

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

Coram\*  
Shri S.K.Chaturvedi, Member

**In the matter of**

Petition for approval of agreement for hiring of 5 MW Capacity DG between Electricity Department, Andaman & Nicobar Administration and M/s New Bharat Engineering, Navi Mumbai under section 86 (1) of Electricity Act, 2003.

**And in the matter of**

The Electricity Department, A&N Administration, Vidyut Bhawan, Port Blair-744101

**Present for Petitioner**

1. Shri Yogesh Tiwar, J.E., ED- Andaman & Nicobar Islands.
2. Shri Arvind Tewari, Consultant, ED- Andaman & Nicobar Islands.

**Order**

**22.07.2013**

The petitioner filed application for Condonation of delay in filing Petition for approval of agreement for hiring of 5 MW Capacity DG between Electricity Department, Andaman & Nicobar Administration and M/s New Bharat Engineering, Navi Mumbai under section 86 (1) of Electricity Act, 2003 stating:-

**Quote**

*"The Hon'ble Commission after the pre- admission hearing on 14.06.2013 raised the query "that under which provisions of the Electricity Act, 2003 and under which JERC Regulations the present petition is filed and why the Commission was not approached earlier".*

*It is submitted that ED-A&N Administration in order to improve the power situation and to meet its obligation keeping the consumer need as paramount the petitioner decided during March, 2011 to hire 5 MW DG capacity for a short period of 3 years on fixed monthly rental charges basis.*

*The hiring of DG sets is not covered under any section of the EA, 2003 or Regulations of JERC. Hence, the ED- A&N Administration did not approach Hon'ble Commission for approval of the agreement for hiring of 5MW DG capacity between ED- A&N Administration and M/s New Bharat Engineering, Navi Mumbai.*

*During the course of hearing on 17.12.2012 before JERC in the matter of O.P. No. 17016-20 filed by M/s SPCL for approval of Complete/ Actual Capital Cost of the project (20 MW IPP), it was observed by the Hon'ble Commission that "has the Administration entered into any agreement with any company (Other than the petitioner i.e. M/s SPCL) for supply of power and if so, was prior permission of the Commission taken for fixing tariff etc".*

*From the above observation of Hon'ble Commission, it was understood that the approval of all agreements in respect of the hiring power plants in A&N Islands has to be obtained under relevant section of Electricity Act, 2003 and JERC Regulations.*

Under Section 86 (b) (1b) of the EA, 2003 the Hon'ble Commission has the authority "to regulate Electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State". Further section 63 of the EA, 2003 also states that "Notwithstanding anything contained in section 62 of EA, 2003 the appropriate Commission shall adopt the tariff if such tariff has been determined through transparent process of bidding in accordance with the guidelines issued by the Central Government".

An agreement was signed by the ED- A&N Administration with the successful bidder i.e. New Bharat Engineering, Navi Mumbai for hiring of 5 MW DG Capacity for a short duration of 3 years on monthly fixed hiring charges basis. The firm was selected through transparent process of bidding and thus can be covered under section 63 of the EA, 2003.

The petitioner i.e. ED- A&N Islands in the original affidavit dated 14.01.2013 had submitted that "It is regretfully admitted that the approval of the Hon'ble Commission could not be obtained at appropriate time due to exigency for hiring of DG sets to deliver 5 MW continuous electric power to reduce/eliminate the on going power crisis in and around Port Blair due to frequent failure of DG Sets at 20 MW IPP".

The petitioner once again submits and requests that the delay in filing of petition for approval of agreement of 5 MW DG capacity between ED- A&N Administration and M/s New Bharat Engineering, Navi Mumbai may kindly be condoned".

**Unquote**

The representative of the petitioner prayed for One month time for raising arguments. The Commission considered the request, acceded the same and scheduled the petition for hearing on 22.08.2013 at 11:00 AM.

Sd/-

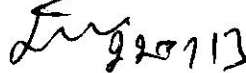
(S.K.Chaturvedi)

Member

**Chairperson (Vacant)**

- \* Post of the Chairperson is vacant. As per proviso of Regulation 9 (II) of JERC (Conduct of Business) Regulations, 2009 for review of its own orders "Coram is all Members". Whereas according to provisions of Section 93 of the Electricity Act, 2003 no act or proceedings of the appropriate Commission shall be questioned or invalidated merely on the ground of existence of any vacancy or defect in the Constitution of the appropriate Commission. So the Member only constitute a valid quorum.

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(R.K. Malik)

Secretary