

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
AT NEW DELHI**

(APPELLATE JURISDICTION)

**Review Petition No.1 of 2018 in
Appeal No. 235 of 2015
and
Appeal No. 191 of 2015**

Dated: 08th March, 2018

**Present: HON'BLE MR. JUSTICE N.K. PATIL, JUDICIAL MEMBER
HON'BLE MR. S.D. DUBEY, TECHNICAL MEMBER**

Appeal No. 235 of 2015

IN THE MATTER OF:

SKS Power Generation (Chhattisgarh) Ltd.
501-B, Elegant Business Park,
J.B. Nagar, Andheri East,
Mumbai – 400 059

....REVIEW PETITIONER

VERSUS

1. M/s DB Power Ltd.
Dwarka Sadan,
6, Press Complex , Zone-1,
Madhya Pradesh-462011
Through its Director

**... APPELLANT
(In main Appeal No.235 of 2015)**

2. Rajasthan Electricity Regulatory Commission
Vidyut Viniyamak Bhawan, Sahakar Marg
Near State Motor Garage,
Jaipur, Rajasthan – 302001

3. Rajasthan Rajya Vidyut Prasaran Nigam Ltd.
Through its Secretary, Vidyut Bhawan,
Janpath,
Jaipur – 302 005, Rajasthan
4. Jaipur Vidyut Vitaran Nigam Ltd.
Jaipur-Kishangarh Expy, Heerapura,
Ward No. 18,
Jaipur – 302026, Rajasthan
5. Ajmer Vidyut Vitaran Nigam Ltd.
Vidyut Bhawan, Panchsheel Nagar,
Makarwali Road,
Ajmer – 305004, Rajasthan
6. Jodhpur Vidyut Vitaran Nigam Ltd.
New Power Hours, Industrial Area
Jodhpur – 342003, Rajasthan
7. Secretary, Government of India
Ministry of Power, Shram Shakti Bhawan
New Delhi - 110001
8. Secretary, Government of Rajasthan
Department of Energy, Secretariat,
Jaipur, Rajasthan - 302005
9. PTC India Ltd.
2nd Floor, NBCC Tower,
15 Bhikaji Cama Place,
New Delhi – 110066
10. Maruti Clean Coal & Power Ltd.
Ward No. 42, Building No. 14,
Civil Lines, Near Income Tax Colony,
Raipur,
Chhattisgarh – 492001
11. Lanco Power Ltd.
397, Udyog Vihar,
Phase III,
Gurgaon – 122016

12. Athena Chhattisgarh Power Ltd.
1024/1/RT, G-1, B-Block
Roxana Towers,
Green Lands,
Begumpet,
Hyderabad-500015

...RESPONDENTS

Appeal No. 191 of 2015

In the Matter of:

SKS Power Generation (Chhattisgarh) Ltd.
501-B, Elegant Business Park,
J.B. Nagar, Andheri East,
Mumbai – 400 059

....REVIEW PETITIONER

VERSUS

1. M/s Lanco Power Ltd., Gurgaon
Plot No.4, Software Units Layout,
HITEC City, Madhapur, Hyderabad,
Andhra Pradesh – 500 081.

...Appellant
(In Main Appeal No.191 of 2015)

2. Rajasthan Electricity Regulatory Commission
Vidyut Viniyamak Bhawan, Sahakar Marg
Near State Motor Garage,
Jaipur, Rajasthan – 302001

3. Rajasthan Rajya Vidyut Prasaran Nigam Ltd.
Through its Secretary, Vidyut Bhawan,
Janpath,
Jaipur – 302 005, Rajasthan

4. Jaipur Vidyut Vitaran Nigam Ltd.
Jaipur-Kishangarh Expy, Heerapura,
Ward No. 18,
Jaipur – 302026, Rajasthan

5. Ajmer Vidyut Vitaran Nigam Ltd.
Vidyut Bhawan, Panchsheel Nagar,
Makarwali Road,
Ajmer – 305004, Rajasthan

6. Jodhpur Vidyut Vitaran Nigam Ltd.
New Power Hours, Industrial Area
Jodhpur – 342003, Rajasthan
7. Secretary, Government of India
Ministry of Power, Shram Shakti Bhawan
New Delhi - 110001
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Jaipur, Rajasthan - 302001
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10. Maruti Clean Coal & Power Ltd.
Ward No. 42, Building No. 14,
Civil Lines, Near Income Tax Colony,
Raipur,
Chhattisgarh – 492001
11. DB Power Ltd..
Dwarka Sadan-6, Press Complex, Zone-1
M.P. Nagar, Bhopal-462011
12. Athena Chhattisgarh Power Ltd.
1024/1/RT, G-1, B-Block
Roxana Towers,
Green Lands,
Begumpet,
Hyderabad-500015

...RESPONDENTS

- Counsel for the Appellant(s) : Mr. Atul Kumar Mathur
Mr. Buddy A. Ranganadhan
Ms. Priya Singh
Mr. Prabal Mehrotra
- Counsel for the Respondent(s) : Mr. Hemant Singh
Mr. Nishant Kumar

Mr. Divyanshu Bhatt for R-1

Mr. Anand K. Ganesan
Ms. Rhea Luthra for R-3 to R-5 & R-7

Mr. Deepak Khurana for R-11

Mr. R.K. Mehta
Ms. Himanshi Andley for RERC

J U D G M E N T

PER HON'BLE MR. S. D. DUBEY, TECHNICAL MEMBER

Review Petition No. 1 of 2018

The present Review Petition has been filed by SKS Power Generation (Chhattisgarh) Ltd. under Section 120(2)(f) of the Electricity Act, 2003 for review of the Judgment and Order dated 2nd February, 2018 passed by this Tribunal in Appeal Nos.235 of 2015 and 191 of 2015.

2. The main Appeal Nos. 235 of 2015 and 191 of 2015 had been filed under Section 111 of the Electricity Act, 2003 against the impugned order dated 22nd July, 2015 passed by the Rajasthan Electricity Regulatory Commission (RERC).

3. The Review Petitioner, SKS Power Generation (Chhattisgarh) Ltd., has by way of its Appeal No.264 of 2015 has challenged the impugned order dated 22.07.2015 of RERC which is pending adjudication before this Tribunal. The Review Petitioner, in its review petition has contended that the judgment and order dated 2.2.2018 prejudices the rights of the review petitioner in as much as if the directions given by this tribunal in paragraph 17.5 of the said judgment

are given effect to then, the same prejudices the Appeal No.264 of 2015 of the review petitioner which is pending adjudication before this tribunal. Hence, the review petitioner has preferred the present review petition vide the instant Review Petition No.1 of 2018 in Appeal Nos. 235 of 2011 and 191 of 2015 and has prayed for the following :-

- a) review the Judgment dated 2nd February, 2018 in Appeal Nos.235 of 2015 and 191 of 2015 to the extent that the directions given to the said Commission in Paragraph 17.5 will apply only to the originally bid quantities by the Appellant therein, i.e. 310_MW and 100-MW respectively; and/or
- b) in the alternative modify the Judgment and Order dated 2nd February, 2018 passed in Appeal Nos. 235 of 2015 and 191 of 2015 to the extent of the quantity of the contracted power to be supplied as mentioned in the Judgment dated 2nd February 2018 and no quantities be mentioned till the disposal of the Appeals filed by the present Respondent No.11 / Review Petitioner; and / or
- c) direct that any reworking of the PPA's by the Commission be undertaken only after the disposal of the Applicants appeal No.264 of 2015.
- d) pass any other Order or Orders which this Hon'ble Tribunal may be deem fit and proper in the facts and circumstances of the present case.

4. The captioned Appeal Nos. 235 of 2015 and 191 of 2015 were reserved for orders on 11.1.2018 and the appeal filed by Respondent Nos.11 and 12 bearing Appeal Nos. 264 of 2015 and 202 of 2015 were delinked and relisted

for hearing on 8.2.2018 as agreed by both the parties. The final judgment in the Appeal Nos. 235 of 2015 and 191 of 2015 were pronounced in the open court on 2.2.2018. The Review Petitioner, SKS Power Generation (Chhattisgarh) Ltd. has made categorical reference to paragraph 17.5 of the judgment dated 2.2.2018, reproduced as under:-

“Hence, the impugned order dated 22.07.2015 is liable to set aside. The State Commission shall be required to pass appropriate/revised order enabling the Appellants namely DB Power Ltd. and Lanco Power Ltd. to supply the contracted power under the respective PPA (dated 01.11.2013) viz. 410 MW & 350 MW, respectively expeditiously in the interest of justice and equity.”

5. The review petitioner has further expressed its apprehension that the said judgment dated 2.2.2018 prejudices the right of review petitioner in as much as if the directions given by the Tribunal in Paragraph 17.5 of the said judgment are given affect to then, the same would prejudice the appeal of the Respondent No.11 i.e. the Review Petitioner.

6. We have gone through the contents of the Review Petition No.1 of 2018 and also heard the learned counsel of the Appellant, Mr. Buddy A. Ranganadhan. The said judgment dated 2.2.2018 has been passed by this Tribunal after hearing the concerned parties under the appeals and exercising due diligence on their merits in the interest of justice and equity.

ORDER

The Review Petitioner has failed to establish any error or mistake apparent on the face of record or any good ground as such made out by the

Petitioner necessitating the review of the Impugned Judgment. Accordingly, the Review Petition is dismissed.

Pronounced in the open court on this 08th day of March, 2018.

(S.D. Dubey)
Technical Member

(Justice N.K. Patil)
Judicial Member

REPORTABLE / ~~NON-REPORTABLE~~