

**BEFORE THE HIMACHAL PRADESH ELECTRICITY REGULATORY
COMMISSION, SHIMLA**

In the matter of : -

M/s Kanchanjunga Power Co. Pvt. Ltd.
B-37, IIIrd Floor, Sector – I,
Noida – 201301
Gautam Budh Nagar (UP).

.....Applicant

Versus

The H.P. Power Transmission Corporation Ltd.
thro' it Managing Director
Himfed Bhawan, Panjari,
(Below Old MLA Quarters),
Shimla-171005

.....Respondent

Petition No. 40 of 2016

Decided on 19th August, 2017

CORAM

**S.K.B.S Negi,
CHAIRMAN**

Counsels: -

For petitioner: Sh. Nimesh Jha, Advocate

For respondent Shri I.P. Singh, Legal Consultant a/w
Sh. A.K. Khanotia Dy. GM (C&M)

ORDER

M/s Kanchanjunga Power Co. Pvt. Ltd., B-37, IIIrd Floor, Sector- 1, Noida- 201301, Gautam Budh Nagar (UP) (hereinafter called “ the petitioner”) who has set up the 24MV, the Baragaon Hydro Project, located in Kullu Distt. has moved the present petition, bearing Petition No. 40 of 2016, under Section 86(I)(e) & (f) of the Electricity Act, 2003 for resolution of dispute regarding generation loss caused due to non-readiness of the Transmission/ Evacuation System for evacuation of power from the said project.

2. In the Petition, the petitioner has prayed -
- (a) to declare that the Respondent is in violation of its duties and obligations under the Electricity Act, 2003, the Connectivity Agreement dated 06/06/2014 and the representation made by its letters dated 17/11/2011 and 16/08/2012 and the decisions taken in the meetings of the STU Co-ordination Committee;
 - (b) to direct the Respondent to commission the 33/220kV Pooling Station at Fozal and the 220 kV D/C Transmission line from 33/220 kV Pooling Point at Fozal to LILO point of 220kV Prini-Nalagarh D/C line of the ADHEPL in order to enable the petitioner to evacuate the full capacity of power generation, immediately;
 - (c) to direct the Respondent to compensate the petitioner for the losses incurred on account of non-commissioning the power evacuation capacity beyond 31/03/2016 and plant operation at part load; and
 - (d) to pass other and further orders as the Commission may deem fit and proper in the facts and circumstances of the present case.

3. This petition was accompanied by an Interim Relief Application, bearing No 41 of 2016, seeking direction from this Commission to the HPPTCL to commission the 33/220 kV Pooling Station at Fozal and 220 kV D/C line from 33/220 kV Pooling Station of Fozal to LILO point of 220 kV AD Hydro-Nalagarh line to enable the petitioner to evacuate the full capacity from its Baragaon SHEP. The Commission allowed the interim relief application vide its Order dated 28th May, 2016, whereunder prayer (b) qua the commissioning of the 33/220 kV Pooling Station at Fozal and LILO of 220 kV D/C of the Respondent with 220 kV AD Hydro Nalagarh line stood fulfilled by the Respondent. The power plant was provided connectivity with the HPPTCL and AD Hydro Nalagarh line on 07/06/2016 and as such the scope of the present petition to be adjudicated is now limited to prayer(a), (c) and (d).

4. The petitioner has claimed compensation for the losses incurred on account of non-commissioning of the evacuation capacity beyond 31/03/2016

which was proposed to be developed by the Respondent. In the 4th STU Coordination Committee meeting dated 11/10/2010 the Respondent had revised the power evacuation system to connect its proposed Naggar Substation via a LILO to 220 kV D/C Prini–Nalagarh transmission line owned by Allain Dhungan Hydro Power Ltd. (“AD Line”) instead of building a transmission system up to PGCIL’s Banala Substation from its proposed Substation as per original plan.

5. The Hon’ble Supreme Court in its order dated 26/04/2017 in Civil Appeal No. 1795 of 2013 has affirmed the concurrent findings of the Hon’ble Tribunal and Hon’ble CERC with respect to the incidental nature of the transmission line built by AD Hydro vis-à-vis inter-state transmission system/network and as such affirmed that the same is amenable to the jurisdiction of the Hon’ble Central Commission under Section 79 of the Electricity Act, 2003. Hence the petitioner has moved IA No. 82 of 2017 for withdrawal of the present petition with liberty to approach this Commission with revised claims at a later stage.

6. An opportunity has been given to the HPPTCL, the respondent Corporation, to offer its response to the IA No. 82 of 2017. Shri I.P. Singh, Consultant (Legal) representing the said Respondent Corporation has no objection to the prayer of the petitioner for withdrawal of the present petition, but he prays that the liberty to approach this Commission afresh should not be given. Shri Nimesh Jha, the Advocate for the Petitioner has stated that various issues are involved in this case and hence his valuable right to approach this Commission cannot be denied.

7. In light of the above averments of the parties, the petitioner is permitted to withdraw the petition, with liberty to file afresh, if necessary,

Hence the petition is dismissed as withdrawn.

--Sd/-

(S.K.B.S. Negi)
Chairman