

**COURT-I**  
**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY**  
**(Appellate Jurisdiction)**

**IA NO. 643 OF 2018 in**  
**APPEAL NO. 137 OF 2018**

**Dated: 8<sup>th</sup> August, 2018**

**Present: Hon'ble Mr. I. J. Kapoor, Technical Member**  
**Hon'ble Mr. Justice N. K. Patil, Judicial Member**

**In the matter of:**

**M/s. Barmer Lignite Mining Company Ltd.**

**.... Appellant(s)**

**Vs.**

**Rajasthan Electricity Regulatory Commission & Ors.**

**.... Respondent(s)**

Counsel for the Appellant(s) : Mr. Basava Prabhu Patil, Sr. Adv.  
Mr. Aman Anand  
Mr. Aman Dixit  
Mr. Geet Ahuja

Counsel for the Respondent(s) : Mr. R.K. Mehta  
Ms. Himanshi Andley for R-1  
Mr. P.N. Bhandari for Discoms

**ORDER**

**IA NO. 643 OF 2018**  
***(Appln. for interim relief)***

We have heard Mr. Basava Prabhu Patil, learned senior counsel for the appellant and Mr. P.N. Bhandari, learned counsel for Respondent Nos. 2 to 4.

Learned senior counsel appearing for the appellant states that the State Commission has restricted recovery of the interim transfer price of lignite to 70 % only at which level the Appellant cannot sustain the mining

operations. Learned senior counsel further states that the Appellant has a debt equity ratio of 99:1 and if it is not granted recovery of fixed cost component of the transfer price of lignite based on admission of at least 95% of the capital cost as certified by the statutory auditors, the Appellant would not be in a position to even service its debts component and would certainly default on repayment of loans to its lenders. Learned senior counsel also undertakes that the Appellant will refund the excess amount if any resulting out of this grant of interim transfer price of lignite more than 70% as per the impugned order with interest at SBI PLR rate to the Respondents subject to outcome of the appeal.

Mr. Bhandari, learned counsel appearing for Respondent Nos. 2 to 4 strongly objects to the prayer of the appellant and states that it is wrong to say that the State Commission has failed to consider the “sustainability of operations”. As a standard practice, while allowing the ad-hoc interim transfer price every year, the State Commission adopts the self-proclaimed claims of the appellant as the base and allows a transfer price on ad-hoc basis ranging between 60 % to 75%. Therefore, the prayer of the Appellant can not be considered at this stage.

After hearing learned counsel for the parties and keeping in view the financial hardships expressed by learned counsel for the Appellant and also keeping in view the undertaking given by learned senior counsel for the Appellant, we increase the recovery of the interim transfer price of lignite to 85 % instead of 70%. Order accordingly.

The Application is disposed of.

**APPEAL NO. 137 OF 2018**

List the matter for hearing on **12.11.2018**. We make it clear that pendency of this appeal before this tribunal will not come in the way of the State Commission to pass an order in the matter pending before it.

**(Justice N. K. Patil)**  
**Judicial Member**

*ts/mk*

**(I.J. Kapoor)**  
**Technical Member**