing on the facts and circumstances of the case owing to the reason that the petitioner had established the project based on the policy enunciated by the government, which provided for the benefit of solar energy injected into the grid to be banked or paid for. In those circumstances, the review petitioner is entitled to the consequential relief apart from the finding rendered in the order dated 11.04.2023 insofar as payment of amount or any arrangement is made in respect of the energy injected into the grid by the review petition.

The representative of the respondents stated that the Hon'ble ATE remanded the matter to the Commission on specific issues and the Commission had rightly appreciated the issues and decided the matter on 11.04.2023. The Commission considered all the aspects including the policy of 2015 under which the relief is sought for. The respondents had suffered losses at the hands of the generator owing to injection of unwanted infirm power resulting payment of fixed cost to the large generators, having the effect of backing down them. Also, system charges have been incurred owing to deviations in draws of power.

The representative of the respondents also stated that the review petitioner ought to have approached the Hon'ble ATE if it was not satisfied with the order of the Commission. Instead, it had filed writ petition before the Hon'ble High Court. Invoking of the jurisdiction of the Hon'ble High Court which is neither appropriate nor relevant in the context of the matter having been remanded by the Hon'ble ATE. It is appropriate to state that the order passed by the Commission would be well appreciated by the Hon'ble ATE and the review petitioner has not chosen to approach the Hon'ble ATE.

The representative of the respondents stated that the Commission has rightly complied with the directions of the Hon'ble ATE to the extent the matter has been

remanded to the Commission. In the absence of any observations as regards consequential relief based on the findings towards the points in issue as specified by the Hon'ble ATE, the Commission could not have proceeded to pass any further order. Therefore, the order passed by the Commission is in accordance with the orders of the Hon'ble ATE and there is no case for review of the said order.

The counsel for review petitioner sought to emphasize that the Commission, while complying with the directions of the Hon'ble ATE, did rule in favour of the petitioner but the consequential orders have not been considered. As such, the review petitioner has no option but to approach the Hon'ble High Court to seek consequential directions to the respondents. The Hon'ble High Court, after appreciating the situation, had considered the relief of requiring the petitioner to approach the Commission itself under the review. Thus, the review petitioner seeks to review of the order dated 11.04.2023 passed in compliance of the directions of the Hon'ble ATE.

Having heard the submissions of the parties, the matter is reserved for orders.

Sd/-
Member

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Member

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Chairman

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
R. P. No. 3 of 2023 in O. P. No. 46 of 2018	M/s. Medak Solar Power Projects Private Limited	TSTRANSCO & TSSPDCL

Petition filed Seeking review of the impugned order dated 11.06.2023 passed by the Commission in O. P. No. 46 of 2018 to the extent of not granting consequential relief in compensating the petitioner on account of power fed into grid during the delayed period i.e., from 31.12.2016 to 19.04.2017 as confirmed by the Commission.

Sri. Challa Gunaranjan, counsel for review petitioner and Sri. Mohammad Bande Ali, Law Attachee for respondents are present. The counsel for review petitioner stated that the review petition is filed against the order dated 11.04.2023 in O. P. No. 46 of 2018 filed by the petitioner. This order has been passed by the Commission pursuant to and in compliance of the directions issued by the Hon'ble ATE in Appeal No. 268 of 2021 filed by the respondents. The Hon'ble ATE framed specific

questions while disposing of the appeal and directed the Commission to decide the matter afresh limited to the questions framed therein.

The counsel for review petitioner started that aggrieved by the said order of the Commission, the review petitioner approached the Hon'ble High Court for suitable relief. The review petitioner filed W. P. No. 13778 of 2023 questioning the order passed by the Commission for the relief of granting consequential directions in the context of the findings rendered by the Commission which was not granted thereof. The Hon'ble High Court noticing that the order passed by the Commission is incomplete gave liberty to the petitioner to approach the Commission itself by filing a review petition for grant of proper consequential relief as prayed for originally in the petition.

The counsel for review petitioner stated that the Commission had, while considering the original petition, granted the relief to the petitioner. The Hon'ble ATE while disposing of the appeal filed by the respondents herein had allowed the appeal by setting aside the original order of the Commission dated 02.01.2019. Therefore, the Commission is required to pass a consequential order further to the finding in respect of the points of issue required to be considered as per the observations of the Hon'ble ATE. Suffice it to state that the Commission had already considered the relief insofar as the points of issue placed by the Hon'ble ATE for consideration in favour of the petitioner. Thus, the main aspect would be to grant consequential relief towards the energy injected into the grid for the relevant period.

The counsel for petitioner pointed out that insofar as unjust enrichment is concerned, submissions were already made by relying on section 70 of the Contract Act, 1872. At the same time, the petitioner had not pressed for any finding as to the applicability of the regulation prospectively or retrospectively, as it had no bearing on the facts and circumstances of the case owing to the reason that the petitioner had established the project based on the policy enunciated by the government, which provided for the benefit of solar energy injected into the grid to be banked or paid for. In those circumstances, the review petitioner is entitled to the consequential relief apart from the finding rendered in the order dated 11.04.2023 insofar as payment of amount or any arrangement is made in respect of the energy injected into the grid by the review petition.

The representative of the respondents stated that the Hon'ble ATE remanded the matter to the Commission on specific issues and the Commission had rightly appreciated the issues and decided the matter on 11.04.2023. The Commission considered all the aspects including the policy of 2015 under which the relief is sought for. The respondents had suffered losses at the hands of the generator owing to injection of unwanted infirm power resulting payment of fixed cost to the large generators, having the effect of backing down them. Also, system charges have been incurred owing to deviations in drawls of power.

The representative of the respondents also stated that the review petitioner ought to have approached the Hon'ble ATE if it was not satisfied with the order of the Commission. Instead, it had filed writ petition before the Hon'ble High Court. Invoking of the jurisdiction of the Hon'ble High Court which is neither appropriate nor relevant in the context of the matter having been remanded by the Hon'ble ATE. It is appropriate to state that the order passed by the Commission would be well appreciated by the Hon'ble ATE and the review petitioner has not chosen to approach the Hon'ble ATE.

The representative of the respondents stated that the Commission has rightly complied with the directions of the Hon'ble ATE to the extent the matter has been remanded to the Commission. In the absence of any observations as regards consequential relief based on the findings towards the points in issue as specified by the Hon'ble ATE, the Commission could not have proceeded to pass any further order. Therefore, the order passed by the Commission is in accordance with the orders of the Hon'ble ATE and there is no case for review of the said order.

The counsel for review petitioner sought to emphasize that the Commission, while complying with the directions of the Hon'ble ATE, did rule in favour of the petitioner but the consequential orders have not been considered. As such, the review petitioner has no option but to approach the Hon'ble High Court to seek consequential directions to the respondents. The Hon'ble High Court, after appreciating the situation, had considered the relief of requiring the petitioner to approach the Commission itself under the review. Thus, the review petitioner seeks to review of the order dated 11.04.2023 passed in compliance of the directions of the Hon'ble ATE.

Having heard the submissions of the parties, the matter is reserved for orders.

Sd/-
Member

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Member

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Chairman

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
R. P. No. 4 of 2023 in O. P. No. 47 of 2018	M/s. Dubbak Solar Projects Private Limited	TSTRANSCO & TSSPDCL

Review petition filed seeking review of the impugned order dated 11.06.2023 passed by the Commission in O. P. No. 47 of 2018 to the extent of not granting consequential relief in compensating the petitioner on account of power fed into grid during the delayed period i.e., from 30.07.2016 to 18.11.2016 as confirmed by the Commission.

Sri. Challa Gunaranjan, counsel for review petitioner and Sri. Mohammad Bande Ali, Law Attachee for respondents are present. The counsel for review petitioner stated that the review petition is filed against the order dated 11.04.2023 in O. P. No. 47 of 2018 filed by the petitioner. This order has been passed by the Commission pursuant to and in compliance of the directions issued by the Hon'ble ATE in Appeal No. 265 of 2021 filed by the respondents. The Hon'ble ATE framed specific questions while disposing of the appeal and directed the Commission to decide the matter afresh limited to the questions framed therein.

The counsel for review petitioner stated that aggrieved by the said order of the Commission, the review petitioner approached the Hon'ble High Court for suitable relief. The review petitioner filed W. P. No. 13771 of 2023 questioning the order passed by the Commission for the relief of granting consequential directions in the context of the findings rendered by the Commission which was not granted thereof. The Hon'ble High Court noticing that the order passed by the Commission is incomplete gave liberty to the petitioner to approach the Commission itself by filing a review petition for grant of proper consequential relief as prayed for originally in the petition.

The counsel for review petitioner stated that the Commission had, while considering the original petition, granted the relief to the petitioner. The Hon'ble ATE while disposing of the appeal filed by the respondents herein had allowed the appeal by setting aside the original order of the Commission dated 02.01.2019. Therefore, the Commission is required to pass a consequential order further to the finding in

respect of the points of issue required to be considered as per the observations of the Hon'ble ATE. Suffice it to state that the Commission had already considered the relief insofar as the points of issue placed by the Hon'ble ATE for consideration in favour of the petitioner. Thus, the remain aspect would be to grant consequential relief towards the energy injected into the grid for the relevant period.

The counsel for petitioner pointed out that insofar as unjust enrichment is concerned, submissions were already made by relying on section 70 of the Contract Act, 1872. At the same time, the petitioner had not pressed for any finding as to the applicability of the regulation prospectively or retrospectively, as it had no bearing on the facts and circumstances of the case owing to the reason that the petitioner had established the project based on the policy enunciated by the government, which provided for the benefit of solar energy injected into the grid to be banked or paid for. In those circumstances, the review petitioner is entitled to the consequential relief apart from the finding rendered in the order dated 11.04.2023 insofar as payment of amount or any arrangement is made in respect of the energy injected into the grid by the review petition.

The representative of the respondents stated that the Hon'ble ATE remanded the matter to the Commission on specific issues and the Commission had rightly appreciated the issues and decided the matter on 11.04.2023. The Commission considered all the aspects including the policy of 2015 under which the relief is sought for. The respondents had suffered losses at the hands of the generator owing to injection of unwanted infirm power resulting payment of fixed cost to the large generators, having the effect of backing down them. Also, system charges have been incurred owing to deviations in drawls of power.

The representative of the respondents also stated that the review petitioner ought to have approached the Hon'ble ATE if it was not satisfied with the order of the Commission. Instead, it had filed writ petition before the Hon'ble High Court. Invoking of the jurisdiction of the Hon'ble High Court which is neither appropriate nor relevant in the context of the matter having been remanded by the Hon'ble ATE. It is appropriate to state that the order passed by the Commission would be well appreciated by the Hon'ble ATE and the review petitioner has not chosen to approach the Hon'ble ATE.

The representative of the respondents stated that the Commission has rightly complied with the directions of the Hon'ble ATE to the extent the matter has been remanded to the Commission. In the absence of any observations as regards consequential relief based on the findings towards the points in issue as specified by the Hon'ble ATE, the Commission could not have proceeded to pass any further order. Therefore, the order passed by the Commission is in accordance with the orders of the Hon'ble ATE and there is no case for review of the said order.

The counsel for review petitioner sought to emphasize that the Commission, while complying with the directions of the Hon'ble ATE, did rule in favour of the petitioner but the consequential orders have not been considered. As such, the review petitioner has no option but to approach the Hon'ble High Court to seek consequential directions to the respondents. The Hon'ble High Court, after appreciating the situation, had considered the relief of requiring the petitioner to approach the Commission itself under the review. Thus, the review petitioner seeks to review of the order dated 11.04.2023 passed in compliance of the directions of the Hon'ble ATE.

Having heard the submissions of the parties, the matter is reserved for orders.

Sd/-
Member

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Member

Sd/-
Chairman

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
O. P. No. 12 of 2023	M/s. Sai Adithya Green Energy Private Limited	TSSPDCL & its officer

Petition filed seeking to claim of the units fed into the grid of the respondent as deemed purchase and pay the average pooled power cost as determined by the Commission for the relevant years of 2020-21 and 2021-22.

Sri. Challa Gunaranjan, counsel for petitioner and Sri. Mohammad Bande Ali, Law Attachee for respondents are present. The counsel for petitioner stated the details of the case and explained various dates for consideration for payment of the amount towards the energy delivered between the date of synchronization and the date of granting long term open access.

The counsel for petitioner stated that the licensee and the nodal agency have raised issues with regard to the compliance of CEA regulation. Earlier, the petitioner

sought grant of the LTOA, then the issue of compliance of regulations was not imposed on it. Eventhough, the earlier it had been granted LTOA, post the present application the respondents seeking to deny the LTOA sought compliance of the regulations. However, this issue did not find place on the earlier occasion. In order to comply with the requirements, the petitioner had made efforts and took time for complying the same. The issue with regard to grant of LTOA cannot be tagged to the aspect of non-compliance of certain technical parameters.

The counsel for petitioner stated and referred to a judgment of the Hon'ble ATE in the matter of M/s. Bangalore Electric Supply Company Limited Vs. M/s. Reliance Infrastructure Limited. Though the said judgment is not directly setting out the principle, yet the issue of grant of LTOA has been considered in the matter. The respondents have, in their counter affidavit, stated about the contention of the petitioner that harmonics were required to be complied with. The respondents did not deenergize the plant eventhough the petitioner did not comply with the technical requirements despite granting time. The petitioner, in fact, sought time for compliance of the regulations, however, continued to generate power and inject into the grid. As such, the petitioner is seeking reimbursement of the charges towards power injected into the grid for the period from 01.10.2020 to 31.03.2022 by treating it as deemed purchase.

The representative of the respondents stated that the petitioner sought renewal of LTOA from 16.09.2020 for further period. The LTOA was granted to the petitioner from 01.10.2022 for a period of two years. However, before granting renewal of the LTOA for the period from 16.09.2020 to 15.09.2022, the petitioner was required to comply certain technical requirements including PQT test.

The representative of the respondents stated that the petitioner was given several extensions to comply with the same. The petitioner did not come forth to comply with the regulation including the technical requirements. Reference made to the judgment of the Hon'ble ATE is neither appropriate nor relevant to the present case as it was involving the generator and the licensee, who had agreement between them.

The representative of the respondents stated that the licensee was generous not to deenergize the power plant. The licensee suffered unnecessary charges and losses that had been occasioned due to continuation of injection of power despite absence of any agreement between the petitioner and the licensee. The generation injected into the grid cannot be termed as a sale to the DISCOM by which it would have enriched itself. Such energy could at best be treated as inadvertent power and therefore, it cannot attract any payment in any form. The Commission may be pleased to refuse the relief as the petitioner has not complied with the regulations and technical parameters in a timely manner. The respondents cannot be mulcted with unnecessary charges in the form pooled cost to be paid to the petitioner as the amount of the energy delivered is not treated as banked energy.

The counsel for petitioner relied on a judgment passed by the Commission in M/s. Ener Sol Infra Private Limited vide O. P. No. 19 of 2020, wherein the Commission had considered the issue of payment of charges for the energy injected into grid prior to grant of LTOA after synchronization. Moreover, the petitioner and like developers have established solar power plants in the state of Telangana owing to the policy notified by the government, which was accepted by the Commission subsequently in Regulation No. 1 of 2017. That technical specifications required to be corrected was suffering from non-availability of suitable products in the market and the same got delayed. The petitioner did not stop the production of energy for the reason that it was in fond hope of availing LTOA as sought by it.

The counsel for petitioner stated that having drawn the power and supplying it to its consumer, the licensee cannot now refuse to compensate the petitioner on the ground that the same was inadvertent power not within the knowledge of the respondents. Therefore, keeping in view of the policy and subsequent regulation as notified by the Commission, the petition may be considered for grant of the relief as prayed for.

Having heard the submissions of the parties, the matter is reserved for orders.

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Member

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Chairman

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
O. P. No. 20 of 2023	M/s. Sarda Metals & Alloys Limited	TSDISCOMs

Petition filed seeking directions to the respondents to pay the surcharge on delayed payments of regular power supply bills and backdown compensation amount along with interest.

Sri. Challa Gunaranjan, counsel for petitioner and Sri. Mohammad Bande Ali, Law Attachee for respondents are present. The counsel for petitioner stated that he matter is coming up for hearing for the first time. The respondents have to file counter affidavit in the matter. The representative of the respondents sought time for filing counter affidavit for four weeks. In view of the request of the representative of the respondent, the matter is adjourned.

Call on 21.09.2023 at 11.30 A. M.

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Chairman

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
O. P. No. 17 of 2023	Garrison Engineer (I) R&D	-None-

Petition filed seeking orders for handing over of connected assets to MES (Deemed licensee) created from defence funds at RCI, Hyderabad to establish direct grid connectivity being deemed licensee to enable MES to operate as deemed distribution licensee.

Sri. M. A. Dubey, Director (E/M) along with Sri. Vimal Kumar Bendwal, AE (E/M) for petitioner is present. The matter is coming for hearing for the first time. The representatives of the respondents sought time for filing counter affidavit in the matter. In view of the same, the matter is adjourned.

Call on 21.09.2023 at 11.30 A.M.

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Chairman

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
O. P. No. 13 of 2023	TSDISCOMs	SCCL

Petition filed seeking directions to the respondent in respect of procurement of power pricing charged by Singareni Thermal Power Plant (STPP) towards procurement of power from 2 X 600 MW for FY 2021-22 to till the date of operationalization of Naini Coal Block and later to adopt the CERC input price determination methodology in the interest of end consumers.

Sri. D. N. Sarma, OSD / TSPCC for petitioners and Sri. P. Shiva Rao, Advocate for respondent are present. The representative of the petitioner has stated and explained the need for filing the present petition. The petitioners are mainly aggrieved by the non-application of CERC Regulation of 2019 and the changes effected thereof. The representative of the petitioners has explained in detail the sourcing of coal, the cost involved therein as also the benefits of applying the proper regulation and thereby considering proper price for the coal.

The representative of the petitioners stated that the respondent has been allocated captive coal mine in Naine block, which is exclusively meant for generation of power by the respondent herein. It is treated as captive coal mine insofar as respondent herein. Though allocation was made in the year 2017 as the production has not been started from the said mine, bridge linkage facility has been allowed to the respondent to draw coal from the western coal fields initially and later its own coal production. The respondent has not been taking effective steps for getting the coal mine into operation for the past several years.

The representative of the petitioners stated that the respondent has been postponing the drawl coal from the captive coal mine which would be cheaper than the coal price being paid towards bridge linkage. Such coal cost would be much less even after including the transportation charges also. The coal cost of such coal mine is in accordance with the CERC Regulation and would be beneficial to the petitioners. In fact, the present coal price being paid is more than three times the coal price accepted as normative by the CERC, which is burdening the end consumer with additional cost. The petitioners are at the receiving end for the reason at the coal price being the fuel cost is a pass through and has to be paid for under the PPA.

The representative of the petitioners brought to the notice of the Commission that the coal price having been deregulated is subject to the whims and fancies of the coal companies. It has been provided that the coal price that has been notified by the coal company would be the price for power sector and non-power sector consumption. The respondent through its marketing wing had notified the coal price at more than three thousand rupees which is far in excess of the accepted normative of Rs. 1,100/- as approved by the CERC. As stated earlier, if the transportation cost

from the captive coal mine is also included to the CERC normative, the cost of coal would be much less than the present cost of fuel demanded by the respondent. It could be only 30% of the present cost and thus, the petitioners would be making substantial savings towards fuel cost and also reduce the burden of the end consumer of electricity.

The representative of the petitioners stated that the attitude of the respondent seems to be to enrich itself at the cost of the power consumers. It has not been making efforts to start production in the captive coal mine and draw coal for generation of power. The petitioners seek to rely on section 61 of the Act, 2003, which provided that reasonable cost of generation be made available to the generators and at the same time, the interest of the consumers be protected. Due to exorbitant fuel cost, the consumers of the power are being mulcted with unnecessary cost.

The representative of the petitioners, therefore, sought favourable orders from the Commission by determining the coal price that is payable to the generator towards draws from the bridge linkage or from the captive coal mine allotted to it, thereby reducing the overall impact of fuel cost. The Commission may consider adopting the CERC Regulation in this regard, as no similar provision is made in the regulation made by the Commission in its regulation.

The counsel for respondent vehemently opposed the petition by stating that the Commission has no authority to tinker with the coal price or to determine the same. No provision in the Electricity Act, 2003 has enabled the Commission to interfere with the coal price as notified by the concerned department that is the Ministry / Department of Coal. The coal prices have been deregulated and it is for the coal companies to notify the same towards power sector consumption and non-power sector consumption.

The counsel for respondent stated that the determination of market price of coal has been left to the coal companies and as such, the marketing wing of the respondent also notified the coal price for both power and non-power sector consumption. Pursuant to the notification, the petitioners' power unit has entered into MoU for drawl of coal at the rates notified. Such MoU has been entered in the year

2017 for the first time and brought to the notice of the petitioners also. Subsequently in the year 2018, the MoU was amended to include coal cost at non-power consumption tariff. This aspect has been objected by the petitioners and therefore, another amended MoU has been entered for FY 2019-20 onwards, wherein the coal price required to be considered has been limited to power consumption coal rate along with premium in case of additional quantum of capacity.

The counsel for respondent stated that the MoU entered by the respondent with its marketing division is similar to all the MoUs entered with NTPC and others and any modification by the Commission in this case would gravely affect the said MoUs also. The other entities have no query on the said MoU, as also they have not questioned the respondent on the coal pricing. In such a situation, the petitions cannot allege any discrimination contrary to the PPA. It is strange that the petitioners have chosen to raise the issue of coal pricing after lapse of 7 years of the project becoming operational, they having derived the power without any demur and accepted the invoices raised by the respondent.

The respondent had been achieving excellent PLF and supplying energy to the petitioner at a PLF of 94% for installed capacity of 1200 MW. Despite keeping the DISCOMs in a safe condition of not losing energy and not being required to shut down supply, the petitioners are now seeking to denigrate the capacity. It is also strange that the petitioners are due to the respondent about Rs. 20,000 crores on several counts and yet are seeking to relieve themselves from coal cost which is agreed to under the PPA and is liable to be paid to the respondent. In fact, the petitioners have already lost some amount of revenue due to limitation imposed by the Commission by the charges are payable to the extent of scheduled energy and not the actual energy delivered and thus, it has lost amount to the tune of 1.6% which is achieved beyond the PLF and the scheduled capacity allowed in the tariff order.

The counsel for respondent stated that the petitioners have not shown any authority under law by which the Commission could have interfered with the coal pricing and determine the same to the detriment of the liberty given to the coal companies to notify the coal price under the policy of the Government of India.

Inasmuch as even the Government of India did not make any rules or regulation conferring such powers to the Commission on the coal pricing.

The counsel for respondent stated that the tariff is neither static nor specific, but it is dynamic be it the case of coal pricing or energy charges. The only limitation for energy charges is that it has to be in accordance with the PPA, where specific methodology of computation or formula for arriving at tariff for generation has been set out. The respondent is required to enter into FSA for procuring the coal and the tariff is subject to such agreement only. The petitioners have an issue with regard to coal pricing over and above the 75% of the coal required for generation of power beyond the PLF. In any case, the petitioners cannot now, having agreed to fuel cost as pass through in the tariff, allege that onerous charges are being imposed on them. If they had any issue with the coal pricing, nothing precluded them from raising an issue at the earliest point of time and settle the matter.

The counsel for respondent stated that at any rate having suffered orders at the hands of the Commission with regard to the tariff, it is now not open to the petitioners that the coal pricing and the consequential tariff are burdening the end consumers. In the guise of the above grievance, they cannot put the clock behind to the detriment of the respondent. The alleged cost escalation and imposing of higher coal price are misconceived as the respondent is at liberty to fix the coal price under the policy of the Government of India. Therefore, the petitioners have not made out any case for interference by the Commission on the issue.

The representative of the petitioners sought to emphasize that the thermal power plant of the respondent is not a separate entity so as to concede that it has separate expenditure towards fuel procurement. It is part and parcel of the respondent only. Contrary to the CERC normative the coal pricing is pegged at very high rate for the quantum upto 75% of the energy scheduled to be generated and beyond that at a rate of 20% premium higher than the normal rate of power consumption coal price as notified by the respondent. Instead, if the coal is drawn from the captive mine at the normative rate of the CERC and adding 40% premium thereof alongwith transportation charges, the coal cost would be a third of the coal price that is being levied by the respondent. The respondent is seeking to misinterpret the provisions of CERC Regulation, thereby denying the benefit of

cheaper coal price to the petitioners. It is strange that the respondent being a state entity would attempt to enrich itself at the cost of other state entity in the name of commercial operation.

The representative of the petitioners stated that the allegation of no jurisdiction cannot be sustained as the coal price being levied by the respondent would be part of the tariff payable for the generation by the petitioners and they have every right to question and seek to minimize such cost. It is not appropriate on the part of the respondent to secure coal from its own choice despite the fact that it has been specifically allotted captive coal mine for generation of power and since the said mine has not been brought into operation by the respondent, it is being provided with bridge linkage. The coal pricing under bridge linkage is much higher than the production cost and transportation of coal from its own captive mine. Thus, the petitioners are now seeking determination of the coal price so as to off set the onerous cost involved thereon at present.

The representative of the petitioners on a questioned by the Commission regarding the maintainability of the petitioner as having without jurisdiction, stated that the fuel cost is part of the O and M expenses of the generator and for the petitioners it is a variable cost paid by them to the respondent. As such, these components being part of the tariff, any of the ingredients also would attract the jurisdiction of the Commission to entertain such issues upon filing of the appropriate petition thereof. Since, the Commission had provided in the regulation itself that the tariff would be regulated based on the several components, fuel being one of them, the Commission would invariably step in to set right any condition which would amount to onerous situation. The representative of the petitioners thoroughly explained the various material documents being relied upon by them. Thus, he sought complete relief to the petitioners by rejecting the contentions of the respondent.

Having heard the parties to the petition, the matter is reserved for orders.

Sd/-
Member

Sd/-
Member

Sd/-
Chairman

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
I. A. No. 4 of 2023 in O. P. No. 8 of 2021	M/s. Singareni Collieries Company Limited	TSDISCOMs

Application filed seeking to issue necessary clarification so that the difference of understanding of both parties as to the conclusive part of para 12 of the order which has prevailing effect may be resolved by upholding already expressly give direction to DISCOMs to pay the coal cost as incurred by STPP up to the quantum of schedule generation of power.

Sri. P. Shiva Rao, counsel for applicant and Sri. D. N. Sarma, OSD / TSPCC for respondents are present. The counsel for the applicant stated that this application is filed invoking the jurisdiction of the Commission under the Conduct of Business Regulation, 2015 (CBR). Comprehensive power is vested in the Commission to entertain the application under the provisions of the CBR. The CBR as notified by the Commission had provided for similar power that is exercisable under the Code of Civil Procedure, 1908.

The counsel for the applicant stated that this application is filed in view of the ambiguity perceived by the respondents and therefore misinterpreting the same by the respondents with regard to the paragraph 12 of the order passed by the Commission. The issue raised is with regard to allowing additional coal cost incurred by the applicant over and above the quantum required for scheduling of the energy over and above 75% agreed to be made available under the PPA. In fact, the applicant had achieved more than 90% PLF whereas, PLF is fixed 85% of the project capacity and in any case, the applicant had to schedule such energy in terms of the PPA, for which it has to secure coal from various sources including its own production.

The counsel for the applicant stated that the 75% of the coal required for such scheduled generation has to be procured at the rate as fixed for power generation and the balance quantity of coal has to be procured at the rate of non-power utilization coal along with premium of 20%. The Commission, while passing the order, had made it very clear that the applicant is entitled to the coal cost incurred by it without reference to the source of supply of coal at the rate of non-power sector coal rate along with 20% premium for the quantum of energy required to be generated after using 75% of fuel for enabling scheduled generation quantum.

The counsel for the applicant stated that the Commission, while deciding the original matter, had taken into consideration the total scheduled generation for the relevant period and accepted the quantum of excess generation to the extent of approved figures in the tariff order. However, the Commission had refused to grant relief in respect of additional 1.6% of the PLF, which was the capacity achieved beyond the scheduled generation. This aspect has been accepted by the applicant. The issue now that remains for consideration is with regard to the cost of the quantum of coal utilized for scheduled generation to be paid to the applicant over and above 75% of the quantum of coal, which is used for scheduled generation and what rate. The Commission did not in its order elaborate as to what is the quantum of coal to be considered and at what rate, which the respondents are disputing and seeking to compute at power sector coal rate without any premium.

The counsel for the petitioner read out the order of the Commission extensively to show that the Commission itself had agreed to the payment of additional coal cost that is employed for generation of power over and above the quantum of scheduled generation. The respondents sought to lay emphasis on the scheduled generation and the corresponding quantum of fuel employed thereof. The respondents failed to understand the employment of fuel for generation is not static figure and depends on the quality of fuel available and the technical requirements for generation of each unit of power. Even though, the Commission had specific answer in its order in respect of additional coal cost, the respondents are not willing to pay towards the claims made by the application for the additional coal cost.

The counsel for the applicant would endeavour to rely on the principle of change in law towards additional cost incurred by the applicant. Since, the quantum towards fuel and price are agreed to and any variations which are beyond the control of the applicant would constitute change in law. Even this aspect is not appreciated by the respondents. Therefore, in order to secure clarity in the order passed by the Commission as also to ensure recovery of the just and reasonable cost incurred towards fuel by the applicant, the present application is filed.

The representative of the respondents stated that the respondents have preliminary objection to maintainability of the application post disposal of the original petition. In this regard, reliance is placed on the orders passed by the CERC and

UPERC, who have referred to judgment of the Hon'ble Supreme Court observing the maintainability of an interlocutory application after the disposal of the original petition. According to the respondents, there are no grounds for clarification of the order passed by the Commission. At best, the applicant has a good opportunity to file an appeal, as it has not been satisfied with the relief granted. The applicant, having allowed the order to become final, had neither invoked the review nor appellate jurisdiction and now cannot seek to get the order amended in the guise of this application.

The representative of the respondent stated that the order passed by the Commission is unambiguous and leaves no doubt as to its interpretation when the findings are taken into account in total. Even assuming that there is any deficiency in a particular aspect, the same is already answered elsewhere in the order. Hence, there is no case for clarification in the matter. Accordingly, the filing of the present I. A. is beyond the procedure and cannot be entertained.

The counsel for the applicant sought to rely on the CBR, wherein specific inherent powers have been set out. He also said that even in the absence of those provisions, the CPC has a wider provision in section 151 and 152, which give ample power to the Commission to clarify / rectify any ambiguity in the order passed by it. Therefore, the Commission may consider clarifying the order on the aspects prayed for.

Having heard the parties to the application, the matter is reserved for orders.

Sd/-
Member

Sd/-
Member

Sd/-
Chairman

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
R. P. (SR) No. 79 of 2023 in O. P. No. 77 of 2022	M/s. Singareni Collieries Company Limited	TSDISCOMs

Review petition filed seeking review of the order dated 24.03.2023 in O. P. No. 77 of 2022 passed by the Commission

Sri. P. Shiva Rao, counsel for review petitioner is present. The counsel for review petitioner has stated that he would like to submit arguments in the matter on any

other day. In view of the request of the counsel for review petitioner, the matter is adjourned.

Call on 21.09.2023 at 11.30 A. M.

Sd/-
Member

Sd/-
Member

Sd/-
Chairman

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
O. P. No. 21 of 2023 & I. A. No. 5 of 2023	TSDISCOMs	-None-

Petition filed seeking determination of pooled cost for power purchase for FY 2022-23 to be considered for FY 2-23-24.

Application filed seeking condonation of delay in filing the petition.

Sri. Mohammad Bande Ali, Law Attachee for petitioners is present. The representative of the petitioners stated that the petitioners are seeking determination of pooled cost for FY 2022-23 to be consider for FY 2023-24. The Commission sought to know whether the filing has been made based on the audited figures of the licensees. The representative of the petitioners has confirmed the same. In view of the submissions of the representative of the petitioners, the matter is reserved for orders.

Sd/-
Member

Sd/-
Member

Sd/-
Chairman