

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

Petition No: 130 of 2024
Instituted on: 09.10.2024
Heard on: 20.01.2025
Decided on: 25.03.2025

CORAM:

DEVENDRA KUMAR SHARMA
CHAIRMAN.

YASHWANT SINGH CHOHAL
MEMBER (Law).

SHASHI KANT JOSHI
MEMBER.

In the matter of:-

The HP State Electricity Board Limited. through
Chief Engineer (System Operation),
Vidyut Bhawan, Shimla-171004.**Petitioner.**

AND

M/s Varun Jal Vidyut Shakti Pvt. Ltd.,
Skipton Villa, The Ridge, Shimla, HP-171001. through
Sh. Arun Kumar, Authorised Signatory.**Respondent.**

**Review Petition under Section 94 (1) (f) of the Electricity Act, 2003 read
with Section 63 of the HPERC (Conduct of Business) Regulations, 2005
for seeking review of order dated 09.09.2024 passed in Petition No. 103
of 2024.**

Present:-

Sh. Kamlesh Saklani, Authorised Representative for the
Petitioner.
Sh. Dinesh Sharma, Ld. Counsel for the Respondent.

ORDER

This Review Petition has been filed under Section 94 (1) (f) of the
Electricity Act, 2003 read with Section 63 of the Himachal Pradesh
Electricity Regulatory Commission (Conduct of Business) Regulations,
2005 (the CBR, 2005 for short) by the Himachal Pradesh State

Electricity Board Ltd. (the HPSEBL/ Joint Petitioner No. 1 for short) for reviewing order dated 09.09.2024 in Petition No. 103 of 2024.

2. A Joint Petition being Petition No. 103 of 2024 was filed by the Petitioner and M/s Varun Jal Vidyut Shakti Private Limited (Respondent for short) under the provisions of Section 86 (1) (b) of the Electricity Act, 2003 for approval of Supplementary Power Purchase Agreement (SPPA for short) at generic levelled tariff in respect of Banu Hydro Electric Project (5.0 MW) (Project for short).

3. The said SPPA was to be executed in furtherance of PPA signed on 10.06.2022 pursuant to order dated 24.03.2022 in Petition No. 49 of 2021 and dated 18.05.2022 in Suo Moto Petition No. 23 of 2022 for allowing generic levelled tariff as determined by the Commission for Small Hydro Electric Projects for the 4th Control Period vide order dated 17.11.2023 in Suo Moto Petition No. 7 of 2023.

4. The Respondent had filed Petition No. 49 of 2021 which was allowed by the Commission vide order dated 24.03.2022. The order dated 24.03.2022 was reviewed vide order dated 18.05.2022 in Suo Moto Petition No. 23 of 2022 providing provisional tariff of Rs. 4.28 per kWh as the tariff for the 4th Control period had not yet been determined by the Commission. The relevant extract of order dated 18.05.2022 has been reproduced as under:-

“16. Since the SCOD of the Project is beyond the 3rd Control Period and the Power Purchase Agreement is required only for the purpose of

the loan and the generation would be only after 3rd control period, certainly the tariff as would be applicable beyond the 3rd Control Period in which SCOD of the Project is Scheduled will be applicable.

17. The Petition is disposed of accordingly that the Project is for the capacity of 5 MW and the tariff as applicable shall be Rs.4.28 per unit without considering the impact of subsidy and royalty structure applicable to this Project i.e. (6+1)% for 1st 12 years and (12+1) % for remaining useful life of the Project.

18. All other conditions of the Order dated 24.03.2022 shall remain unchanged.”

5. According to order dated 18.05.2022, the parties were under an obligation to approach the Commission after release of financial assistance or at least one month before the SCOD of the Project for the appropriate tariff.

6. As per the Petition, the Project was entitled for the generic levelled tariff for the 4th Control Period as determined under Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from the Renewable Energy Sources and Terms and Conditions for Tariff Determination) Regulations, 2017 (RE Regulations, 2017) which has been determined on 17.11.2023 in Suo Moto Petition No. 7 of 2023 and as per said order, the Project having installed capacity of 5 MW to 25 MW shall be entitled to tariff of Rs. 4.78 per kWh subject to the following:-

- Adjustment on account of incentive and/ or available to Project.
- Additional Tariff on account of O&M.
- Variation of Free Power Structure
- Rounding

7. Accordingly, a Joint Petition No. 103 of 2024 was filed for providing tariff as per the 4th Control Period, which was allowed vide order dated 09.09.2024 and provisional tariff of Rs. 4.84 per kWh was provided to the Project of the Petitioner after giving additional tariff of Rs. 26.10 paisa on account of O&M and adjusting 20 paisa on account of available incentive of Rs. 329.26 lacs under Industrial Development Scheme, 2017 (IDS, 2017).

8. According to the Petitioner, the free power specified in the Supplementary Implementation Agreement (SIA for short) dated 18.09.2019 for the Banu HEP is different than the free power structure considered by the Commission in order dated 17.11.2023 in Suo Moto Petition No. 7 of 2023 for the category of 5MW to 25 MW but no adjustment on this account has been made in the provisional tariff of Rs. 4.84 per kWh.

9. Further, the Commission in order dated 18.05.2022 in Suo Moto Petition No. 23 of 2022 had accounted for variation of free power in the generic levelled tariff while approving the PPA of Banu HEP, but the same was not considered in the order dated 09.09.2024 while approving the SPPA, possibly due to the fact the Petitioners in Petition No. 103 of 2024 did not clearly highlight the variation in detail, as presuming it to be within the notice of Commission due to earlier consideration in Order dated 18..05.2022.

10. According to the Petition, para 7.15 of order dated 17.11.2023 in Suo Moto Petition No. 7 of 2023 provides for adjustment of free power structure as under:-

Sr. No.	Category of small hydro project	Free power structure
(i)	Above 100 kW to 2 MW capacity	3% for first 12 years and 13% for the remaining 28 years.
(ii)	Above 2 MW but below 5 MW capacity	7% for first 12 years and 13% for the remaining 28 years.
(iii)	5 MW to 25 MW capacity	13% for the entire tariff period of 40 years

11. The aforesaid order stipulates that in case where free power structure applicable for the Project for which PPA is to be approved differs from the structure considered in the tariff, and the generic levelled tariff for such project shall be computed by adjusting the tariff as per the methodology specified under para 7.15 (iv) of the order dated 17.11.2023 in Suo Moto Petition No. 07 of 2023.

12. According to the Petitioner, the SIA signed between the Petitioner and the Government of Himachal Pradesh (GoHP) on 18.09.2019 specifies as under:-

“5. FREE POWER TO GOVERNMENT

5.1 Projects from 2.00 MW to 5.00 MW Capacity: -

i) Royalty in the shape of free power in respect of sale of power within the State (captive use or sale to HPSEBL Ltd.) to the State from Banu (5.00 MW) SHEP will be @ 6% for a period of 12 years reckoned after thirty months (30) months from the date of signing of IA of the Project or from the date till which extension in SCOD is granted by the First Party. Beyond 12 years, royalty shall be @ 15% for next 18 years and beyond that @ 24% upto the date of taking over the Project by First Party referred to in Clause 4.1 of the already signed Implementation Agreement.

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7.2 After Commissioning of the Project

Second Party shall contribute 1% free power for LADF over and above the rates of royalty agreed to be paid to the State Government in the Implementation Agreement/ Supplementary Implementation Agreement,

as the case may be. This additional 1% (one percent) free power, over and above the royalty component provided to the host State will be a pass through in tariff. The revenue collected by the Nodal Agency (Directorate of Energy from sale of such 1% free power (contribution from the Second Party) will be transferred to the Local Area Development Fund for such project."

13. Thereafter, the royalty rates (including LADF) for the Project are 7% for the first 12 years, 16% for the next 18 years and 25% of deliverable energy for the remaining agreement period beyond 30 years which is in variance from structure of free power adjustment in order dated 17.11.2023 in Suo Moto Petition No. 7 of 2023.

14. Hence, it is prayed that order dated 09.09.2024 in Petition No. 103 of 2024 be modified and appropriate adjustment on account of difference in free power structure as per the IA and SIA be made.

REPLY OF THE RESPONDENT

15. In reply it is submitted by way of preliminary objections that order dated 09.09.2024 is a provisional order and review is not maintainable against the provisional order and further by moving the present review Petition, the Petitioner intends to get the final order as against the provisional order. Further, there are no errors apparent on the face of the record, thus, the review is not maintainable.

16. On merits, it is submitted that the contents of paras 1 to 8 are matter of record and require no comments. The grant of provisional tariff of Rs. 4.84 per kWh as mentioned in para 9 of the Petition, it is admitted but the adjustment of 20 paise towards industrial subsidy is denied that no calculation is included in the order. With respect to paras

10 to 14, it is averred that no calculations has been provided for working out the tariff of Rs. 4.84 per kWh. It is averred that assertion of adjustment of free power is not correct as no calculation sheet has been provided. It is submitted that in Joint Petition No. 103 of 2024, the Respondent had agreed for adjustment in tariff because of difference in free power.

17. In rejoinder, the contents of the Petition have been re-affirmed and those of the reply have been denied.

18. We have heard Sh. Kamlesh Saklani, Authorised Representative for the Petitioner and Sh. Dinesh Sharma, Ld. Counsel for the Respondent and have perused the entire record carefully. The following points arise for determination in the Petition:-

Point No. 1: Whether there are sufficient reasons for reviewing the Order dated 09.09.2024 in Petition No. 103 of 2024?

Point No. 2: **Final Order**

Point No. 1: Yes.

Point No. 2: The Petition allowed per operative part of the Order.

REASONS FOR FINDINGS

Point No. 1:

20. It is well settled that the power of review can be exercised for correction of a mistake but not to substitute a view. Such powers can be

exercised within the limits of the statute dealing with the exercise of power. The review cannot be treated like an appeal in disguise. The power of review may be exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced at the time when the order was made. It may also be exercised where some mistake or error apparent on the face of the record is found but may not be exercised on the ground that the decision was erroneous on merits which is the domain of a court of appeal. While exercising the review court does not sit in appeal over its own order. A rehearing of the matter is impermissible in law. In this regard, reliance may be placed in *Parsion Devi v. Sumitri Devi*, (1997) 8 SCC 715 wherein it is held as under:-

“9. Under Order 47 Rule 1 CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be “reheard and corrected”. A review petition, it must be remembered has a limited purpose and cannot be allowed to be “an appeal in disguise.”

21. Similarly in *Meera Bhanja v. Nirmala Kumari Choudhury*, (1995) 1 SCC 170 it has been held by the Hon'ble Supreme Court that the review proceedings are not by way of appeal and have to be strictly

confined to the scope and ambit of Order 47, Rule 1, CPC. Para 8 of the aforesaid law is reproduced as under:-

“8. It is well settled that the review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47, Rule 1, CPC. In connection with the limitation of the powers of the court under Order 47, Rule 1, while dealing with similar jurisdiction available to the High Court while seeking to review the orders under Article 226 of the Constitution of India, this Court, in the case of Aribam Tuleswar Sharma v. Aribam Pishak Sharma [(1979) 4 SCC 389 : AIR 1979 SC 1047] , speaking through Chinnappa Reddy, J., has made the following pertinent observations: (SCC p. 390, para 3)

“It is true as observed by this Court in Shivdeo Singh v. State of Punjab [AIR 1963 SC 1909] , there is nothing in Article 226 of the Constitution to preclude the High Court from exercising the power of review which inheres in every Court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it. But, there are definitive limits to the exercise of the power of review. The power of review may be exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made; it may be exercised where some mistake or error apparent on the face of the record is found; it may also be exercised on any analogous ground. But, it may not be exercised on the ground that the decision was erroneous on merits. That would be the province of a court of appeal. A power of review is not to be confused with appellate power which may enable an appellate court to correct all manner of errors committed by the subordinate court.”

22. A similar view has been taken by the Hon'ble Supreme Court in Ram Sahu v. Vinod Kumar Rawat, (2021) 13 SCC 1.

23. The Commission has given the structure of adjustment of free power in order dated 17.11.2023 in Suo Moto Petition No. 7 of 2023 for the categories mentioned in said order. Sub-paras (i), (ii) and (iii) of Para 7.15 of the order dated 17.11.2023 in Suo Moto Petition No. 7 of 2023 are reproduced as under:-

“7.15 Free power (Energy) structure and adjustment in tariff for variations.-

- (i) *The Sub-regulation (1) of Regulation 36-C of the RE Tariff Regulations, 2017 stipulates that the Commission shall consider appropriate structure(s) of free power for determination of generic levellised tariffs for various categories of SHPs, duly keeping in view the provisions of the State Hydro Policy for allotment of sites for SHPs, National Hydro Policy, Tariff Policy and the limits specified under Sub-regulation (3).*
- (ii) *In accordance with clause (iii) of sub-regulation (1) of regulation 35-C and Sub-regulation (3) of regulation 36-C of the RE Tariff Regulations, 2017, the free energy to be taken into account for any part of the tariff period shall not exceed 13.00% (free energy), which includes 12.00% free power to the Home State and 1.00% additional free power for local area development fund as stipulated in National Hydro Policy/ Tariff Policy.*
- (iii) *Based on above and the free power structure presently being followed by the State Government, the generic levellised tariffs for various categories of SHPs have been determined by accounting for free energy, as per following structure:-*

Sr. No.	Category of small hydro project	Free power structure
(i)	Above 100 kW to 2 MW capacity	3% for first 12 years and 13% for the remaining 28 years.
(ii)	Above 2 MW but below 5 MW capacity	7% for first 12 years and 13% for the remaining 28 years.
(iii)	5 MW to 25 MW capacity	13% for the entire tariff period of 40 years

24. The Petitioner has also reproduced the free power structure as contained in the SIA signed by the Respondent with the GoHP on 18.09.2019 as under:-

“5. FREE POWER TO GOVERNMENT

5.1 Projects from 2.00 MW to 5.00 MW Capacity: -

- i) *Royalty in the shape of free power in respect of sale of power within the State (captive use or sale to HPSEBL Ltd.) to the State from Banu (5.00 MW) SHEP will be @ 6% for a period of 12 years reckoned after thirty months (30) months from the date of signing of IA of the Project or from the date till which extension in SCOD is granted by the First Party. Beyond 12 years, royalty shall be @ 15% for next 18 years and beyond that @ 24% upto the date of taking over the Project by First Party referred to in Clause 4.1 of the already signed Implementation Agreement.*

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7.2 After Commissioning of the Project

Second Party shall contribute 1% free power for LADF over and above the rates of royalty agreed to be paid to the State Government in the Implementation Agreement/ Supplementary Implementation Agreement, as the case may be. This additional 1% (one percent) free power, over and above the royalty component provided to the host State will be a pass through in tariff. The revenue collected by the Nodal Agency (Directorate of Energy from sale of such 1% free power (contribution from the Second Party) will be transferred to the Local Area Development Fund for such project."

25. The Commission while allowing the provisional tariff of Rs. 4.84 per kWh has considered the adjustment of free power as per said order dated 17.11.2023 i.e. 12+1%, whereas, the free power adjustment for first 12 years should have been done in terms of free power structure as contained in the SIA dated 18.09.2019 i.e. @ 6+1% for first 12 years and @ 12+1% for the remaining life of the Project read with Regulation 36-C of the Himachal Pradesh Electricity Regulatory Commission (Promotion of Generation from Renewable Energy Sources and Terms and Conditions for Tariff Determination) Regulations, 2017, as amended vide Seventh Amendment dated 22.09.2023 (RE Regulations, 2017 for short)

26. The first proviso to Regulation 36-C of the RE Regulations, 2017, as amended by the Seventh Amendment Regulations, 2023 provides that in case the structure of free power actually applicable to a Project, duly curtailed as per Sub-regulation (3), is at variance from the structure considered while determining the generic levelized tariff, such tariff shall be suitably adjusted based on the structure of free power applicable subject to the limit specified in sub-regulation (3). Regulation

36-C of RE Regulations, 2017 as amended by the Seventh Amendment

Regulations, 2017 is reproduced as under:-

“36-C. Free Power.”-(1) *The Commission shall consider appropriate structure(s) of free power for determination of generic levellised tariffs for various categories of small hydro projects, as mentioned in Regulation 33- C, duly keeping in view of the provisions of the State Hydro Policy for allotment of sites for small hydro projects, National Hydro Policy, Tariff Policy and the limits specified under Sub-regulation(3):*

Provided that in case the structure of free power actually applicable to a project, duly curtailed as per Sub-regulation (3), is at variance from the structure considered while determining the generic levellised tariff, such tariff shall be suitably adjusted based on the structure of free power applicable subject to the limit specified in Sub-regulation(3):

Provided further that in cases requiring determination of the project specific tariff, the Commission shall consider the structure of free power actually applicable to that project subject to the above and the limits specified in Sub-regulation(3).

(2) In case of any change in the structure of free power for a small hydro project from that considered for the determination of generic levellised tariff or project specific levellised tariff in accordance with Sub-regulation (1) or in cases where the adjustment in tariff on account of variation in free power has to be allowed as per the specific provisions contained in these Regulations, including those covered in Regulation 17 and Sub-regulation (2) of Regulation 20, the Distribution Licensee shall adjust the tariff as per the following formula:-

<i>Rate payable for the month for the net saleable Energy (Rs/kWh)</i>	<i>= a x (100-b)/(100-c)</i>
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Where,-

“a” is the levellised tariff (in Rs/kWh) which is required to be adjusted under this Regulation

“b”is the free power (in percentage) taken into account or deemed as taken into account for the month, in —all in the corresponding month of the tariff period by reckoning the date of commencement of operation of the project as the starting date of the tariff period.

“c” is the free power (in percentage) to be allowed in the tariff for the month subject to maximum limit of 13% free power(energy) and the provisions of Sub- regulation (3)-

Where free power is applicable at different rates for different parts of a month, the permissible free power (i.e. “c”) shall be determined under this Sub-regulation separately for each such part and weighted average rate for the month as a whole shall be worked out by considering the total quantum of energy for each day of the month.

- (3) The free power (in percentage) to be taken into consideration for the purpose of determination of tariff under Sub-regulation (1) and/or any adjustment under Sub-regulation (2) shall be subject to the following:—
- (i) The free energy to be taken into account for any part of the tariff period for the purposes of Sub-regulation (1), or to be allowed for any part of the tariff period for the purposes of Sub-regulation (2), shall not exceed 13% free power (energy) which includes 12% free power to home State and 1% additional free power for Local Area Development Fund, as stipulated in the National Hydro Policy/ Tariff Policy;
 - (ii) Any quantum of free energy, if committed by the renewable energy generator over and above the 13% free power (energy) for any period shall not be factored into the tariff;
 - (iii) Additional free energy, if any, to be provided by the renewable energy generator to the State Government, on account of curtailment of waiver period due to delay in commissioning of project as per provisions of Implementation Agreement and/or for enhancement of capacity and/or for any reason attributed to the renewable energy generator shall not be taken into account even if the total free power for any period, including such additional free power, does not exceed 13% free power(energy);
 - (iv) The quantification and adjustment of free energy as well the energy accounting shall be made with reference to the energy projected/ received at the interconnection point;
 - (v) The free energy to be allowed for any period for the purpose of Sub-regulation (2) shall in no case be more than that actually deducted for that period in the energy accounts, out of the total energy received at the interconnection point.”

27. The Project capacity is 5 MW. The Respondent has signed the SIA with the GoHP on 18.09.2019 which has not been disputed. In the said SIA, the Respondent has agreed for the adjustment of free power in the manner provided in Clause 5.1 of the SIA. Therefore, the adjustment on account of free power (including LADF) for the Project has to be made @ 7% for the first 12 years, and @13% for the remaining agreement period upto the date of taking over the Project by the GoHP as agreed by the Respondent in the SIA dated 18.09.2019. The Respondent is bound by the terms and conditions of the SIA dated

18.09.2019. The Hon'ble Supreme Court has also held that once the parties committed themselves to a written contract reducing the terms and conditions agreed upon by them in writing, the same would be binding and in the event of breach of the conditions, the consequences must necessarily follow and if resisted would be legally enforceable. In this regard reliance may be placed in *Venkataraman Krishnamurthy v. Lodha Crown Buildmart (P) Ltd.*, (2024) 4 SCC 230 : 2024 SCC OnLine SC 182.

28. In the present case, while allowing provisional tariff of Rs. 4.84 per kWh vide order dated 09.09.2024 in Petition No. 103 of 2024, the adjustment of free power has been made @ 13% for entire life of the project in terms of row (iii) of the table below Clause 7.15 (iii) of order dated 17.11.2023 in Suo Moto Petition No. 7 of 2023, but as observed above, the Respondent had agreed for a specific free power adjustment structure in the SIA dated 18.09.2019 which is required to be followed in the case of the Project of the Respondent and thus, the order under review providing provisional tariff is required to be reviewed.

29. In the entire reply, the Respondent has not disputed the free power structure as contained in SIA dated 18.09.2019. What is disputed by him is that in the absence of calculation sheet, it can't be inferred that adjustment has not been made in accordance with applicable free power adjustment.

30. Therefore, after making appropriate adjustment in the tariff on account of free power structure contained in the SIA dated 18.09.2019, in respect of the Projects of 5 MW to 25 MW capacity @ 7% (including 1% LADF) for the first 12 years and 13% (including 1% LADF) for the remaining life of the Project, as mentioned above, and also taking into account the adjustment on account of Industrial subsidy as per IDS, 2017, and additional tariff of Rs. 0.26 per kWh on account of O&M charges, the provisional tariff which should have been allowed to the Project of the Respondent comes to Rs. 4.62 per kWh instead of provisional tariff of Rs. 4.84 per kWh, which has inadvertently been allowed. The tariff calculation as per the aforesaid adjustment in terms of SIA dated 18.09.2019 shall be as under:-

1. Tariff Calculation after adjustment of Free Power as per Para 7.15(iv) :			
A	Generic Levellized Tariff of 5MW SHEP (Rs./Unit):	4.78	(As per Tariff Order)
B	Additional Tariff on account of O&M Charges, as per Para 7.19 (B)(b) (Rs./Unit):	0.261	
C	Total Tariff for the 5MW SHEP Category (Rs./Unit):	5.041	A+B
D	Generic Levellized Net Saleable Energy (MU) with free power @13% for 1st 12 years:	4.1235 18	(As per Tariff Model)
E	Levellized Net Saleable Energy at Discounted Rate of 9.52% corresponding to the free power structure of Banu SHEP (MU) i.e. (6+1)% for first 12 years:	4.3175 09	
F	Tariff for Banu SHEP after adjustment of Free Power(Rs./Unit):	4.8145 01	(CXD)/E
2. Adjustment of Incentives/Subsidy			
G	Incentives @30% of the investment in plant & machinery i.e., of Rs. 1099.53/- Lakhs (for total capacity of 5MW) (Rs. in Lakhs):	329.86	
H	Incentives for 1 MW Capacity (Rs. in Lakhs):	65.972	(G/5)
I	Adjustment for 1 MW against 1 Cr incentives (Rs.):	0.29	(As per Tariff

			Model)
J	Adjustment for 1 MW against 1 lakh incentives(Rs.):	0.0029	(I/100)
K	Adjustment for 1 MW against 65.972 lakh incentives(Rs.):	0.1913	(H*J)
3.Final Tariff After adjustment of 0.1913 (Rs.):		4.6232	(F-K)

31. Though the Ld. Counsel for the Respondent has relied on the judgment laid down by the Hon'ble High Court of Bombay in the case of Chandrakant Jagannath Manjrekar and another v. Shripad Vaikunth Naik AIR 1988 BOMBAY 91 but the law laid down therein has no application to the facts and the circumstances of the case.

32. In the circumstances, the Petitioner has substantiated that there is an error apparent on the face of record in the Order dated 09.09.2024 in Petition No. 103 of 2024 and on account of the same, a grave injustice has occurred to the Petitioner as despite the eligibility of the tariff of Rs. 4.62 per kWh, a provisional tariff of Rs. 4.84 per kWh has been allowed to the Project of the Respondent which is required to be corrected. Thus, a provisional tariff of Rs. 4.62 per kWh is allowed to the Project of the Respondent i.e. Banu Small Hydro Electric Project (5.0 MW). The Commission is also satisfied that in case this error is permitted to continue, the same would lead to the miscarriage of justice. Hence, there are sufficient reasons for reviewing the Order dated 09.09.2024 in Petition No. 103 of 2024. Point No. 1 is accordingly answered in favour of the Petitioner.

Final Order

33. In view of the above said discussion and findings, the Petition succeeds and allowed. A provisional tariff of Rs. 4.62 per kWh is allowed to the Project of the Respondent. The parties are directed to sign the Supplementary Power Purchase Agreement within a period of 30 days from today. The other terms and conditions as mentioned in Order dated 09.09.2024 in Petition No. 103 of 2024 shall remain the same.

34. Let a copy of this order be supplied to the parties.

The file after needful be consigned to records.

Announced

25.03.2025

-Sd-
(Shashi Kant Joshi)
Member

-Sd-
(Yashwant Singh Chogal)
Member(Law)

-Sd-
(Devendra Kumar Sharma)
Chairman