

Record of proceedings dated 02.07.2016

I. A. No. 5 of 2016
IN
O. P. No. 60 of 2015

DISCOMS & APPCC vs M/s KSK Mahanadi Power Company Ltd., & 4 others

Petitioners filed an I.A. seeking to “Direct the respondent to extend the validity of the existing CPGs pertaining to TSDISCOMs till the finalization of the O. P. No. 60 of 2015”

Petition u/s 86(1) (f) of the Electricity Act, 2003 for directions on illegal claim of Rs. 66.31 crores towards the transmission charges for the period 16th June, 2013 to 13th August, 2013 and capacity charges for the period 16th June, 2013 to 26th July, 2013 by illegal invoking letter of credit by M/s KSK Mahanadi Power Company Ltd., for the period without supplying power to the petitioners.

Sri. Y. Rama Rao, Counsel for the petitioner and Sri. Anand K. Ganeshan, Counsel for the respondent along with Sri. A. Srikanth, DGM, Business Development Group are present. The counsel for the petitioner stated that the Commission had earlier passed interim order restraining the parties to maintain status quo in respect of financial instruments. The petitioners have also filed a reply denying the contentions raised in the counter affidavit filed on behalf of the respondent. The term of the PPA ended on 15.06.2016. Various amounts are due for which claim has been made by either of the parties in the three petitions filed before the Commission. At present, the I. A. filed by the petitioners is for securing bank guarantees for the amounts due to it including renewal of bank guarantee furnished by the developer earlier the Commission may confirm and dispose of the I. A. requiring the developer to continue to provide bank guarantee by renewing the lapsed bank guarantee as required under the PPA.

The counsel for the respondent stated that it is not disputed by the developer that there are cross claims in the respect of the financial instruments invoked by both the parties vice-versa. According to counsel for the respondent the total amount towards letter of credit in respect of Telangana Discoms is to the tune of Rs. 32 crores, while the developer liability stands at Rs. 74 crores. The bills due from the licensee stand at Rs. 43 crores. However, keeping in view the fact that the issue of jurisdiction has to be decided, the Commission may protect the interest of both the parties for the present till the matters are decided completely on facts available on the record.

The Commission pointed out that the present petition is only considered to protect the equities between the parties. The Commission is not inclined to decide the issue of jurisdiction at present and more particularly in this case. The issue is under consideration separately in the other set of cases. The Commission is of the view that the interest of both the parties will be protected if the petitioner provides / renews the letter of credit or bank guarantee in favour of the developer for the amount due to the developer, simultaneously the developer shall also renew the existing or lapsed bank guarantees in order to provide for equitable protection in respect of liabilities and claims in terms of PPA till the matters pending before the Commission are finally disposed of.

The Commission reserved its orders on the I. A. filed by the DISCOMs that is I. A. No. 5 of 2016 and adjourned the main O. P. for which hearing will be scheduled after deciding the issue of jurisdiction.

Sd/-
Member

Sd/-
Member

Sd/-
Chairman

O. P. No. 59 of 2015
And
I. A. No. 20 of 2015

M/s. KSK Mahanadi Power Company Limited vs TSSPDCL & TSNDPCL

Petition filed u/s 86(1) (f) of the Electricity Act, 2003 seeking resolution of disputes between it and the under the power purchase agreement dated 31.07.2012.

Sri. Anand K. Ganeshan, Counsel for the petitioner along with Sri. A. Srikanth, DGM, Business Development Group and Sri. Y. Rama Rao, Counsel for the respondent are present. The counsel for the parties stated that in view of reserving of the orders in I. A. No. 5 of 2016 in O. P. No. 60 of 2015, this petition may be adjourned for the present and may be directed to be posted whenever O. P. No. 60 of 2015 is directed to be listed. Accordingly adjourned.

Sd/-
Member

Sd/-
Member

Sd/-
Chairman

O. P. No. 68 of 2015
And
I.A. No. 19 of 2015

M/s. KSK Mahanadi Power Company Ltd., Vs TSSPDCL & TSNDPCL

Petition filed u/s 86(1) (f) of the Electricity Act, 2003, seeking resolution of disputes between it and the under the power purchase agreement dated 31.07.2012.

Sri. Anand K. Ganeshan, Counsel for the petitioner along with Sri. A. Srikanth, DGM, Business Development Group and Sri. Y. Rama Rao, Counsel for the respondent are present. The counsel for the parties stated that in view of reserving of orders in the I. A. No. 5 of 2016 in O. P. No. 60 of 2015, this petition may be adjourned for the present and may be directed to be posted whenever O. P. No. 60 of 2015 is directed to be listed. Accordingly adjourned.

Sd/-
Member

Sd/-
Member

Sd/-
Chairman