

## **M/s Everest Power Pvt. Ltd. Vs. The HPPTCL**

**Petition No. 46 of 2021**

**22.08.2023**

Present: Sh. Rajnish Maniktala, Ld. Senior Advocate along with Sh. Vipul Sharda, Ld. Counsel for the Petitioner.  
Sh. Vikas Chauhan, Ld. Counsel for the Respondent  
alongwith Sh. Virender Kumar, DGM (C&M) .

### **DAILY ORDER**

The compliance of previous Orders not made by the Petitioner, M/s Everest Power Pvt. Ltd.

Sh. Rajneesh Maniktala, Sr. Ld. Advocate for the Petitioner submits that in order to bring on record the subsequent developments, it has become necessary to amend the Petition and accordingly, an application for amending the Petition has been filed on 21.08.2023 before the Commission which may kindly be considered.

Sh. Vikas Chauhan, Ld. Counsel appearing for the Respondent states that despite repeated adjournments, the Petitioner has failed to comply with the Orders of the Commission and has not paid any transmission charges ever since 2019, which has been delayed on one pretext or the other. He also submits that the Petitioner has contravened the provisions of Section 142 and 146 of the Electricity Act, 2003 (Act for short) and proceedings for not obeying the Orders of the Commission be initiated against the Petitioner under Section 146 of the Act. He has also submits that unless the previous Orders dated 27.11.2021, 04.08.2023 and 19.08.2023 are complied with and

transmission charges are paid, the present application for amending the Petition cannot be entertained.

Sh. Rajneesh Maniktala, Ld. Senior Advocate submits that the Petitioner is ready and willing to pay the transmission charges but due to circumstances beyond control of the Petitioner as due to heavy and devastating rains, heavy silt was accumulated in the Dam resulting in forced shut down w.e.f. 09.07.2023. Not only this, the transmission system from Malana-II HEP to the Respondents 220 kV Charor System through which the energy generated from Malana-II was being evacuated into the grid also got impacted with breakdown of 2 Nos. of towers. Further, due to the sudden cloud burst in the catchment area on 24.07.2023, the radial gates of the Dam in partial open condition were attempted to be fully opened but due to high silt and debris, the said gates got jammed and consequently, the water level reached the Dam top and started overflowing through the top of the Dam and the Malana-II has not been restored till date which may take considerable time. As a result, there is a resource crunch and the Petitioner be permitted to make the payment of transmission charges in four equal monthly installments starting with first installment payable on 15<sup>th</sup> September, 2023.

Sh. Vikas Chauhan, Ld. Counsel has opposed the plea that already a sufficient time has been granted to the Petitioner but the Petitioner has delayed the payment without any plausible reasons and the prayer be

rejected. He also submits that even the appeal preferred by the Petitioner against the Orders of the Commission dated 27.11.2021 and 04.08.2023 has been dismissed but even then the payment has not been made.

We have carefully gone through the submissions as also the circumstances narrated by the Ld. Senior Advocate regarding forced shutdown of the Project, generation loss, as mentioned above, and resource crunch on account of the same. In view of the submissions, the Commission is of the view that pending initiation of proceedings under Section 142 and 146 of the Electricity Act, 2003, ends of justice would meet if some more time is granted to the Petitioner to make the payment of 35% of the outstanding transmission charges as accrued upto 31<sup>st</sup> July, 2023. Therefore, the Petitioner is directed to make payment of the 35% of the outstanding amount of transmission charges as accrued uptill 31<sup>st</sup> July, 2023 in three equal monthly installments as under:

- i) First installment : On or before 15.09.2023;
- ii) Second installment: On or before 15.10.2023;
- iii) Third installment: On or before 15.11.2023.

We direct that on payment of the first installment on or before 15.09.2023, the demand notice dated 11.08.2023, shall be withdrawn by the Respondent.

List the matter for reply to the application for amendment of the Petition on 25.09.2023 at 11:00AM.

-Sd- (Shashi Kant Joshi) Member	-Sd- (Yashwant Singh Chogal) Member (Law)	-Sd (Devendra Kumar Sharma) Chairman
---------------------------------------	---	--