

Record of proceedings dated 01.02.2021

O. P. No. 18 of 2017

M/s. Madhucan Sugar & Power Industries Limited Vs. TSPCC alongwith
its officers & TSDISCOMs

Petition filed seeking to recover shortfall amounts from the licensee for the energy supplied in October and November, 2010 U/s. 86 (1) (f) of the Act, 2003.

Sri. Challa Gunaranjan, Advocate for the petitioner and Sri. D. N. Sarma, OSD of TSPCC for the respondents have appeared through video conference. The counsel for the petitioner stated that the petition is relating to recovery of shortfall amounts from the licensee for the energy supplied in October and November, 2010 under short term power purchase pursuant to purchase order issued by the DISCOMs. The counsel for petitioner explained the various bills and letters filed alongwith the petition. The petitioner approached the Hon'ble Civil Court in the year 2012 seeking to recover the amounts due towards the power supply made in accordance with the purchase order. The present petition is limited to 52.89% of the amount due being the share of amount payable by TSDISCOMs.

The counsel for the petitioner stated that the respondents have filed a counter affidavit and stated that the petition is not maintainable as it is filed beyond three years as per the provisions of the Limitation Act. However, in this particular case section 14 of the Limitation Act would apply, wherein the delay in approaching the proper forum while pursuing the remedies elsewhere has to be omitted from that limitation as in this case it was a bona fide action of approaching the Civil Court. The respondents have filed a counter affidavit before the Civil Court stating that the petitioner ought to have approached the Commission. The respondents did not state anything about the merits of the case. The claim made in this petition is in accordance with the orders of the government, which had identified the share of each distribution company.

The counsel for the petitioner stated that pursuant to the counter affidavit of the DISCOMs, the suit filed before the Civil Court had been dismissed at liberty to approach the proper forum being Commission. The counsel for the petitioner also highlighted the provisions of the purchase order about the claiming of damages /

compensation for the amount due. He also sought payment of interest as the amounts were not paid in time, the agreement being a commercial contract. He sought interest of 18% P. A. on the amount due from the date of institution of the suit till it is paid.

The representative of the respondents stated that DISCOMs in the combined state had floated the purchase order for procurement of energy and settlement of energy on monthly basis. The petitioner cannot claim only a part of the amounts due when the issue is relating to two states and it was an issue prior to the bifurcation of the state. The issue of claim made by the petitioner cannot be decided by this Commission and the matter has to be referred to CERC. The counter affidavit has been filed by the DISCOMs prior to the issue of the jurisdiction being decided by the combined Hon'ble High Court on 31.12.2018. The combined Hon'ble High Court had ordered that the matters involving two states have to be decided by CERC while setting aside the orders of the Commission. The said order of the Hon'ble High Court has also been confirmed by the Hon'ble Supreme Court by its order dated 04.02.2020.

The representative of the respondents stated that the issue of jurisdiction arises in this matter as the other two DISCOMs which are beneficiaries of the purchase order are not made parties to this petition and such petition cannot be decided by the Commission. The petition can only be decided by the CERC in terms of the judgment of the Hon'ble High Court as confirmed by the Hon'ble Supreme Court. Therefore, this petition may be decided by the Commission in terms of the decision of the Hon'ble Supreme Court and the petitioner may be relegated to pursue its case before the CERC.

The counsel for the petitioner stated that the Commission may consider the submissions in the matter and decide the jurisdiction and if required may direct transfer of this petition to CERC.

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

Sd/-
Member

Sd/-
Member

Sd/-
Chairman

O. P. No. 59 of 2018

TSDISCOMs Vs. APGENCO, APTRANSCO & APDISCOMs

Petition filed seeking certain directions to APGENCO and APDISCOMs

Sri. Mohammad Bande Ali, Law Attachee of TSSPDCL for the petitioner has appeared through video conference. There is no representation on behalf of the respondents. The representative of the petitioner sought time of two months for reporting in the matter. In view of the request, the matter is adjourned.

Call on 19.04.2021 at 11.30 A.M.

Sd/-
Member

Sd/-
Member

Sd/-
Chairman

O. P. No. 63 of 2018

M/s. Srinivasa Power Private Limited Vs. TSSPDCL

Petition filed seeking determination of tariff for the period 11th to 20th year of the project.

Sri. P. Srinivasa Rao, Advocate for the petitioner and Sri Mohammad Bande Ali, Law Attachee of TSSPDCL for the respondent have appeared through video conference. The counsel for the petitioner sought time of two weeks stating that he needs to place on record two judgments and an order being relied by him in the matter for consideration by the Commission. The representative of the respondent has no objection. Accordingly, the matter is adjourned.

Call on 15.02.2021 at 11.30 A.M.

Sd/-
Member

Sd/-
Member

Sd/-
Chairman

O. P. No. 70 of 2018

M/s. Sugna Metals Limited Vs. TSSPDCL & its officers

Petition filed seeking directions to readjust the open access demand and to punish the licensee for not refunding the excess amount collected towards charges.

Sri. N. Vinesh Raj, Advocate for the petitioner and Sri Mohammad Bande Ali, Law Attachee of TSSPDCL for the respondents have appeared through video conference. The counsel for the petitioner stated that the respondents have to file the counter affidavit in the matter. The representative of the respondents sought time

of four weeks for filing the counter affidavit. Since, the matter has come up for hearing for the first time, the request is acceded to and the matter is adjourned. The respondents shall file their counter affidavit on or before 22.02.2021 duly serving a copy of the same on the counsel for the petitioner and the counsel for the petitioner may file rejoinder, if any, within ten days thereof duly serving a copy of the same to the respondents.

Call on 15.03.2021 at 11.30 A.M.

Sd/-
Member

Sd/-
Member

Sd/-
Chairman

O. P. No. 71 of 2018

M/s. MSR Mega Bio-Power Private Limited Vs. TSNPDCL

Petition filed seeking determination of tariff for the industrial waste power plant.

Sri. Challa Gunaranjan, Advocate for the petitioner and Sri. T. Madhusudhan, Chief General Manager for the respondent have appeared through video conference. The counsel for the petitioner stated that the petitioner is seeking determination of tariff of the industrial waste project. The matter is coming up for the first time and the counter affidavit is yet to be filed. The representative of the respondent sought six weeks time for filing counter affidavit. Since, the matter has come up for hearing for the first time, the request is acceded to and the matter is adjourned. The respondent shall file its counter affidavit on or before 08.03.2021 duly serving a copy of the same on the counsel for the petitioner and the counsel for the petitioner may file rejoinder, if any, on or before the date of hearing duly serving a copy of the same to the respondent.

Call on 22.03.2021 at 11.30 A.M.

Sd/-
Member

Sd/-
Member

Sd/-
Chairman