

**IN THE JHARKHAND STATE ELECTRICITY REGULATORY COMMISSION
AT RANCHI**

Case No. 12 of 2024

Inland Power Ltd. (IPL) Petitioner
Versus
Jharkhand Bijli Vitran Nigam Ltd. (JBVNL) Respondent

**CORAM: HON'BLE JUSTICE MR. AMITAV KUMAR GUPTA, CHAIRPERSON
HON'BLE MR. ATUL KUMAR, MEMBER (TECH)**

For the Petitioner : Mr. Saket Upadhyay, Advocate
For the Respondent : Mr. Ravi Shankar, JBVNL

Date- 30th April, 2024

1. Inland Power Limited (IPL) has filed the instant petition under Section 86(1)(b) of the Electricity Act, 2003 seeking approval of the 5th Supplementary Power Purchase Agreement (PPA) under Shakti Scheme B-II Round-VI for 1,10,100 tons of Coal to be signed between Inland Power Limited(IPL) and Jharkhand Bijli Vitran Nigam Limited.

2. The petitioner's prayers are as follows:

- (a) For grant of approval to the 5th Supplementary Power Purchase Agreement (PPA) under Shakti Scheme B-II Round-VI for 110100 tons of Coal to be signed between Inland Power Limited (IPL) and Jharkhand Bijli Vitran Nigam Limited (JBVNL)
- (b) For grant of any other appropriate relief or reliefs which the Commission deems fit and proper in the instant case.

Submissions of the Petitioner

3. Learned Counsel for the petitioner had submitted that the petitioner had entered into MoU with Government of Jharkhand on 18.10.2011 for setting up of 126 MW (2x 63 MW) Thermal Power Station in the name and style of Inland Gola Thermal Power Project on a build, own and operate basis located at Inland Nagar, Gola, District-Ramgarh, Jharkhand.
4. The principal Power Purchase Agreement (PPA) was signed between the petitioner and Jharkhand Bijli Vitran Nigam Limited (erstwhile JSEB) on 23.02.2012 (Principal PPA) for purchase of 35MW power to be generated from 2 x 63 MW Thermal Power Station.
5. Thereafter, the first Supplementary Power Purchase Agreement (PPA) was signed between the petitioner and Jharkhand Bijli Vitran Nigam Limited (erstwhile JSEB) on 22.04.2013 (Supplementary PPA) for sale and purchase of entire quantity of power to be generated from 1st Unit of 63 MW.

6. It is submitted that Ministry of Coal, GoI introduced New Mode of Transport Coal Allocation Policy for Power Sector, 2017, vide letter no 23022/15/2016-CPD/CLD dated 22.05.2017. The said scheme is known as SHAKTI SCHEME i.e. scheme for harnessing and allocating koyalala transparency in India.
7. Under Shakti scheme clause B(ii) stipulates that CIL/SCCL may grant coal linkages on notified price on auction basis for power producers/IPPs having already concluded long term PPAs (both under section 62 and 63 of the Electricity Act) based on domestic coal and the Power producers/IPPs participating in auction will bid for discount on the tariff (in paisa/unit). The bid evaluation criteria shall be non-zero levelized value of the discount quoted by bidder on the existing tariff for each year of the balance period of PPA. The Ministry of Coal in consultation with Ministry of Power, worked out a methodology on normative basis to be used in the bidding process for allocation of coal linkages to IPPs with PPAs.
8. Learned Counsel for the petitioner has stated that the discount by Generating companies would be adjusted from the gross amount of bill at the time of billing, i.e. the original bill shall be raised as per the terms and conditions of the PPA and the discount would be reduced from the gross amount of the bill. The discount shall be computed with reference to scheduled generation from linkage coal supplied under this auction and would be applicable to both the PPAs contracted under section 62 as well as 63 of the Electricity Act.
9. It was submitted that the PPA is required to be amended or supplemented mutually between the developer and the procurer to pass on the discount to the procurer and the approval of the Appropriate Commission was to be obtained as per the provisions of PPA or Regulations.
10. The FSA (Fuel Supply Agreement) shall be signed with the successful bidders after the terms and conditions for signing of FSA are met with and the appropriate Commission has approved the amendment or supplement to the PPA.
11. It was reiterated that the Coal India Limited invited EOI under Shakti on 04.08.2017 for auction of coal linkage for IPPs having already concluded long term PPA and M/s Inland Power Limited was declared successful bidder for 67400 tons of coal, and to provide a discount of 01 paisa per unit of electricity supplied as mentioned in the LOI issued

by CCL vide letter dated 21.12.2017. Consequent thereto, 2nd Supplementary PPA was signed between the petitioner and M/s Inland Power Limited on 13.02.2018.

12. It is canvassed that the petitioner, M/s Inland Power Limited, participated in the auction conducted by Coal India Limited under SHAKTI Scheme B-II Round V, pursuant to auction process and received LOI vide letter no CCL/HQ/C 4/FSA/2022-23/337 dated 24.02.2023 for signing Fuel Supply Agreement for 4300 tons of coal. The petitioner submitted that it shall offer a discount of 12 paise per unit for the contracted capacity of 63MW supplied at ex-bus SRHP, Sikdari Grid, only on the part of electricity generated by using the quantity of coal supplied under the long term FSA signed between petitioner and CCL under Shakti scheme B(ii)-5th round. It is reiterated that the discount is applicable only to the units using coal procured under Shakti scheme B(ii)-5th round.
13. It is submitted that the period of supply shall be of two years from the date of commencement of 2nd supply of coal under the Shakti scheme B(ii)-5th round and the discount will be deducted from the gross bill raised by the seller and shall be subject to quarterly reconciliation.
14. The Respondent-JBVNL had approached this Hon'ble Commission seeking approval of the PPA dated 23.02.2012 along with other prayers in Case No 04 of 2018 and the Hon'ble Commission vide order dated 28.05.2019 approved the Principal PPA dated 23.02.2012, and it was made clear that no PPA would be acted upon without prior approval of Commission.
15. It was submitted that the Petitioner-M/s Inland Power Limited, approached this Hon'ble Commission in Case No 14 of 2023 for approval of 3rd Supplementary Power Purchase Agreement executed on 28.06.2023 for the purpose of coal linkage under Shakti B (II) Round V for 4300 MT of coal and the Hon'ble Commission by order dated 23.06.2023 approved the 3rd Supplementary PPA which provided the methodology for adjustment of discount in the monthly bills in terms of Shakti Scheme.
16. It was also submitted that the office of Respondent no.2 vide letter no 559/CE(C&R)/Ranchi dated 05.06.2023 gave its consent to petitioner for filing of petition for approval of 3rd supplementary PPA under Shakti scheme B(ii)-5th round for 4300 tons of coal enclosing the draft of third supplementary PPA and accordingly Case no. 14 of 2023 was

filed before this Commission. The Hon'ble Commission vide order dated 23.06.2023 allowed the petition and approved the 3rd supplementary PPA under Shakti scheme.

17. It was also submitted that the Petitioner approached this Hon'ble Commission vide Case no 01 of 2024 for approval of 4th supplementary power purchase agreement for extension of the principal PPA dated 23.02.2012 and supplementary PPA dated 24.04.2013. The Hon'ble Commission vide order dated 25.01.2024 was pleased to allow the petition and granted approval to the draft PPA for extension of the principal PPA and supplementary PPA for further 15 years.
18. The Petitioner submitted that for the sixth round of auction of coal linkages under paragraph B(ii) of the Shakti policy the scheme document was issued on 26.10.2023 for the IPPs/CPPs having already concluded long term PPAs and the Petitioner company duly participated in the auction process and was declared as provisionally successful bidder. The petitioner was issued letter no 227 dated 05.02.2024 by CCL for signing of FSA for 110100 tons of coal against the PPA under Shakti scheme B(ii)-6th round for supply of coal for a period of one year.
19. The Petitioner has submitted the draft of 5th supplementary power purchase agreement under Shakti scheme B(ii)-6th round for supply of coal for a period of one year for 110100 tons of coal has been submitted for necessary approval by the Hon'ble Commission.

Submission of the Respondent

20. The Respondent has filed the counter-affidavit supporting contention and submission of the petitioner and submitted the vetted final draft copy after incorporating the suggestions of the accounts and legal department of the Respondent.
21. It is pointed out that the legal department of the respondent suggested for incorporations of few points in the PPA which is stated below:
 - a) CIN no. of the parties to the agreement requires to be mentioned in the proposed PPA as its introductory part.
 - *“(CIN: U40108JH20138GC001702)” added to the introductory part of JBVNL at page no.1 of PPA and “(CIN: U51909WB1993PLC059205)” added to the introductory part of IPL at page no.1 of PPA.*

b) Date of earlier executed PPA is required to be mentioned.

- *“Another terms and conditions of Principal PPA dated 23.02.2012 & Supplementary PPA dated 22.04.2013, 2nd Supplementary PPA dated 13.02.2018, 3rd Supplementary PPA dated 28.06.2023, 4th Supplementary PPA dated 08.02.2024 shall remain unaltered, valid and conclusive. Added as clause no. 5 at page no. 3 of PPA”*

c) Incorporation of “exclusive jurisdiction of court of law at Ranchi” may be incorporated.

- *Corporate office address is already available in introductory part of parties at page no.1 of PPA.*

d) Address of both parties for the purpose of serving notice requires to be incorporated.

- *Corporate office address is already available in introductory part of parties at page no.1 of PPA.*

22. The Respondent has submitted that all technical and financial terms and conditions are the same as in the previous agreements signed in consonance with SHAKTI scheme and prayed for grant of approval of the draft agreement by the Commission and thereafter for submission and filing of signing of Fuel Supply Agreement.

Commission’s observation and findings

23. The Commission has considered the submissions of the parties and perused the Counter-affidavit filed by the respondent as well as the materials available on record.

It is pertinent to taken note that section 86(1)(b) of the Act, mandates that the distribution licensee is obligated to get the Power Purchase Agreement, approved by the Commission.

24. It would be evident that both the parties have prayed for grant and approval of the 5th Supplementary Power Purchase Agreement (PPA) under Shakti Scheme B-II, Round –VI for 110100 tons of coal to be signed between Inland Power Limited (IPL) and Jharkhand Bijli Vitran Nigam Limited (JBVNL) on the same terms and conditions incorporated in the earlier agreement.

25. By its supplementary affidavit the petitioner has submitted that the petitioner has no objection to the modifications/amendment proposed

by the respondent and is willing to enter into the execution of the 5th Supplementary Power Purchase Agreement (PPA) under Shakti Scheme B-II Round- VI with JBVNL.

26. It is observed by the Commission that these modifications/amendment proposed by the Respondent do not substantially change the nature of the agreement's and all technical and financial terms and conditions are the same as mentioned in previous agreement signed by the parties. Moreover parties do not have any objection to the agreement.

In the result, it is ordered as;

ORDER

27. In the facts and circumstances of the case, and in view of the provisions of Section 86 (1) (b) of the Electricity Act, 2003 and discussions made herein above, the prayer of the petitioner is allowed.
28. The draft of 5th Supplementary Power Purchase Agreement to be executed between the petitioner IPL and the respondent JBVNL, under Shakti Scheme B(II)-6th round for supply of coal for a period of one year for 110100 tons of Coal on the same terms and conditions, as stated above, is hereby approved.
29. The petition stands disposed off, accordingly.

Sd/-
Member(T)

Sd/-
Chairperson