

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

Coram

**Dr. V. K. GARG, CHAIRPERSON
SHRI R. K. SHARMA, MEMBER**

Petition No. 7/2009-Misc

In the matter of

Petition under Section 86 (1)(f) of the Electricity Act, 2003 for direction to the respondents to pay the long standing dues/for settlement of long pending issues/payments

And in the matter of

Suryachakra Power Corporation Ltd, Hyderabad

Petitioner

Vs

1. Chief Secretary, Andaman & Nicobar Administration, Port Blair
2. Superintending Engineer, Electricity Department,
Andaman & Nicobar Administration, Port Blair

Respondents

Present

For the Petitioner:

1. Shri. M.G. Ramachandran Advocate
2. Shri. Rohit Rao N Advocate
3. Shri. Srinam Murthy Advocate
4. Shri. K.U Kumar

For the Respondent:

1. Shri Manohar Singh, Superintending Engineer
2. Ms S.K. Pabla Jr. Engineer

ORDER
(Date of Hearing: 9.12.2009)

At the outset the Commission observed that Sh. M.G. Ramachandran appearing on behalf of the petitioner had also been engaged by the Commission in a writ pending before the Madras High Court, in which the Commission is one of the respondents. When the learned council was engaged by the Commission in the case before Madras High Court, the Commission was not aware that he was also engaged by the petitioner for the instant case. Sh. Ramachandran explained that he had signed with the petitioner earlier to that with the Commission and that both the cases have nothing in common; therefore it does not result into an issue of clash in interest. The respondent did not agree with the clarification as given by Sh. Ramachandran and voiced their objection and thereafter Sh. Ramachandran withdrew from the Case.

2.This petition has been filed for directions to the respondents for release of payment of Rs. 1415.89 lakhs(inclusive of interest for delayed payments) accumulated payment towards withheld/deducted amounts i.e.; working capital Interest, lube oil & excess rebate, O&M escalation, Income tax etc. and the HSD density difference/revision of invoices, etc.

3. The petitioner has developed a diesel-based power plant with capacity of 20 MW in South Andaman and has been supplying power to the respondents since 2.4.2003, the date of commercial operation of the power plant, for which the Power Purchase Agreement (PPA) was signed on 20.11.1997. The petitioner had allegedly raised bills for the power supplied based on the terms and conditions of the PPA. However, the respondents did not make full payments of the amounts claimed from time to time, and deducted/withheld certain amounts on one pretext or the other.

4. Learned counsel for the petitioner by referring to various documents annexed to the petition, explained that the respondents had withheld the amounts due without proper justification and this was causing great financial hardship to the petitioner. He, therefore, sought directions to the respondents for release and payment of the dues claimed.

5. While refuting the allegations of learned counsel for the petitioner, the representative of the respondents submitted that copy of the petition was received in their office on 16.11.2009. He explained that the respondents require inputs from outside agencies such as IOC, SBI before filing their reply. The representative of the respondents further stated that reply was required to be approved at various levels in their organisation. He stated that the process was time-consuming. He sought two months time for filing of reply by the respondents.

6. Learned counsel for the petitioner opposed the respondents' plea for adjournment for two months. He urged that in case the respondents' prayer for adjournment was to be granted they should be directed to make payment of at least 50% of the amount claimed as an interim measure. He undertook to refund the amount with interest in case the Commission finally rejected the petitioner's claim.

7. After consideration of the rival submissions, the Commission granted the respondents time to file their reply before the next date of hearing. The respondents were directed to serve advance copy of their reply to the petitioner. The Commission further directed that the petition be re-notified for hearing on 6.1.2010.

8. During the hearing it was pointed out to the learned counsel for the petitioner that certain important and relevant documents were not filed along with the petition.

Thereupon the learned counsel for the petitioner undertook to place those documents on record by 12.12.2009 and also serve copies thereof on the respondents.

9. List on 6.1.2010 as already decided.

sd/-

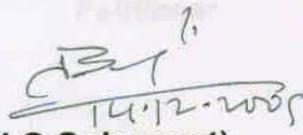
(R.K. SHARMA)
MEMBER

Gurgaon, dated this 14th day of December 2009

sd/-

(Dr. V.K. GARG)
CHAIRPERSON

Certified Copy


14.12.2009
(J.S. Sehrawat)
Secretary