

**JOINT ELECTRICITY REGULATORY COMMISSION  
FOR THE STATE OF GOA AND UNION TERRITORIES  
GURGAON**

**Quorum**

Shri M.K. Goel, Chairperson  
Smt. Neerja Mathur, Member

**Review Petition No. 174/2015  
Date of Hearing: 29.08.2017  
Date of Order: 08.09.2017**

**In the matter of:**

Complaint under Section 142 and 146 of the Electricity Act, 2003 read with Regulation 70 of the Joint Electricity Regulatory Commission for the State of Goa and Union Territories (Conduct of Business) Regulations, 2009

**And in the matter of:**

1. The Electricity Department,  
Andaman & Nicobar Administration,  
Vidyut Bhavan,  
Port Blair, Andaman & Nicobar Islands.

... Petitioners

2. The Chief Secretary,  
Andaman & Nicobar Administration,  
Secretariat,  
Port Blair, Andaman & Nicobar Islands.

**Versus**

M/s Suryachakra Power Corporation Limited,  
Suryachakra House, Plot No. 304,-L-III, Road No. 78,  
Film Nagar, Jubilee Hills,  
Hyderabad - 500 096.

... Respondent

**Present**

**For the Petitioner**

1. Shri Uttam Kumar Paul, Superintending Engineer, Electricity Department, A&N
2. Shri Arvind Tewari, Consultant, Electricity Department, A&N
3. Ms. Ruchi Sindhwani, Advocate, Electricity Department, A&N
4. Ms. Megha Bharara, Advocate, Electricity Department, A&N

**For the Respondent**

1. Shri Tupendar, Dy. Manager, M/s Suryachakra Power Corporation Ltd.
2. Shri Santosh Kumar Vishawkarma, Proxy Counsel, M/s Suryachakra Power Corporation Ltd.

**ORDER**

Ms. Ruchi Sindhvani, Learned Counsel for the Petitioner submitted that the Commission vide its Order dated 13.01.2017 directed M/s Suryachakra Power Corporation Limited (SPCL), the Respondent to pay an amount of Rs 9,67,07,816/- to the Electricity Department, Andaman & Nicobar Administration. The Petitioner vide its Letter dated 16.01.2017 requested M/s SPCL to pay an amount of Rs 9,67,07,816/- immediately. M/s SPCL neither responded to the said letter nor did they pay the amount of Rs 9,67,07,816/- to the Petitioner.

The Learned Counsel further submitted that aggrieved by the Commission's Order dated 13.01.2017, M/s SPCL has filed an Appeal No. 34/2017 before the Appellate Tribunal for Electricity (APTEL) along with an Interim Application to stay the implementation of the said Order. The APTEL on 20.02.2017 admitted the said appeal and also granted an interim stay on the condition that M/s SPCL would furnish a Bank Guarantee of Rs 9,67,07,816/- from a nationalized bank/scheduled bank to secure the amount of Rs 9,67,07,816/- within a period of thirty days. The APTEL further directed that the said Bank Guarantee would be initially for a period of six months and should be kept alive till the final disposal of the appeal. On such Bank Guarantee being furnished in favour of Respondent No. 1, the Respondent No. 1 shall continue to pay a monthly tariff as per the PPA and the terms prevalent before the Impugned Order, and shall not take steps to recover the amount of Rs 9,67,07,816/- from the Appellant.

The Learned Counsel further submitted that the Petitioner had again sent a letter dated 04.05.2017 to M/s SPCL to furnish the Bank Guarantee in compliance of Orders of the APTEL failing which appropriate legal proceedings for execution would be initiated. However, M/s SPCL did not respond to the said Letter.

The Learned Counsel further submitted that upon the failure of M/s SPCL to furnish the requisite Bank Guarantee of Rs 9,67,07,816/-, the APTEL vide its Order dated 03.08.2017 has vacated the stay against the Commission's Order dated 13.01.2017 and directed the Electricity Department, Andaman & Nicobar Administration to take such steps as may be available to it in law to recover the amount of Rs 9,67,07,816/-.

The Learned Counsel further submitted that M/s SPCL has failed to comply with the Commission's Order dated 13.01.2017 and therefore, is liable to be prosecuted under Section 142 and 146 of the Electricity Act, 2003 read with Regulation 70 of the JERC (Conduct of Business) Regulations, 2009.

Mr. Santosh Kumar Vishawkarma, Proxy Counsel for Dr. Anindita Pujari, Advocate appeared for the Respondent. He expressed his inability to advance the arguments on behalf of the Respondent as he has no instructions from the Respondent on the specific issue. He requested the Commission to grant four weeks time as the main appeal was coming up for hearing before the APTEL on 12.09.2017.

The Commission heard the Petitioner and the Respondent. The Commission also examined the entire record placed before it along with the relevant provisions of the Electricity Act, 2003 and Rules and Regulations made thereunder. The Commission also examined Section 142 of the Electricity Act, 2003 which provides that:

*"In case any complaint is filed before the Appropriate Commission by any person or if that Commission is satisfied that any person has contravened any of the provisions of this Act or rules or regulations made thereunder, or any direction issued by the Commission, the Appropriate Commission may after giving such person an opportunity of being heard in the matter, by order in writing, direct that, without prejudice to any other penalty to which he may be liable under this Act, such person shall pay, by way of penalty, which shall not exceed one lakh rupees for each contravention and in case of a continuing failure with an additional penalty which may extend to six thousand rupees for every day during which the failure continues after contravention of the first such direction".*

The Commission is convinced with the contentions of the Petitioner. At the same time, the Commission feels that the Proxy Counsel for the Respondent has not put forth any valid reason for the grant of extension of time and it appears to be a delaying tactic in this matter. The Commission noted that the APTEL has granted the Interim stay against the operation of the Impugned Order of the Commission dated 13.01.2017 on the condition that M/s SPCL would furnish a Bank Guarantee of Rs 9,67,07,816/- in favour of the Electricity Department, Andaman & Nicobar Administration. Since the Bank Guarantee of Rs 9,67,07,816/- was not furnished by M/s SPCL, the APTEL vide its Order dated 03.08.2017 vacated the interim stay and directed the Electricity Department, Andaman & Nicobar Administration to take such steps as may be available to it in law to recover the amount of Rs 9,67,07,816/-.

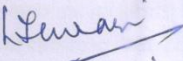
In view of the above, the Commission is convinced that there is a specific non compliance of the Commission's Order dated 13.01.2017 by M/s SPCL which under Section 142 of the Electricity Act, 2003 attracts a penalty. The Commission therefore imposes a penalty of Rs 1,00,000 (Rupees One Lakh only) on M/s SPCL for non compliance of the Commission's Order dated 13.01.2017. The Commission also noted that non compliance of the Commission's Order is continuing and therefore, as per Section 142 of the Electricity Act, 2003, the Commission imposes an additional penalty of Rs 6,000 (Rupees Six thousand only) every day from 14.01.2017 to 19.02.2017 and from 04.08.2017 till the date amount of Rs 9,67,07,816/- is paid to the Electricity Department, Andaman & Nicobar Administration.

Ordered accordingly.

Sd/-  
(NEERJA MATHUR)  
MEMBER

Sd/-  
(M.K. GOEL)  
CHAIRPERSON

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(KEERTI TEWARI)  
SECRETARY