BEFORE THE HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION SHIMLA

CMA No:	**417 of 2025**
Date of Institution:	31.07.2025
Arguments Heard on:	19.12.2025
Decided on:	**16.01.2026**

CORAM

Yashwant Singh Chogal
MEMBER (Law)-cum-CHAIRMAN

Shashi Kant Joshi
MEMBER

In the matter of:-

The Himachal Pradesh Power
Transmission Corporation Limited (HPPTCL)
Himfed Bhawan, Below Old MLA's Quarters,
Tutikandi (Panjiri), Shimla, H.P-171005. ………**Applicant**

Versus

The Himachal Pradesh State Electricity Board Limited,
Vidyut Bhawan, Shimla, H.P-171004. ……….**Respondent**

Application under Sections 86(1) of the Electricity Act, 2003 read with Regulation 8 (7) of the Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Transmission Tariff) Regulations, 2023 and Section 75 of the Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2024 for in-principle approval of handing over of 12 (twelve) Assets/ Schemes belonging to the HPSEBL to the HPPTCL, as mentioned in the application, for the purpose of augmentation and upgradation.

Present:-

Sh. Vikas Chauhan, Ld. Counsel for the Applicant.
Sh. Amal Nair, Ld. Counsel for the Respondent.

ORDER

This application has been filed by the Himachal Pradesh Power Transmission Corporation Limited (the Applicant/ HPPTCL for short) under Sections 86(1) of the Electricity Act, 2003 (Act for short) read with Regulation 8 (7) of the Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Transmission Tariff) Regulations, 2023 (Transmission Tariff Regulations, 2023 for short) and Section 75 of the Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2024 for in-principle approval by transferring the following 12 (twelve) Transmission Schemes (12 assets for short), as mentioned in the Petition belonging to the Himachal Pradesh State Electricity Board Limited (the HPSEBL/ DISCOM/ Respondent for short) to the Applicant for the augmentation/ upgradation:-

Sr. No.	Name of Scheme	Capital cost as per HPSEBL MYT 24-29 (in Rs Crores)
1	Augmentation of 132/33kV, 2X 25/31.5MVA Power Transformers to 132/33kV, 2X50/63MVA at 132/33/11kV Sub-Station Una.	14.49
2	Augmentation of 2X16/20MVA,132/33 kV, Power transformer to 2X25/31.5MVA 132/33kV, capacity at 132/33/11kV Sub-Station Dehra.	10.47
3	Providing 01 No. Additional 220/132kV, 160/200 MVA Single Phase Power Transformer Bank a/w 220 kV & 132 kV bays and extension of existing 132kV Bus-Bar at 220 kV Sub-Station Nehrian.	39.39
4	Scheme for Replacement/Augmentation of existing 1 No. 25/31.5MVA,220/33kV, 3 Phase Power transformers with new 25/31.5MVA,220/33kV, 3-Phase Power Transformer at 220/132/33/11kV Sub-station Jassure	6.47
5	Augmentation of existing 16 MVA, 132/33kV, Single-Phase Power Transformer bank to 40 MVA, 132/33kV, 3-phase Power Transformer at 132/33kV Sub-Station Gaura.	9.84
6	Augmentation of existing 220/66kV, 2x80/100MVA Sub Station by providing additional 220/66kV, 1x80/100 MVA Power Transformer at 220/66kV Sub Station Nangal Upperla.	27.63
7	Augmentation of existing 132/33 kV,25/31.5 MVA 3-Phase Transformer	21.99

	and Single Phase 132/33 kV,4x10.5 MVA Transformer bank to 132/33 kV,2x50/63 MVA 3-Phase Power Transformer along with Strengthening of 132 kV Yard at 132/66/33 kV Sub Station Jutogh under ES Division HPSEBL Totu	
8	Scheme for augmentation of existing 132/33 kV, 2×25/31.5 MVA, Three Phase Power Transformers to 132/33 kV, 2×50/63 MVA Three Phase Power Transformers along with strengthening of 33 kV yard at 132/33/11 kV substation at Gondpur, PaontaSahib under ES Division, HPSEBL, Shaktinagar, Nahan.	19.80
9	Augmentation by providing Addl.1x100MVA,220/132 kV Sub Station at Girinager under E.S Division HPSEBL Nahan	63.80
10	Augmentation of 2x25/31.5 MVA,132/33 kV to 2x50/63 MVA ,132/33 kV Power Transformer at 132/33 kV Sub Station at Johron Kala-Amb under E.S Division HPSEBL Nahan	40.98
11	Augmentation of existing of 66 kV Bus Bar A & B with ACSR Bersimis conductor at 220/66/33/11kV S/Stn. Sub Division ES Baddi (Katha) under ES Division HPSEBL Nalagarh.	11.50
12	Augmentation of 66kV Samoli - Andhra line from Wolf conductor to HTLS conductor	4.00
	TOTAL	**270.36**

These schemes shall hereinafter be referred as 12 (twelve) assets.

2. The Applicant/ HPPTCL, is a Transmission Licensee and entrusted with the function of electricity transmission in the State. According to it, consequent upon the enactment of the Act, the process for determination and approval of tariff under cost plus approach is vested with the Commission under Section 62 of the Act as per the Terms and Conditions of Tariff as specified under the Regulations framed under Section 61 of the Act and in compliance with the mandate under Section 61 of the Act, the Commission had notified the Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Transmission Tariff) Regulations, 2011. The Commission vide notification dated 14.03.2024, subsequently notified the Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Transmission Tariff) Regulations, 2023 (Transmission Tariff Regulations, 2023 for short), which came into force w.e.f. 01.04.2024.

3. According to it, Regulation 8 (7) of the said Regulations provides for filing of Business Plan, inter-alia, stipulating that any licensee intending to establish, operate, maintain, or augment a transmission system not approved in the Capital Investment Plan shall file an application duly supported with an affidavit seeking approval of the capital cost and financing plan of such project(s). Thus, the Regulation 8 (7) of said Regulations specifically enables the Transmission Licensee to seek in-principle approval of new schemes by filing a separate application/petition. The Regulation 8 of said Regulations has been reproduced as under:-

"***8. Business Plan: -***

(1) The Transmission Licensee shall file a Business Plan along with MYT Petition, for the Control Period of financial years from 1st April, 2024 to 31st March, 2029 for approval of the Commission on or before 30th November of the year preceding the first year of the Control Period for a duration covering the entire Control Period along with the MYT Petition. The Business Plan for the Transmission Licenses shall be for the entire Control Period and shall, inter-alia, contain-

(a) Capital investment plan which should be commensurate with load growth and quality improvement alongwith its cost-benefit analysis. The investment plan should also include yearly phasing of capital expenditure alongwith the source of funding, financing plan and corresponding capitalisation schedule;

(b) The appropriate capital structure of each scheme proposed and cost of financing (interest on debt) and return on equity, terms of the existing loan agreements, etc;

(c) Transmission loss reduction trajectory for each year of the Control Period, including details of the measures proposed to be taken for achieving the target loss;

(2) The Capital Investment Plan covering the entire MYT Control Period will be submitted in the following two parts:

(a) Ongoing schemes/works of the previous MYT Control Period (i.e. works / schemes which are under construction or where full payments have not yet been made or where Supply/Work Orders have not been placed). All spill over works will be included in this;

(b) Schemes to be taken up in the order of priority giving the schedule over the full MYT Control Period. The likely date of completion should also be given. This will also include such schemes which were part of the Capital Investment Plan of the previous MYT Control Period but could not be started and which the Applicant/Applicant considers necessary to take up during the present Control Period.

(3) *The capital investment plan shall be in conformity with the plans made by the CEA/CTU/STU/ Distribution Licensee(s). The investment plan shall be scheme-wise. The Applicant shall submit the Detailed Project Reports (DPRs) for all the schemes as per Part (a) and (b) above which shall include:*

(a) Purpose of investment (i.e. replacement of existing assets, meeting load growth, technical loss reduction, meeting reactive energy requirements, improvement in quality and reliability of supply, etc);

(b) Broad Technical Specifications of the proposed investment and supporting details;

(c) Capital Structure;

(d) Capitalization Schedule;

(e) Financing Plan, including identified sources of investment;

(f) Physical targets;

(g) Cost-benefit analysis;

(h) Prioritization of proposed Investments:

Provided that DPRs will not be necessary for schemes under Rs. 10 Crore for Transmission Business:

Provided further that the total capital expenditure on non-DPR schemes in any year should not exceed 20% of that for DPR schemes during that year:

Provided further that the Transmission Licensee shall also submit all details including DPRs and other approval documents, of Schemes funded through a Central or State Grant or through Consumer Contribution or through Deposit works and/or Loan convertible to grant on fulfilment of specified conditions, to the Commission prior to the initiating execution of such Schemes:

Provided further that Transmission Licensee shall be required to ensure that the procurement of the assets have been undertaken in a competitive and transparent manner. Further, the assets so capitalized as a part of the approved capital investment plan under these Regulations should necessarily be geo-tagged and properly recorded in Fixed Asset Register (FAR) for allowance of the capitalization of the same by the Commission:

Provided further that regarding the assets already capitalized as on 1st April, 2024, Transmission Licensee shall prepare and submit to the Commission a time bound plan to undertake the geo-tagging in phased manner, preferably within the Control Period, along with the MYT Petition:

Provided further that Transmission Licensee must provide access of the details of geo- tagging to the Commission for online monitoring.

(4) The Commission shall approve the capital investment plan submitted by the Transmission Licensee for the entire control period after doing prudence check. The same would be considered for computation of ARR, wherein the amount of electricity transmitted by the transmission system shall be projected considering the estimated growth plan of transmission customer and any plans of new transmission system, based on network expansion plans within the State.

(5) For each year of the control period, the Commission shall watch over the actual capital expenditure and capitalization vis-à-vis the approved capital expenditure and capitalization schedule. In the normal course, the Commission shall not revisit the approved capital investment plan (capital expenditure and the capitalization schedule) during the control period and adjustments to depreciation, interest on capital loan and return on

equity on account of variations for the actual capital expenditure incurred and capitalization done visà-vis approved capital investment plan (capital expenditure and capitalization), shall be done during the mid-term performance review and at the time of end of control period true up.

(6) In case the capital expenditure is required for emergency work which has not been approved in the Capital Investment Plan, the licensee shall submit an application containing all relevant information along with reasons justifying emergency nature of the proposed work seeking investment approval by the Commission. The licensee shall take up the work prior to the approval of the Commission provided that the emergency nature of the scheme has been certified by its Board of Directors.

(7) Any licensee intending to establish, operate and maintain or augment capacity of a transmission system not been approved in the Capital Investment Plan, shall file an application/petition under affidavit to the Commission in accordance with HPERC (Conduct of Business) Regulations, 2005, as amended from time to time, for approval of the project capital cost and financing plan before taking up a project. The application/ petition of transmission system for investment approval shall clearly provide the purpose of the project as follows:

(a) The application/petition shall consist of information on system strengthening, load growth, etc. as may be relevant for particular licensee, its cost-benefit analysis and other details such as location of the project, site specific features, break up of capital cost, financial package, performance parameters, commissioning schedule, reference price level, estimated completion cost including foreign exchange component (if any), environment standards prescribed and to be achieved, etc:

Provided that where the Commission has given an approval to the estimated capital cost and financing plan, the same shall act as a guiding factor for applying prudence check on the actual capital expenditure while determining the ARR and Tariffs for a particular licensee”

4. As per the Applicant, as provided under Regulation 8(7) of HPERC (Terms & Conditions for Determination of Transmission Tariff) Regulations 2023, and the provisions of the Act, the Applicant has filed the application seeking in-principle approval in respect of the 12 (twelve) assets, not included in the previously approved Business Plan and MYT Petition of the Applicant for the Fifth Control Period (FY 2024–25 to FY 2028–29) approved by the Commission vide order dated 22.01.2025 in Petition No. 30 of 2024.

5. It is averred that the subject assets were not envisaged at the time of filing the above Business Plan for FY 2024-25 to FY 2028-29 of the Applicant/ Transmission Licensee. Hence, the application has been filed independently for in-principle approval for handing over of these assets to the Applicant, which have been conceptually approved as part of the CAPEX Plan for the DISCOM/ Respondent No. 1/ HPSEBL in its Business Plan and Multi-Year Tariff Order for Fifth Control Period (FY25-FY29) in Petition No. 15 of 2024. However, the approval of these EHV schemes was given by the Commission with following conditions:-

"***8.7.22***……...............*The Applicant is directed to put in its best efforts for getting the above works relating to System Improvement, System Augmentation and Renovation & Modernization covered under RDSS modernisation works within the targets given so that grants is not converted into loan which will not be passed through by the Commission.*

……………………………..

8.7.75……............*The Applicant is directed to put in its best efforts for getting the above works relating with System Improvement, System Augmentation, Renovation and Modernization covered under RDSS modernisation works. In case these works are not approved under RDSS, the works above 66 kV shall be executed by HPPTCL.*"

6. It is also averred that the subject assets are for system strengthening aimed at enhancing system reliability and improving power quality.

7. It is also averred that the decision for execution of these assets by the Applicant/ HPPTCL, was taken in a meeting chaired by the Chairman, HPERC/ Commission on 19.06.2025 and the Hon'ble Chief Minister, Government of Himachal Pradesh on 21.06.2025. The Minutes of Meeting dated 19.06.2025 and 21.06.2025 have been annexed as Annexure-P/A and Annexure-P/B.

8. Further, the Commission had approved the capital costs of these schemes vide order dated 15.03.2024 while disposing of the Business Plan and MYT Petition submitted by Respondent No.1/

HPSEBL. However, the capital costs, as approved by the Commission, vide order dated 15.03.2024 shall remain unchanged but any future revision, based on detailed estimates to be received from Respondent No.1/HPSEBL, shall be submitted before the Commission in subsequent filings, post approval by the Board of Directors of Applicant/ HPPTCL.

REPLY OF THE RESPONDENT

9. The Petition has been resisted by the Himachal Pradesh State Electricity Board Limited (the HPSEBL/ Respondent for short) by filing reply that the application filed by the HPPTCL is not maintainable either in law or on facts as the application has been filed seeking in-principle approval for undertaking the augmentation of assets which are not owned by the HPPTCL and thus, it is not understood as to how the Applicant has filed the present application. Further, an application under Regulation 8 (7) of the Transmission Tariff Regulations, 2023 is only maintainable in the context of augmentation of an asset owned by the licensee. As per the HPSEBL, the present

application merits dismissal at the threshold and that the Applicant/ HPPTCL has no locus standi to maintain the present Petition.

10. According to the HPSEBL, the 12 assets, as mentioned in the application, have already been scrutinized and provisionally approved as part of HPSEBL's Capital Investment Plan under the MYT Order dated 15.03.2024 for FY 2024-25 to FY 2028-29 which has attained finality. Relevant extracts of the MYT Order dated 15.03.2024 have been annexed as **Annexure A**.

11. Further, the Respondent is the statutory successor of the erstwhile Board under the Act and the HPSEBL continues to own, operate, maintain and capitalize certain existing EHV network assets in the State as per the Transfer Scheme notified by the Government of Himachal Pradesh vide Notification No. MPP-A-(3)-I/2001-IV on 10.06.2010 (Transfer Scheme, 2010 for short) (**Annexure B)** and no statutory transfer of the 12 assets, as mentioned in the application has ever been made in favour of the HPPTCL under Section 131 of the Act.

12. It is also averred that prior to the enactment of the Act, the electricity sector in India was governed by the State Electricity Boards (**SEBs**) constituted under the Electricity (Supply) Act, 1948. Each SEB was responsible for generation, transmission, distribution, development of network assets, planning and system operations. However, this vertically integrated structure resulted in concentration of all the functions in a single entity. Therefore, the Act introduced a complete structural reform of the sector by mandating functional unbundling of SEBs and Section 131 of the Act specifically mandates that each State Government shall prepare and notify a Transfer Scheme for the reorganization of the erstwhile SEBs and the Transfer Scheme must define the vesting of assets, the assignment of liabilities, the reallocation of personnel, the transfer of works and infrastructure, and the designation of transmission and distribution licensees. Therefore, no transfer of assets, functions or rights can occur except through a statutory Transfer Scheme notified in the official Gazette by the State Government. Section 131 of the Act has been reproduced in the reply.

13. It is averred that under Clause 2(b) of the Transfer Scheme, 2010, the term "*assets*" expressly includes transmission and distribution systems, as well as all associated equipment, substations, lines, bays, yards, plant and machinery, whether tangible or intangible. Accordingly, all EHV substations and lines forming part of HPSEBL's integrated system are covered by and protected under the Transfer Scheme, 2010. Further, the main vesting clause, i.e., Clause 3(1) of the Transfer Scheme, 2010 provides that all assets, properties, rights and liabilities of the erstwhile Board shall re-vest in HPSEBL, except only those transmission lines expressly re-vested in HPPTCL under Clause 3(1)(i). This is a narrow and exhaustive exception and cannot be expanded by implication, administrative instruction or executive assumption.

14. According to the HPSEBL, Clause 3(1)(i) of the Transfer Scheme, 2010 further limits the assets re-vested in HPPTCL to those transmission lines "*not being essential part of the distribution system"* of HPSEBL. Thus, where a line, substation, transformer bank or associated infrastructure forms an integral interface to HPSEBL's

distribution network, or is necessary for discharge of its statutory supply obligations under Section 42, such assets cannot be treated as vested in HPPTCL. The 12 assets in question relating to augmentation of existing 220/132/66 kV substations feeding HPSEBL's distribution system are indisputably essential to the distribution network, and hence remain vested in the HPSEBL.

15. Further, Clauses 4(1) to 4(3) of the Transfer Scheme, 2010 reinforce the statutory position. Clause 4(1) vests in HPSEBL all residuary assets and functions not specifically transferred to HPPTCL, while Clause 4(2) confines HPPTCL's role to "*evacuation of power by intra-state or inter-state transmission lines*" only. Most importantly, Clause 4(3) unequivocally empowers HPSEBL, as the distribution licensee, to lay, own, operate and maintain electric lines, substations and electrical plant, even if they are high-pressure (i.e., 66 kV/ 132 kV/ 220 kV) whenever such assets are primarily maintained for the purpose of distributing electricity. The 12 assets in question forming the subject matter of this application fall squarely

within this statutory domain. Therefore, on a conjoint reading of the above clauses, it is evident that:

(a) HPSEBL continues to own, operate and maintain the assets sought to be augmented under the present Application;
(b) no statutory transfer of the assets in issue has ever been effected in favour of HPPTCL under Section 131;
(c) HPPTCL's statutory mandate does not extend to augmentation, strengthening, re-capitalisation or modification of assets forming part of HPSEBL's distribution-connected EHV substations; and
(d) HPPTCL lacks *locus standi* and has no authority under law to seek in-principle approval relating to assets not vested in it.

16. It is averred that the Applicant's reliance on Minutes of Meeting dated 19.06.2025 (Annexure P/A) is entirely misconceived and cannot override the clear statutory mandate of Section 131 of the Act and the Transfer Scheme, 2010 as the Transfer Scheme, 2010 being a complete and self-contained code governing the vesting and re-vesting of assets, functions and liabilities of the erstwhile Board, and by virtue of Section 131(3)(b), the same is binding on all stakeholders including the Commission.

17. As per the Respondent, the functions, assets, properties, rights, liabilities, obligations, proceedings and personnel of Himachal

Pradesh State Electricity Board (HPSEB) were vested with the Government of Himachal Pradesh *vide* Notification No. MPP-A(3)-1/2001-IV dated 15.06.2009 in accordance with the Act.

18. As per the Respondent, the Transfer Scheme, 2010 has not been challenged by HPPTCL at any point in time which is binding on all the stakeholders including the Commission and the HPPTCL. Not only this, in terms of Section 2(19) of the Act and Rule (4) of the Electricity Rules, 2005, the distribution system would also include all high-pressure lines primarily used for distributing electricity in the area of the distribution licensee, notwithstanding that such lines are also used incidentally for transmission of electricity for others.

19. According to the HPSEBL, being the State Distribution Licensee vested with existing Extra High Voltage (EHV) network in the State of Himachal Pradesh, it is statutorily obligated under Section 42 of the Act to ensure the development, strengthening and upgradation of its distribution system and associated EHV interface points so as to maintain reliable supply to consumers, particularly in industrial load centers and in discharge of this statutory function, the HPSEBL

carried out a system-wide assessment of capacity constraints across its 220/132/66/33 kV network during the preparation of its Business Plan for the Fifth MYT Control Period (FY 2025-29).

20. As per the Respondent, the said assessment revealed persistent and material bottlenecks in several EHV Sub-stations feeding large industrial clusters, namely Kala Amb, Paonta Sahib, Jutogh, Dehra, Una, Giri Nagar, Baddi–Katha, Gondpur and Nalagarh, where the installed transformer capacity had reached saturation, resulting in overloading, load-shedding, voltage deterioration and inability to release new industrial loads. These constraints were repeatedly causing operational disturbances, consumer complaints and financial loss to both HPSEBL and industrial consumers. Therefore, in order to address the above bottlenecks, the HPSEBL identified and proposed fifteen (15) critical EHV lines and sub-station systems augmentation and strengthening schemes involving upgradation of 220/132/66 kV transformer capacities, provision of additional power transformer banks, strengthening of 33 kV and 66 kV yards, and replacement of aged or

overloaded equipment, with the objective of improving reliability, meeting emergent demand growth, and preventing network collapse in high-density industrial zones (as mentioned in Pages 245-247 of the MYT Order dated 15.03.2024). It is averred that these schemes were essential to maintain the N-1 security criterion and to comply with the Standards of Performance prescribed by the Commission. Further, in several Sub-stations, namely Una, Dehra, Jassure, Gaura and Jutogh, the tendering process has already been initiated or bid opened, keeping in view the deteriorating system condition and emergent nature of the load. Accordingly, said schemes were included by the HPSEBL in its CAPEX Plan and MYT Petition for FY 2024-25 to FY 2028-29 and the Commission, after a detailed prudence check, approved the capital expenditure for these schemes vide MYT Order dated 15.03.2024, observing that the augmentation was necessary to meet the present and projected load in the affected regions.

21. Further, on 19.08.2024, upon scrutiny of the DPRs, the Commission vide letter No. HPERC-MYT/CAPEX/HPSEBL-Vol-

III/2024-1498 dated 19.08.2025 (**Annexure C**), has conveyed the approval for all the fifteen schemes, subject to certain conditions *inter alia*, regarding technological intervention, cost optimization, timely execution, and prudence checks at the time of true-up.

22. As per the Respondent in a meeting on 19.06.2025, convened by the Commission to address the acute deterioration in quality and reliability of power supply across major industrial corridors of the State, the Commission has recorded that capitalization of the augmentation shall be done by HPSEBL being the CAPEX of HPSEBL and being the owner of the assets/ schemes, the HPSEBL shall be entitled to the depreciation, ROE, and other expenses.

23. It is further averred that after filing the present Petition, the HPSEBL on 15.11.2025, vide letter No. HPSEBL/CE(Comm.)/SERC-45/2025-26-7594 (**Annexure D**), has apprised the Commission that non-augmentation of the existing EHV infrastructure was resulting in load-shedding, pending PAC obligations, inability to release committed industrial loads, and consequential financial loss to stakeholders and the approval of the Commission was sought for

direct execution of the said EHV augmentation schemes under Regulation 31(h) of the HPERC (MYT and Retail Supply Tariff) Regulations, 2023, emphasizing that the DPRs stood fully approved and the tenders for several works have already been floated or bid opened, and also that urgent strengthening of HPSEBL's EHV network was imperative to ensure supply reliability and compliance with statutory obligations.

24. It is also averred that the Commission has no residuary powers to reinterpret, reopen, modify, dilute or reallocate assets contrary to the Transfer Scheme. Further, any administrative record or meeting minutes neither confer authority upon HPPTCL, nor can displace the statutory vesting of assets in HPSEBL under the Transfer Scheme. Further, it is well established in electricity law jurisprudence that the state government directives are not binding under the Act. Hence, the reliance placed by the HPPTCL on the Minutes of Meeting dated 19.06.2025 and 21.06.2025 (Annexure P/A and P/B of the Application) is fundamentally wrong.

25. It is further averred that the Hon'ble Appellate Tribunal for Electricity (APTEL for short) in a decision arising out of the state of Himachal Pradesh namely Appeal No. 160 of 2019 titled as M/s Malana Power Company Limited v. HPSEBL and Ors. has dealt with the issue of EHV lines being owned and operated by HPSEBL as under:

> *45. It is a fact that the ownership of 132 kV transmission line from Bajaura substation to 220 KV Nalagarh substation vested with HPSEBL subsequent to unbundling of HPSEB and being operated by HPSEBL as part of its Distribution System, in terms of the Transfer scheme under section 131 of Electricity Act 2003 and same is not open to challenge under present proceedings. As such, under the Electricity Act 2003, there is no demarcation of voltage wise assets, which can be classified as Distribution system or Transmission system; definition of 'Distribution system' and 'Distribution licensee' in the Electricity Act 2003, is reproduced below:*
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> *…………………………………*
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> *47. In view of the above, it is difficult to accept the contention of the Appellant that only the system of wires originating from generating station/ transmission lines terminating into point of connection to the installation of consumer can only be quantified as distribution system; as it would mean that 132 KV line from Bajaura to 220 KV Nalagarh substation and all other such lines, which are not terminating in interconnection point at the installation of consumers, though essential for supplying power to consumers and maintained by Distribution Licensee, will not be part of Distribution system. Accepting this contention would mean that number of lines needs to be excluded from the Distribution system of Distribution Licensee and how and who will service those lines and who will maintain those lines is unanswered. Even accepting this contention in the case of Appellant alone that since 132 KV line from Bajaura to 220 KV Nalagarh substation is only used for wheeling its power to inter-State point of connection and not for serving any consumer of Appellant and therefore it can't be treated as Distribution system, would mean that subject line would change its status from being part of Distribution system when serving*

> *consumer within the State and not to be part of distribution system when wheeling power under Open access for generating company, whose consumers/ customers are not located within the area of supply of Distribution Licensee, which, in our opinion, is erroneous. We are, therefore, of the view that 132 kV line from Bajaura substation to 220 kV Nalagarh substation is a part of Distribution system of HPSEBL for all purposes.*

In view thereof, the present application seeking relief which is expressly barred by statute is liable to be rejected at the threshold.

26. It is also averred that the present application is without jurisdiction, in as much as the HPPTCL is not the Transmission Licensee/ Applicant for the EHV assets forming the subject matter of the Petition, nor the schemes form part of its licensed or vested transmission system under the statutory Transfer Scheme, 2010 notified on 10.06.2010 under Section 131 of the Act. Further, Regulation 8(7) of the Transmission Tariff Regulations, 2023 apply only to a transmission licensee in respect of its own transmission system and do not authorize one licensee to seek capital approval for the assets legally vested in another. There are no Regulations in effect to this peculiar circumstance. The HPPTCL cannot, therefore, invoke the Transmission Tariff Regulations, 2023 to capitalize the said works.

27. Also submitted that having undertaken a detailed prudence check and having accepted HPSEBL's Business Plan, the Commission has approved specific EHV schemes (listed by name and quantified in Tables 195–197 of the MYT Order dated 15.03.2024) and expressly dealt with classification of works for RDSS funding, spill-over works and the mechanics of subsequent truing-up. According to the HPSEBL, the MYT Order dated 15.03.2024 itself recognizes and applies the RDSS mechanism as a funding/modernization instrument, and the Commission classified certain system-improvement and modernization works as eligible for RDSS funding (grant: debt ratio, TOTEX mode rules and conditions for conversion of grant to loan), and gave directions on compliance, DPRs and prudence checks at true-up. RDSS, therefore, merely acts as a source of funds and modalities of implementation, but does not operate as a statutory vehicle to transfer asset ownership or to re-vest statutory execution rights from the licensee to a different corporate entity. Further submitted that non-availability of RDSS funds cannot be the turning point in order to hand over the additional

capitalization to an entity which is not the owner of the assets. Further, the only consequence of non-grant of RDSS means that HPSEBL would have to fund the augmentation by its own means which is exactly what HPPTCL would be required to do in case it undertakes the augmentation. Thus, it is not understood, as to what would be the benefit in case the augmentation works are given to a non-owner of assets. Further, it is not the case of the HPPTCL that the HPPTCL would be entitled to the RDSS grant in case it undertakes to do the augmentation works. As per the Respondent, in case the present petition is allowed, the same would set a dangerous precedent and would result in a scenario where licensed assets are taken over by other entities and a situation may arise that any entity would show that the licensed owner of an asset is facing challenges in arranging for funds and may take over the asset by undertaking additional capitalization and augmentation. Thus, the present application, if allowed, would have far reaching ramifications to the regulatory discipline being envisaged under the Act. Also the HPSEBL being the distribution licensee in the area of supply is better suited to grasp the realties and the difficulties being faced with the supply of power and, as such, it would be counter-productive to allow the present application.

28. It is also averred that the augmentation of existing substations involves engagement of a third party to execute works on a live system, which may lead to various operational issues at site.

29. It is further averred that the MYT Order not only approved the capital expenditure for the aforesaid EHV augmentation schemes, but also expressly recognized and allowed the corresponding O&M expenses for these assets as part of HPSEBL's Aggregate Revenue Requirement (ARR). Further, the Commission, while determining controllable and uncontrollable cost elements for the Fifth Control Period, computed HPSEBL's O&M trajectory by considering the existing EHV infrastructure, including the substations, bays, transformers and associated network elements now sought to be appropriated by HPPTCL as integral components of HPSEBL's regulated asset base. The Commission's fixation of O&M norms, escalation factors, manpower requirements and maintenance

obligations in relation to these assets is premised on the foundational fact that HPSEBL is and remains the statutory owner and operator of the underlying EHV system, responsible for its upkeep and statutory compliance.

30. Therefore, the present Petition, is wholly inconsistent with the MYT Order, contrary to the Transfer Scheme, 2010 and liable to be dismissed.

REJOINDER

31. In detailed rejoinder, the contents of the reply have been denied and those of the Petition have been reaffirmed. The sum and substance of the rejoinder is that the Commission in MYT Order dated 15.03.2024 in Petition No. 15 of 2024 after extensive consultation with the stakeholders has concluded that all new works not covered under RDSS shall be done by the transmission licensee i.e. the Applicant/ HPPTCL and that each of the 12 (twelve) assets have been duly identified/ justified in terms of Regulation 8 (7) of the Transmission Tariff Regulations, 2023 and para 8.7.75 of the MYT order dated 15.03.2024 in Petition No. 15 of 2024. Further, the GoHP

vide Gazette Notification dated 02.03.2013 has entrusted the HPPTCL with the following works/ business:

- All new works of Sub-station of 66 kV and above;
- All ongoing works of Sub-station of 66 kV and above;
- All new and ongoing work of laying/construction of transmission lines of 66 kV and above;
- Strengthening/upgradation of all transmission lines of/ to 66 kV and above;
- Formulation, updation, execution of the Transmission Master Plan for the State;
- All matters related to planning and coordination of transmission issues with CTU/CEA/MoP/HPSEB;
- Planning & coordination with IPPs/CPSUs/State PSUs and other agencies regarding transmission matters;
- Any other matter specifically assigned by the State Government.

32. As per the Applicant, since the order dated 15.03.2024 in Petition No. 15 of 2024 has not been challenged by the HPSEBL, the same has attained finality and is binding on the HPSEBL and as directed in paras 8.7.22 and 8.7.75, the assets in question are required to be handed over to the Applicant for the purpose of augmentation/ upgradation.

33. The HPPTCL has also relied upon the Minutes of Meeting (MoM for short) dated 19.06.2025 convened under the Chairman of the Commission, wherein it was resolved as under:-

> *"Execution of Capital Works above 66 kV: The Commission has made it clear that the MYT Tariff order provision for works above 66kV is very clear that in case these works are covered under RDSS, the same shall be executed by HPSEBL in view of grant available to HPSEBL and in case the same has not been approved under RDSS, the schemes/works are to be executed by HPPTCL."*

34. Further, in a meeting held on 21.06.2025 under the chairmanship of the Hon'ble Chief Minister, the following has been resolved:-

> *"It was submitted before the chairperson that the HPERC in its MYT order for the 5th Control period has allowed for the CAPEX of 132 and 220kV EHV network subject to the condition that those works be taken up under RDSS modernization or by HPPTCL. The CAPEX approval for the same was received which covered 15 substations at different locations of which only 3 can be augmented/constructed by HPSEBL. The remaining 12 schemes approved for HPSEBL will have to be done by HPPTCL. It was apprised that the ownership of original asset will remain with HPSEBL. However, the augmentation/strengthening component shall be executed by HPPTCL. The O&M of the complete asset can be done by HPSEBL against agreement with HPPTCL with the approval of the Hon'ble HPERC. It was also apprised that the state regulator has advised during state advisory committee meeting that the expertise of HPPTCL should be used to control and operate the EHV substations of HPSEBL from JCC Kunihar which is on verge of commissioning against nominal charges to be paid to HPPTCL.*

......

After detailed deliberations, it was decided that as per the direction issued in the MYT Order and as also directed by the HPERC in its meeting dated 19.06.2025 the minutes of which have been issued, the works of 66Kv and above are required to be done by HPPTCL"

Thus, the augmentation and execution of the transmission works of 66 kV and above is required to be carried out by the HPPTCL and the HPSEBL has the locus standi to maintain the Application. Also the Applicant does not seek ownership of the asset and seeks only in-principle approval for transfer of assets for augmentation and upgradation.

ADDITIONAL SUBMISSIONS

35. The Respondent during the course of the proceedings also filed additional submissions on 11.12.2025 that the delay has resulted in infrastructure construction for the commitment of additional load/ demand by the HSPEBL and that the HPSEBL is bound to release the load as per the HPERC (Distribution Performance Standard) Regulations, 2010 and is accountable to the consumers.

36. The Applicant has also filed reply to the additional submissions of the Respondent denying the contents that the delay has occurred on account of the Applicant.

SUBMISSIONS OF THE PARTIES

37. We have heard Sh. Vikas Chauhan, Ld. Counsel for the Applicant and Sh. Amal Nair, Ld. Counsel for the Respondent and have perused the entire record carefully.

38. It has been submitted by Sh. Vikas Chauhan, Ld. Counsel that the HPPTCL is possessing core competence for the augmentation and maintenance of the transmission assets and, as such, a meeting was held under the chairmanship of the Commission on 19.06.2025 wherein it was resolved by the parties that the execution of Capital Works above 66 kV shall be undertaken by the HPPTCL as ordered in the MYT Tariff order dated 15.03.2024 in paras 8.7.22 and 8.7.75. According to him, the Commission has clearly provided that the existing infrastructure/ assets created by the HPSEBL shall remain the property of the HPSEBL and the HPSEBL shall be entitled to interest, depreciation, RoE and other expenses on such assets as

was being availed prior to such augmentation / upgradation as per tariff order for the respective year. It is further submitted that the augmentation of these assets as approved by Commission / to be approved by Commission shall be executed by the HPPTCL with agreement/ understanding clearly indicating the time frame for completion of the each works with a provision for compensation of loss to the HPSEBL due to non-completion of works in time. He has also submitted that on 21.06.2025, a further meeting was held under the chairmanship of the Hon'ble Chief Minister wherein it was resolved that as directed by the Commission in its MYT order for the 5th Control period, the 12 assets out of the 15 assets as approved for the HPSEBL shall be done by the HPPTCL. Sh. Vikas Chauhan, Ld. Counsel for the Applicant has further submitted that the application under Regulation 8 (7) of the Transmission Tariff Regulations, 2023, is duly maintainable and the Applicant has the locus standi for filing the same. Further submitted that since the HPSEBL shall continue to own the assets, the reliance on Section 131 of the Act or Transfer Scheme, 2010 by the Respondent is misplaced. Further submitted that there would be no operational hindrances as projected and rather with the expertise of the Applicant, the supply of the electricity shall be smooth. According to him, after having agreed before the Commission and the Hon'ble Chief Minister and specific direction in the MYT Order dated 15.03.2024, the HPSEBL cannot take a different stand and the application is required to be allowed.

39. Sh. Amal Nair, Ld. Counsel for the Respondent on the other hand has submitted that the application is neither competent nor maintainable nor Regulation 8 (7) of the Transmission Tariff Regulations, 2023 is attracted in the matter as the 12 assets have been provisionally approved in the capital investment plan filed by the HPSEBL and the order in this regard has attained the finality having been accepted by all the stakeholders including the HPPTCL. He also submits that Regulation 8 (7) of the Transmission Tariff Regulations, 2023 enables the Transmission Licensee to include any asset for approval of Capital cost and financing if said asset is not envisaged and included in the Business Plan but said Regulation do not envisage to take over the assets of another licensee, hence, the

meetings dated 19.06.2025 and 21.06.2025 are of no consequence. It has also been submitted by Sh. Amal Nair, Ld. Counsel that the application is totally silent about the necessity of taking over the assets as there is not even a whisper in the application as to why such works have to be undertaken by the HPPTCL. Not only this, once the ownership of works proposed to be taken over by the HPPTCL have been statutorily vested with the HPSEBL, the application is contrary to the mandate of Section 131 of the Act and Transfer Scheme, 2010. According to him, para 4.9.9 of the MYT Order dated 15.03.2024 clearly specifies that the RDSS Scheme was only meant for augmentation works of 33 kV and below and thus, the twelve assets which are for 66 kV and above were never covered under the RDSS Scheme and augmentation of the same under RDSS does not arise. Further, the HPPTCL has never challenged the MYT order dated 15.03.2024 in Petition No. 15 of 2024 of approving the CAPEX in respect of the schemes. It has also been submitted that the Respondent being a Distribution Licensee is in a better position to grasp the realities and difficulties being faced by the different segment of consumers while supplying the power and thus, it will be counter-productive to allow the HPPTCL to encroach upon the domain of the HPSEBL.

POINTS FOR DETERMINATION

40. We have carefully gone through the submissions of the Ld. Counsel for the Applicant and the Respondent and have perused the entire record carefully including the written submissions filed by the Ld. Counsel of the Respondent. On the basis of the pleadings, the following points arise for determination in the application:-

Point No.1: Whether the twelve (12) assets, as mentioned in the application at para 8, may be entrusted to the HPPTCL for augmentation/ upgradation with all consequent actions?

Point No. 2: Final Order.

41. For the reasons to be recorded herein after in writing out point wise finding also as under:-

Point No. 1: No.

Point No. 3: (Final Order) The Application dismissed per operative part of the Order.

REASONS FOR FINDINGS

Point No. 1:

42. It is the case of the Applicant that the HPPTCL filed its Business Plan for FY 2024-25 to FY 2028-29 but the 12 assets in question could not be envisaged at the time of filing of Business Plan. However, the 12 assets in question form part of the CAPEX plan of the HPSEBL having been approved in the Business Plan of the DISCOM for FY 2024-25 to FY 2028-29 in Petition No. 15 of 2024 decided on 15.03.2024. Further, the approval against the subject 12 assets has been allowed by the Commission subject to compliance of certain terms and conditions as set out in paras 8.7.22 and 8.7.75 of the MYT order dated 15.03.2024 in Petition No. 15 of 2024 as under:-

> "***8.7.22***…..................*The Applicant is directed to put in its best efforts for getting the above works relating to System Improvement, System Augmentation and Renovation & Modernization covered under RDSS modernisation works within the targets given so that grants is not converted into loan which will not be passed through by the Commission.*
> ……………………………..
> ***8.7.75***……..............*The Applicant is directed to put in its best efforts for getting the above works relating with System Improvement, System Augmentation, Renovation and Modernization covered under RDSS modernisation works. In case these works are not approved under RDSS, the works above 66 kV shall be executed by HPPTCL.*"

43. On the strength of the observations made by the Commission in paras 8.7.22 and 8.7.75 as mentioned above, the Applicant has claimed that the HPSEBL has failed to get the 12 assets covered/ included under the RDSS modernization works and since the 12 assets in question were aimed at the system strengthening, augmentation, enhancing system reliability and improving power quality, the same are required to be executed by the HPPTCL against the approved CAPEX of the HPSEBL alongwith indicative capital cost as approved by the Commission under the MYT Order dated 15.03.2024. However, the future revision, if any, to be recovered from the HPSEBL shall be submitted before the Commission for approval.

44. The Applicant has claimed the following reliefs:-

1. To admit the Petition; Admit the present Petition/Application;
2. Grant in-principle approval to the 12 (twelve) transmission schemes as detailed herein, with the capital costs as approved under the Business Plan and MYT Order of Respondent No.1/HPSEBL for the Fifth Control Period (FY 2024–25 to FY 2028–29);
3. To issue directions to Respondent No. 1/HPSEBL to share the detailed cost estimates alongwith other relevant

documents of the approved Capital Expenditure of 12 No. Transmission Schemes;

4. Condone any inadvertent error/omission and grant liberty to the Applicant/Applicant to modify or rectify the same;
5. Permit the Applicant/Applicant to make additional submissions, amendments, or alterations as may be necessary from time to time; and
6. Pass such further and other orders as may be deemed just, fit, and appropriate in the facts and circumstances of the present case.

45. It is also the case of the Applicant that in a meeting held in the Commission on 19.06.2025 under the chairmanship of the Chairman, HPERC regarding the issue of quality of power in the State of Himachal Pradesh, the 12 assets were agreed to be transferred to the HPPTCL for augmentation and upgradation and the following minutes of the meeting (Annexure P/A) were recorded:-

1) **Execution of Capital Works above 66 kV**: The Commission has made it clear that the MYT Tariff order provision for works above 66 kV is very clear that in case these works are covered under RDSS, the same shall be executed by HPSEBL in view of grant available to HPSEBL and in case the same has not been approved under RDSS, the schemes/ works are to be executed by HPPTCL.
2) **Execution of Capital Works of 66 kV voltage level**: It has been clarified by Commission that all the works upto 66 kV voltage level shall be executed by HPSEBL whether covered under RDSS or otherwise
3) **The methodology of execution of Capital Works/ Schemes approved by Commission or to be approved by Commission for augmentation of Existing 220/132, 220/66, 220/33, 132/66, 132/33, 132/11 kV:**

i) Commission has proposed that it is a principle decision that the existing infrastructure/ assets created by HPSEBL shall remain the property of HPSEBL and HPSEBL shall be entitled to interest, depreciation, ROE and other expenses on such assets as was being availed prior to such augmentation / upgradation as per tariff order for the respective year.

ii) The Capital work of augmentation of these substations as approved by Commission / to be approved by Commission shall be executed by HPPTCL with agreement/ understanding clearly indicating the time frame for completion of the each works and a provision for compensation of loss to HPSEBL due to non-completion of works in time. The capitalization of such augmentation shall be done by HPSEBL being the CAPEX of HPSEBL.

iii) The Operation and Maintenance of these EHV Sub-Stations (except 66/33/ or 66/11 kV or 66/22 kV S/stn) shall be done by HPPTCL and cost for the same shall be determined by HPERC in the Tariff Order of HPSEBL.

iv) HPPTCL shall do automation with retrofitting of these sub-stations to be controlled by the JCC at Kunihar to reduce the O&M Cost.

46. Not only this, a further meeting under the chairmanship of the Hon'ble Chief Minister was held on 21.06.2025 regarding the issues of power sector, wherein also it was agreed that augmentation works of 12 assets out of 15 approved works shall be undertaken by the HPPTCL. The relevant portion of the MoM dated 21.06.2025 (Annexure P/B) is reproduced as under:-

> *"It was submitted before the chairperson that the HPERC in its MYT order for the 5th Control period has allowed for the CAPEX of 132 and 220kV EHV network subject to the condition that those works be taken up under RDSS modernization or by HPPTCL. The CAPEX approval for the same was received which covered 15 substations at*

different locations of which only 3 can be augmented/constructed by HPSEBL. The remaining 12 schemes approved for HPSEBL will have to be done by HPPTCL. It was apprised that the ownership of original asset will remain with HPSEBL. However, the augmentation/strengthening component shall be executed by HPPTCL. The O&M of the complete asset can be done by HPSEBL against agreement with HPPTCL with the approval of the Hon'ble HPERC. It was also apprised that the state regulator has advised during state advisory committee meeting that the expertise of HPPTCL should be used to control and operate the EHV substations of HPSEBL from JCC Kunihar which is on verge of commissioning against nominal charges to be paid to HPPTCL.

……

After detailed deliberations, it was decided that as per the direction issued in the MYT Order and as also directed by the HPERC in its meeting dated 19.06.2025 the minutes of which have been issued, the works of 66Kv and above are required to be done by HPPTCL"

47. The Commission in Table 196 of the MYT order dated 15.03.2024 in Petition No. 15 of 2024 has approved the following 15 assets in the Business Plan:-

Table 1: Capital Expenditure for New EHV Works as approved by the Commission for 5th Control Period (Rs. Cr.)

Sl.	Name of Scheme	FY25	FY26	FY27	FY28	FY29	Total
	Augmentation and System Improvement						
i.	Augmentation of 132/ 33KV, 2X 25/31.5MVA Power Transformers to 132/33KV, 2X50/63MVA at 132/233/11KV Sub-Station Una.	5.00	5.00	4.49	0.00	0.00	14.49
ii.	Augmentation of 2X16/20MVA,132/33 KV, Power transformer to 2X25/31.5MVA 132/33KV, capacity at 132/33/11KV Sub-Station Dehra.	5.00	5.47	0.00	0.00	0.00	10.47
iii.	Prov. 01 No. Additional 220/132KV, 160/200MVA Single Phase Power transformer Bank	15.00	15.00	9.39	0.00	0.00	39.39

Sl.	Name of Scheme	FY25	FY26	FY27	FY28	FY29	Total
	a/w 220 KV & 132 KV bays and extension of existing 132KV Bus-Bar at 220 KV Sub-Station Nehrian .						
iv.	Scheme for Replacement/Augmentation of exiting 25/31.5MVA,220/33kv, 3 Phase Power transformers no.1 with new 25/31.5MVA,220/33kv,3 Phase Power Transformer at 220/132/33/11kv Sub station Jassure	2.00	2.00	2.47	0.00	0.00	6.47
v.	Scheme for Augmentation of 33/11KV 2*3.15MVA 3 Phase Power Transformer To 2* 6.3 MVA 3 Phase Power Transformer at 132/33/11KV Sub-Station Fatehpur under ES Division Jassure, HPSEB Ltd. Jassure(H.P)	0.60	0.60	0.46	0.00	0.00	1.66
vi.	Scheme for Augmentation of existing 33/11KV 2*6.3MVA Power Transformer to 33/11KV 2*10 MVA Power Transformers at 132/33/11Kv Sub Station HPSEBL Kandrori.	0.60	0.60	0.49	0.00	0.00	1.69
vii.	Augmentation of existing 16 MVA, 132/33kV, Single-Phase Power Transformer bank to 40 MVA, 132/33kV, 3-phase Power Transformer at 132/33kV Sub-Station Gaura. (EHV Agenda Item No. 86.13)	0.20	1.48	2.95	2.95	2.26	9.84
viii.	Augmentation of 66kV Samoli-Andhra line from Wolf conductor to HTLS conductor	0.08	0.60	1.20	1.20	0.92	4.00
ix.	Augmentation of existing of 66 KV Bus Bar A & B with ACSR Bersimis conductor at 220/66/33/11kv S/Stn. Sub-Division ES Baddi (Katha) under ES Division HPSEBL Nalagarh.	0.46	6.90	4.14	0.00	0.00	11.50
x.	Augmentation of existing 220/66KV, 2x80/100MVA Sub Station by providing additional 220/66KV, 1x80/100 MVA Power Transformer at 220/66KV Sub Station Nangal Upperla.	1.11	16.58	9.95	0.00	0.00	27.63
xi.	Aug of existing 132/33 KV,25/31.5 MVA 3 Phase Transformer and Single Phase 132/33 KV,4x10.5 MVA Transformer bank to 132/33 KV,2x50/63 MVA 3 Phase Power Transformer along with	0.44	3.30	6.60	6.60	5.06	21.99

Sl.	Name of Scheme	FY25	FY26	FY27	FY28	FY29	Total
	Strengthening of 132 KV Yard at 132/66/33 KV Sub Station Jutog under ES Division HPSEBLTotu						
xii.	Scheme for augmentation of existing 132/33 KV, 2×25/31.5 MVA, Three Phase Power Transformers to 132/33 KV, 2×50/63 MVA Three Phase Power Transformers along with strengthening of 33 KV yard at 132/33/11 KV sub-station at Gondpur, PaontaSahib under ES Division, HPSEBL, Shaktinagar, Nahan.	9.90	0.40	5.94	3.56	0.00	19.80
xiii.	Aug. by providing Addl.1x100MVA,220/132 KV Sub Station at Girinager under E.S Division HPSEBL Nahan	31.90	1.28	19.14	11.48	0.00	63.80
xiv.	Aug. of 2x25/31.5 MVA,132/33 KV to 2x50/63 MVA ,132/33 KV Power Transformer at 132/33 KV Sub Station at Johro Kala-Amb under E.S Division HPSEBL Nahan	20.49	0.82	12.29	7.38	0.00	40.98
xv.	Scheme for Revival of Defective Capacitor Banks of various EHV/HV Sub Station under Electrical System Circles Shimla & Hamirpur (under ES & Operation Wing)	0.08	0.62	1.23	1.23	0.94	4.11
	Total Augmentation and System Improvement	**92.85**	**60.63**	**80.74**	**34.41**	**9.19**	**277.81**
	Construction of Substation and Lines						
i.	Construction of 66/11KV 2x20MVA Sub-station near Hill Top Export Park, JharMajri (Barotiwala)	0.59	4.44	8.87	8.87	6.80	29.58
ii.	Construction of 66/11kv 2x20 MVA Substation at Thana under ES Division HPSEBL Nalagarh.	0.78	5.87	11.75	11.75	9.00	39.15
iii.	Construction of 66/33/11 KVGIS Sub Station at Dhana (Bagh Banian) under ES Division HPSEBL Nalagarh.	1.09	8.18	16.37	16.37	12.55	54.56
	Total Construction of Substation and Lines	**2.47**	**18.49**	**36.99**	**36.99**	**28.36**	**123.29**
	Grant Total	**95.32**	**79.12**	**117.73**	**71.39**	**37.54**	**401.10**

48. The Application has been filed in respect of 12 assets out of above 15 assets as approved by the Commission as under:-

Sr. No.	Name of Scheme	Capital cost as per HPSEBL MYT 24-29 (in Rs Crores)
1	Augmentation of 132/33kV, 2X 25/31.5MVA Power Transformers to 132/33kV, 2X50/63MVA at 132/33/11kV Sub-Station Una.	14.49
2	Augmentation of 2X16/20MVA,132/33 kV, Power transformer to 2X25/31.5MVA 132/33kV, capacity at 132/33/11kV Sub-Station Dehra.	10.47
3	Providing 01 No. Additional 220/132kV, 160/200 MVA Single Phase Power Transformer Bank a/w 220 kV & 132 kV bays and extension of existing 132kV Bus-Bar at 220 kV Sub-Station Nehrian.	39.39
4	Scheme for Replacement/Augmentation of existing 1 No. 25/31.5MVA,220/33kV, 3 Phase Power transformers with new 25/31.5MVA,220/33kV, 3-Phase Power Transformer at 220/132/33/11kV Sub-station Jassure	6.47
5	Augmentation of existing 16 MVA, 132/33kV, Single-Phase Power Transformer bank to 40 MVA, 132/33kV, 3-phase Power Transformer at 132/33kV Sub-Station Gaura.	9.84
6	Augmentation of existing 220/66kV, 2x80/100MVA Sub Station by providing additional 220/66kV, 1x80/100 MVA Power Transformer at 220/66kV Sub Station Nangal Upperla.	27.63

7	Augmentation of existing 132/33 kV,25/31.5 MVA 3-Phase Transformer and Single Phase 132/33 kV,4x10.5 MVA Transformer bank to 132/33 kV,2x50/63 MVA 3-Phase Power Transformer along with Strengthening of 132 kV Yard at 132/66/33 kV Sub Station Jutogh under ES Division HPSEBL Totu	21.99
8	Scheme for augmentation of existing 132/33 kV, 2×25/31.5 MVA, Three Phase Power Transformers to 132/33 kV, 2×50/63 MVA Three Phase Power Transformers along with strengthening of 33 kV yard at 132/33/11 kV substation at Gondpur, PaontaSahib under ES Division, HPSEBL, Shaktinagar, Nahan.	19.80
9	Augmentation by providing Addl.1x100MVA,220/132 kV Sub Station at Girinager under E.S Division HPSEBL Nahan	63.80
10	Augmentation of 2x25/31.5 MVA,132/33 kV to 2x50/63 MVA ,132/33 kV Power Transformer at 132/33 kV Sub Station at Johron Kala-Amb under E.S Division HPSEBL Nahan	40.98
11	Augmentation of existing of 66 kV Bus Bar A & B with ACSR Bersimis conductor at 220/66/33/11kV S/Stn. Sub Division ES Baddi (Katha) under ES Division HPSEBL Nalagarh.	11.50
12	Augmentation of 66kV Samoli - Andhra line from Wolf conductor to HTLS conductor	4.00
	TOTAL	**270.36**

It can easily be inferred from the above that except one item at Sr. No. 12 which is of 66 kV and below, the rest of the 11 works are above 66 kV.

49. Before we advert to the merits of the Application, it is relevant to mention that the 12 assets in question are exclusively owned by the HPSEBL/ DISCOM. The Applicant has also not disputed the ownership of the HPSEBL qua these assets. It is also none of the case of the Applicant that the aforesaid 12 assets are not part of the distribution network, meaning thereby that the said assets are being used for providing electricity to the consumers of the State as per the mandate under Section 42 of the Act, whereby the HPSEBL is required to supply quality and uninterrupted power to the consumers by developing and maintaining efficient, co-ordinated and economical distribution system. Besides, the Respondent being the only DISCOM in the State is mandated to meet the Distribution Performance Standards Regulations, 2010 as framed by the Commission.

50. It is apparent from the Application that though the Respondent would continue to own the 12 assets, the system strengthening,

upgradation and augmentation works in the aforesaid 12 assets will be carried out by the Applicant on the CAPEX allowed to the Respondent against each asset by the Commission for the period FY 2024-25 to FY 2028-29 in MYT order dated 15.03.2024 in Petition No. 15 of 2024. However, the modalities of the transfer of the CAPEX and its associated terms and conditions, liabilities etc. and other hindrances has not been spelt out in the Application. On the contrary, it is apparent from the reply of the Respondent that after the approval and sanction of the CAPEX for the 15 assets, including the aforesaid 12 assets in question, the process has been initiated by the Respondent and in many cases tenders have been floated and bids opened. Once, a process has already been initiated including inviting of tenders and opening of bids against some of the subject assets, the transfer of assets in question at this stage to the HPPTCL would give rise to a large number of issues including protracted litigation which will neither be in the interest of the Applicant nor the Respondent/ DISCOM nor the consumers. It is relevant to mention here that the Commission has already considered the request of the

HPSEBL for execution of “System Improvement Scheme for Replacement/ Augmentation of existing damaged 220/33 kV, 25/31.5 MVA, 3 Phase Power Transformer No. 01 with New 220/33 kV, 50/63 MVA, 3 Phase Power Transformer at 220 kV Sub-station HPSEBL Jassure” by the HPSEBL in order to avoid risk of blackout in the event of failure of Transformer-II particularly in the absence of any alternative source of similar capacity in the area vide letter dated 15.08.2025.

51. The Applicant, has asserted that the application is competent and maintainable under Regulation 8 (7) of the Transmission Tariff Regulations, 2023, Regulation 8 of the Transmission Tariff Regulations, 2023 reads as under:-

> “***8. Business Plan: -***
>
> (*1) The Transmission Licensee shall file a Business Plan along with MYT Petition, for the Control Period of financial years from 1st April, 2024 to 31st March, 2029 for approval of the Commission on or before 30th November of the year preceding the first year of the Control Period for a duration covering the entire Control Period along with the MYT Petition. The Business Plan for the Transmission Licenses shall be for the entire Control Period and shall, inter-alia, contain-*
>
> *(a) Capital investment plan which should be commensurate with load growth and quality improvement alongwith its cost-benefit analysis. The investment plan should also include yearly phasing of capital*

expenditure alongwith the source of funding, financing plan and corresponding capitalisation schedule;

(b) *The appropriate capital structure of each scheme proposed and cost of financing (interest on debt) and return on equity, terms of the existing loan agreements, etc;*

(c) *Transmission loss reduction trajectory for each year of the Control Period, including details of the measures proposed to be taken for achieving the target loss;*

(2) The Capital Investment Plan covering the entire MYT Control Period will be submitted in the following two parts:

(a) Ongoing schemes/works of the previous MYT Control Period (i.e. works / schemes which are under construction or where full payments have not yet been made or where Supply/Work Orders have not been placed). All spill over works will be included in this;

(b) Schemes to be taken up in the order of priority giving the schedule over the full MYT Control Period. The likely date of completion should also be given. This will also include such schemes which were part of the Capital Investment Plan of the previous MYT Control Period but could not be started and which the Applicant/Applicant considers necessary to take up during the present Control Period.

(3) *The capital investment plan shall be in conformity with the plans made by the CEA/CTU/STU/ Distribution Licensee(s). The investment plan shall be scheme-wise. The Applicant shall submit the Detailed Project Reports (DPRs) for all the schemes as per Part (a) and (b) above which shall include:*

(a) Purpose of investment (i.e. replacement of existing assets, meeting load growth, technical loss reduction, meeting reactive energy requirements, improvement in quality and reliability of supply, etc);

(b) Broad Technical Specifications of the proposed investment and supporting details;

(c) Capital Structure;

(d) Capitalization Schedule;

(e) Financing Plan, including identified sources of investment;

(f) Physical targets;
(g) Cost-benefit analysis;
(h) Prioritization of proposed Investments:

Provided that DPRs will not be necessary for schemes under Rs. 10 Crore for Transmission Business:

Provided further that the total capital expenditure on non-DPR schemes in any year should not exceed 20% of that for DPR schemes during that year:

Provided further that the Transmission Licensee shall also submit all details including DPRs and other approval documents, of Schemes funded through a Central or State Grant or through Consumer Contribution or through Deposit works and/or Loan convertible to grant on fulfilment of specified conditions, to the Commission prior to the initiating execution of such Schemes:

Provided further that Transmission Licensee shall be required to ensure that the procurement of the assets have been undertaken in a competitive and transparent manner. Further, the assets so capitalized as a part of the approved capital investment plan under these Regulations should necessarily be geo-tagged and properly recorded in Fixed Asset Register (FAR) for allowance of the capitalization of the same by the Commission:

Provided further that regarding the assets already capitalized as on 1st April, 2024, Transmission Licensee shall prepare and submit to the Commission a time bound plan to undertake the geo-tagging in phased manner, preferably within the Control Period, along with the MYT Petition:

Provided further that Transmission Licensee must provide access of the details of geo- tagging to the Commission for online monitoring.

(4) The Commission shall approve the capital investment plan submitted by the Transmission Licensee for the entire control period after doing prudence check. The same would be considered for computation of ARR, wherein the amount of electricity transmitted by the transmission system shall be projected considering the estimated growth plan of transmission customer and any plans of new transmission system, based on network expansion plans within the State.

(5) For each year of the control period, the Commission shall watch over the actual capital expenditure and capitalization vis-à-vis the approved capital expenditure and capitalization schedule. In the normal course, the Commission shall not revisit the approved capital investment plan (capital expenditure and the capitalization schedule) during the control period and adjustments to depreciation, interest on capital loan and return on equity on account of variations for the actual capital expenditure incurred and capitalization done visà-vis approved capital investment plan (capital expenditure and capitalization), shall be done during the mid-term performance review and at the time of end of control period true up.

(6) In case the capital expenditure is required for emergency work which has not been approved in the Capital Investment Plan, the licensee shall submit an application containing all relevant information along with reasons justifying emergency nature of the proposed work seeking investment approval by the Commission. The licensee shall take up the work prior to the approval of the Commission provided that the emergency nature of the scheme has been certified by its Board of Directors.

(7) Any licensee intending to establish, operate and maintain or augment capacity of a transmission system not been approved in the Capital Investment Plan, shall file an application/petition under affidavit to the Commission in accordance with HPERC (Conduct of Business) Regulations, 2005, as amended from time to time, for approval of the project capital cost and financing plan before taking up a project. The application/ petition of transmission system for investment approval shall clearly provide the purpose of the project as follows:

(a) The application/petition shall consist of information on system strengthening, load growth, etc. as may be relevant for particular licensee, its cost-benefit analysis and other details such as location of the project, site specific features, break up of capital cost, financial package, performance parameters, commissioning schedule, reference price level, estimated completion cost including foreign exchange component (if any), environment standards prescribed and to be achieved, etc:

Provided that where the Commission has given an approval to the estimated capital cost and financing plan, the same shall act as a

> *guiding factor for applying prudence check on the actual capital expenditure while determining the ARR and Tariffs for a particular licensee*”

52. A conjoint reading of Regulation 8 (1) and Regulation 8 (7) of the above Regulations shows that the Transmission Licensee intending to establish, own, operate and maintain or augment the transmission capacity of the assets not included in the CAPEX, can file an application duly supported with an affidavit in the Commission for approval of capital cost and financial plan before taking up a Project. Regulation 8 ibid nowhere shows that the Transmission Licensee may also file an application for the approval of Project capital cost and financial plan in respect of the assets belonging to other Licensee under the Act or the assets belonging to the Distribution Licensee. Therefore, under Regulation 8 of the Transmission Tariff Regulations, 2023, the application can be filed in respect of the transmission assets duly owned by a Transmission Licensee which were left out while filing the Business Plan and MYT Petition but Regulation 8 cannot be stretched to filing such application in respect of the assets owned and operated by any other licensees.

Therefore, Regulation (8) ibid, as relied upon by the Applicant, has no bearing on the aforesaid 12 assets belonging to the HPSEBL and under the garb of said Regulations, the Applicant cannot seek transfer of assets of other Licensee. In fact, transmission tariff Regulations, 2023 cannot be applied to the assets of the Distribution Licensee..

53. Significantly, the HPSEBL/ DISCOM/ Respondent filed a Petition for the approval of Business Plan for FY 2024-25 to FY 2028-29 under the provisions of the Act and the Himachal Pradesh Electricity Regulatory Commission (Multi Year Wheeling Tariff and Retail Supply Tariff) Regulations, 2023 (Wheeling and Retail Supply Tariff Regulations, 2023 for short) which specifically applies to the Distribution Licensee in the State. The said Petition No. 15 of 2024 was allowed by the Commission vide order dated 15.03.2024. Therefore, there is clear demarcation of the approval of capital cost of assets of both the licensees as the Transmission Tariff Regulations, 2023 apply to the Transmission Licensee (Applicant) whereas Wheeling and Retail Supply Tariff Regulations, 2023 deals, with the

assets belonging to the Distribution Licensee and apply to the Respondent/ HPSEBL/ Distribution Licensee. The present Application is, therefore, misconceived and not maintainable.

54. It is not disputed that after creation of the HPSEBL and the HPPTCL vide Transfer Scheme, 2010, allocation of the assets was made in favour of the above said utilities i.e. the Applicant and the Respondent. It has been asserted by the Respondent that under Clause 2(b) of the Transfer Scheme, 2010, the term "*assets*" expressly include transmission and distribution systems, as well as all associated equipment, substations, lines, bays, yards, plant and machinery, whether tangible or intangible. Thus, all EHV substations and lines forming part of HPSEBL's integrated system are covered by and protected under the Transfer Scheme, 2010. Further, Clause 3(1) the Transfer Scheme, 2010 provides that all assets, properties, rights and liabilities of the erstwhile Board shall re-vest in the HPSEBL, except only those transmission lines expressly re-vested in HPPTCL under Clause 3(1)(i) of the Transfer Scheme, 2010. Once, the assets in question have specifically been allotted to the HPSEBL and

connected to the distribution network, the same can only be efficiently maintained by the HPSEBL and any encroachment upon the same would lead to various complications and operational issues.

55. According to the HPSEBL, Clause 3(1)(i) of the Transfer Scheme, 2010 further limits the assets in HPPTCL as those transmission lines "*not being essential part of the distribution system*" of HPSEBL. Thus, where a line, substation, transformer bank or associated infrastructure forms an integral interface to HPSEBL's distribution network, or is necessary for discharge of its statutory supply obligations under Section 42, such assets cannot be transferred even temporarily for the purpose of system improvement or augmentation or upgradation.

56. Even otherwise, the 12 assets as mentioned in the application cannot be construed as part of the transmission system, as projected in the application. Rather, the same form part of the distribution system being essential to the distribution network. Here Clauses 4 (1) to 4 (3) of the Transfer Scheme, 2010 assume importance. Clause 4(1) vests in HPSEBL all residuary assets not specifically transferred

to HPPTCL, while Clause 4(2) confines HPPTCL's role to "*evacuation of power by intra-state or inter-state transmission lines*" only. Most importantly, Clause 4(3) unequivocally empowers HPSEBL, as the distribution licensee, to lay, own, operate and maintain electric lines, substations and electrical plant, even if they are high-pressure (i.e., 66 kV/ 132 kV/ 220 kV) whenever such assets are primarily maintained for the purpose of distributing electricity. Hence, as allocated to the HPSEBL under the Transfer Scheme, 2010 and connected to the network of the distribution licensee, and handing over of the same to the HPPTCL for the purpose of augmentation and upgradation without any statutory authority shall be unwarranted.

57. The Respondent, being the State Distribution Licensee vested with existing Extra High Voltage (EHV) network in the State of Himachal Pradesh it is statutorily obligated under Section 42 of the Act to ensure the development, strengthening and upgradation of its distribution system and associated EHV interface points so as to maintain reliable supply to consumers, particularly in industrial load centers and in discharge of this statutory function, the HPSEBL

carried out a system-wide assessment of the capacity constraints across its 220/132/66/33 kV network during the preparation of its Business Plan for the Fifth MYT Control Period (FY 2025-29). Further, in terms of Section 2(19) of the Act read with Rule (4) of the Electricity Rules, 2005, the distribution system would also include all high-pressure lines primarily used for distributing electricity in the area of the distribution licensee, notwithstanding that such lines are also used incidentally for transmission of electricity for others. It is also apparent form the record that before filing Business Plan, a deep assessment of the system was carried out which revealed persistent and material bottlenecks in several EHV Sub-stations feeding large industrial clusters, namely Kala Amb, Paonta Sahib, Jutogh, Dehra, Una, Giri Nagar, Baddi–Katha, Gondpur and Nalagarh, where the installed transformer capacity had reached saturation, resulting in overloading, load-shedding, voltage deterioration and inability to release new industrial loads. These constraints were repeatedly causing operational disturbances, consumer complaints and financial loss to both HPSEBL and industrial consumers and in order to address the above bottlenecks, the HPSEBL identified and proposed fifteen (15) critical EHV lines and sub-station systems augmentation and strengthening schemes involving upgradation of 220/132/66 kV transformer capacities, provision for additional power transformer banks, strengthening of 33 kV and 66 kV yards, and replacement of aged or overloaded equipment, with the objective of improving reliability, meeting emergent demand growth, and preventing network collapse in high-density industrial zones (as mentioned in Pages 245-247 of the MYT Order dated 15.03.2024). It is further asserted that these assets were essential to maintain the N-1 security criterion and to comply with the Standards of Performance Regulations, 2010 prescribed by the Commission.

58. Accordingly, said assets were included by HPSEBL in its CAPEX Plan and MYT Petition for FY 2024-25 to FY 2028-29 and the Commission, after a detailed prudence check, approved the capital expenditure for these schemes vide MYT Order dated 15.03.2024, observing that the augmentation was necessary to meet the present and projected load in the affected regions.

59. It is thus apparent that being part of the distribution network, extensive scrutiny has been carried out by the HPSEBL. Hence, it cannot be said that the HPPTCL is best suited for the augmentation and upgradation of the assets in question or that the HPPTCL has the best expertise. It is also evident that the assets in question also include Sub-stations, transformers etc. which can best be understood by the Distribution Licensee.

60. The Respondent has also asserted that on 19.08.2024, upon scrutiny of the DPRs, the Commission vide letter No. HPERC-MYT/CAPEX/HPSEBL-Vol-III/2024-1498 dated 19.08.2025 (**Annexure C**), has conveyed the approval for all the fifteen schemes, subject to certain conditions *inter alia*, regarding technological intervention, cost optimization, timely execution, and prudence checks at the time of true-up and consequent action has been initiated accordingly. Thus, the entrustment of such assets at this stage to the HPPTCL would lead to consumption of significant extra time as entire exercise has to be undertaken afresh and a significant time will also be consumed in future for obtaining consent and

approvals from the Respondent as the ownership shall remain with the HPSEBL.

61. In this regard, it is relevant to mention that even in the meeting held on 19.06.2025, the Commission has recorded that capitalization of the augmentation shall be done by HPSEBL being the CAPEX of HPSEBL and being the owner of the assets/ schemes, the HPSEBL shall be entitled to the depreciation, ROE, and other expenses which further shows that the transfer of the assets to the Applicant would complicate the things.

62. As mentioned above, the aforesaid 12 assets form part of the distribution network. The Respondent on 15.11.2025 vide letter No. HPSEBL/CE(Comm.)/SERC-45/2025-26-7594 (**Annexure D**), apprised the Commission that non-augmentation of the existing EHV infrastructure was resulting in load-shedding, pending PAC obligations, inability to release committed industrial loads, and consequential financial loss to stakeholders and the approval of the Commission was sought for direct execution of the said EHV augmentation schemes, emphasizing that the DPRs stood fully

approved and the tenders for several works have already been floated or bid opened, and that urgent strengthening of HPSEBL's EHV network was imperative to ensure supply reliability and compliance with statutory obligations. Once, the follow up action after the approval of the Commission has been taken by the HPSEBL, the mid-way transfer of assets for augmentation will not be practicable. Otherwise also, the assets/ 12 assets belong to the HPSEBL thus, any mechanism for recovery of costs by HPPTCL would be inherently unworkable, because:

- The assets would not qualify for capitalisation under Regulation 21 of the HPERC (Terms and conditions for determination of Transmission Tariff) Regulations 2023.
- Depreciation would not accrue to HPPTCL, and
- Recovery of costs through transmission tariff under Section 62 of the Act would be inconsistent with tariff principles.

63. Significantly, the proposal of the Applicant does not demonstrate system-level optimization, particularly with respect to utilization of dismantled transformers from various schemes, but on

the contrary, the HPSEBL would be in a better position to utilize the same at some different stations.

64. Though, much reliance has been placed in the observation in tariff order dated 15.03.2024 in paras 8.7.22 and 8.7.75 wherein it was mentioned that in case the Distribution Licensee fails to incorporate the 12 assets in the RDSS, the works may be carried out by the HPPTCL/ Applicant. However, upon detailed examination of the Revamped Distribution Sector Scheme (RDSS), it is clear that the same does not pertain to voltage levels of 132 kV and 220 kV and rather the same is explicitly limited to distribution level up to 66 kV voltage level. Except one asset at Sr. No. 12, rest of the assets are of 132/220 kV level and thus, the HPSEBL could not have incorporated the same in the RDSS. Thus, the directions issued in the tariff Order dated 15.03.2024 were premised on a general understanding of system strengthening under RDSS. However, upon closer scrutiny, it is now evident that application of RDSS-linked execution or cost treatment to assets above 66 kV was beyond the scope of the scheme and contrary to its guidelines. For the aforesaid reasons,

even the Minutes of Meeting dated 19.06.2025 and 21.06.2025 also are of no help to the Applicant.

65. Further, reliance placed in Notification No. MPP-A(3)-1/2006-Loose dated 11.09.2008 by the Applicant cannot be pressed into any help as transfer of distribution network to a Transmission Licensee will give rise to large numbers of operational issues. Since, the ownership will be with the HPSEBL, the Applicant will have to approach the HPSEBL again and again even for a smaller authorization which will delay the augmentation/ upgradation/ modernization which will not be in the interest of the consumers. The said notification certainly would be applicable for new transmission assets of 66 kV and above.

66. No doubt, the Ld. Counsel of the Applicant has claimed that the HPPTCL has expertise in the transmission system and, therefore, it is in the interest of both the utilities and the consumers that augmentation/ upgradation is done by the HPPTCL but said submission too cannot be pressed into any help for the reasons mentioned above and also that there is nothing in the application that

the HPSEBL has neglected these works. Rather, as mentioned above, keeping in view the assessment conducted the works were included in the Business Plan and were approved by the Commission and follow up actions have been duly initiated by the HPSEBL which are in advance stage of execution. Moreover, the Commission also notes that there will be no efficiency gains if these schemes shall be executed by the Applicant as their proposal is exactly the same which was earlier proposed by the HSPEBL. Further, the Applicant has not been able to establish on record as to what value addition will be gained in case the schemes are executed by the HPPTCL instead of the HPSEBL.

67. In view of the above and considering that the execution of the said works has already been delayed substantially and the Consumers of the State are bearing the consequences for such delay, the Commission do not find it prudent to transfer the assets to the HPPTCL. Thus, the Applicant has failed to substantiate that the (12) assets, as mentioned in the application, are liable to be transferred to the HPPTCL for augmentation/ upgradation with all

consequent actions. Point No. 1 is accordingly decided against the Applicant and in favour of the Respondent.

FINAL ORDER

68. In view of the above discussions and findings, the application fails and is accordingly dismissed.

69. Let a copy of the order be supplied to the parties forthwith.

The file after needful be consigned to the records.

Announced
16.01.2026

-Sd-	-Sd-
(Shashi Kant Joshi) **Member**	**(Yashwant Singh Chogal)** **Member (Law)-cum-Chairman**