IN THE JHARKHAND STATE ELECTRICITY REGULATORY COMMISSION AT RANCHI

Suo-Moto Case No. 23 of 2025

The Commission on its own motion

Vs.

1) Jharkhand Bijli Vitran Nigam Limited (JBVNL)
2) Jharkhand Renewable Energy Development Agency (JREDA)..........Respondents

CORAM: HON'BLE MR. JUSTICE NAVNEET KUMAR, CHAIRPERSON
HON'BLE MR. MAHENDRA PRASAD, MEMBER (LAW)
HON'BLE MR. ATUL KUMAR, MEMBER (TECHNICAL)

For the Respondent: - Mr. Sachin Kumar, Sr. Standing Counsel, JBVNL, Mr. Arvind Kumar, ED (C&R), JBVNL and Ms. Anita Prasad, D.G.M., JBVNL. (Res –No. 1)

Mr. Mukesh Kumar and Mr. Vikas Kumar, Advocates – JREDA (Res –No. 2)

Date – 25th November, 2025

1. In compliance with the directions of the Hon'ble APTEL dated 02.01.2025 in Appeal No. 364 of 2024, wherein the Commission was directed to take appropriate action for non-compliance of the Renewable Purchase Obligation (RPO) by Jharkhand Bijli Vitran Nigam Limited (JBVNL) in terms of Section 142 of the Electricity Act, 2003, read with the relevant provisions of the JSERC (Renewable Energy Purchase Obligation and its Compliance) Regulations, 2016 and subsequent amendments thereto, the Commission initiated *suo-moto* proceedings and issued notice to JBVNL through its Executive Director (Commercial & Revenue).

The brief history as well as the factual matrix of the case may be appreciated in the following manner:

2. The Commission, after perusing the letter dated 19.05.2025 issued by the Jharkhand Renewable Energy Development Agency (JREDA), found that JBVNL has neither complied with the Renewable Energy Purchase Obligation nor has fulfilled their shortfall through purchase of Renewable Energy Certificates (REC) till FY 2023-24. Accordingly, the Commission issued a show-cause notice vide letter no. JSERC/318/207 dated 26.05.2025 for non-compliance of RPO and sought explanation for the said non-compliance as per the relevant Regulations/directives of the Commission.

3. The JBVNL vide its letter no. 175 dated 26.05.2025 requested for waiver of RPO obligation for the previous FY 2010-11 to FY 2023-24 & FY 2024- 25. The waiver request of JBVNL was declined by the Commission and it was duly informed vide letter no. JSERC/318/136 dated 29.05.2025. The Commission, vide the aforesaid letter dated 29.05.2025, again directed JBVNL to comply with the RPO targets for the respective years as per the relevant RPO Regulations.

4. Thereafter, JBVNL replied vide its letter no. 196 dated 20.06.2025 to the show-cause notice dated 26.05.2025 issued by the Commission. The Commission perused the reply of the JBVNL and found that inspite of repeated direction in its true-up order, JBVNL is willfully and negligently not complying with the relevant JSERC (Renewable Energy

Purchase Obligation and its compliance) Regulations and failed to mitigate its shortfall of Renewable Energy Purchase for FY 2010-11 to FY 2023-24 even by procuring Renewable Energy Certificates (REC).

5. In view of the above facts and direction of the Hon'ble APTEL, dated 02.01.2025, a Suo-Moto case was registered under section 142 of the Electricity Act, 2003, against JBVNL through its Executive Director (Commercial & Revenue) and notice was issued to Respondent-E.D. (C&R) JBVNL on 01.07.2025.

6. During the course of hearing, on 18.07.2025, it was pointed out that Jharkhand Renewable Energy Development Agency (JREDA) is a necessary party in this case and hence it was impleaded as a party respondent in the case.

Submission of the Respondent-JBVNL

7. The learned counsel of the Respondent submitted in its affidavit that they have filed the reply to place on record the factual, operational, financial, and market realities surrounding the procurement of renewable energy and Renewable Energy Certificates (RECS) in the State of Jharkhand.

8. It was submitted that RECs are subject to demand-supply fluctuations, regulatory interventions by the Central Electricity Regulatory Commission (CERC) and Independent Operation Agreement (IOA), and the issuance patterns of RECs for compliance purposes.

9. It was submitted that REC transactions increased substantially as renewable capacity in India crossed 200 GW by 2024, with over 13.85 million RECs transacted in FY 2023-24. Trading of RECs was suspended from July 2020 to October 2021 for regulatory reasons, resulting in temporary dips in transaction volumes. Forecasts indicate continued strong volume growth with a CAGR of over 25%, driven by increasing corporate demand and stricter RPO enforcement.

10. It was submitted that the Government initiatives, including RPO mandates, the National Action Plan on Climate Change, and specific solar promotion schemes, have underpinned growth in renewable capacity and the REC market. Increasing corporate sustainability commitments have further boosted demand for RECS as a compliance and ESG instrument. REC trading reforms and improved market transparency have also contributed to sustained market growth.

11. It was further submitted that in FY 2010, the solar tariff was significantly higher compared to the thermal tariff. Due to the relatively high cost of solar power, companies, including JBVNL, were distribution disinclined to procure solar energy. Over the subsequent years, however, the solar tariff gradually declined, improving its economic viability and making procurement more feasible.

12. It was submitted that between 2010 and 2015, India's grid system faced significant operational and infrastructure constraints. These included grid instability, inadequate transmission capacity, high transmission and distribution losses, fuel supply deficits for gas-based power plants, and the need for improvements in grid management and integration. These challenges culminated in large-scale incidents, including the nationwide blackout of 2012.

13. It was further submitted that during this period, efforts were underway to unify regional grids into a single synchronized national grid to enhance reliability and operational efficiency. Although renewable energy accounted for a relatively small share of the overall generation mix at that time, the inherent intermittency of such sources posed operational challenges. The variable nature of renewable power affected grid stability, making the scheduling and integration of renewable energy particularly difficult.

14. It was submitted that the key challenges associated with renewable energy (RE) procurement for state distribution companies ("discoms") in India include the following:

    a) Financial Distress of Discoms: Many distribution companies face significant financial constraints due to escalating losses, inadequate tariffs, poor bill collection efficiency, and operational inefficiencies. These factors limit their ability to enter into long-term power purchase agreements (PPAs) with renewable energy developers, causing project delays and revenue uncertainties.

b) Uncertain and Delayed Signing of PPAs: A backlog exists for renewable power projects for which Letters of Award (LoAs) have been issued but final PPAs have not been executed due to discom reluctance or financial stress. This creates uncertainty for project developers and adversely impacts the deployment of clean energy.

c) Regulatory and Enforcement Challenges: Weak enforcement of Renewable Purchase Obligations (RPOs) and Renewable Consumption Obligations (RCOs) diminishes the compulsion for discerns to procure mandated RE quantities. Additional regulatory hurdles and ongoing litigation further complicate the procurement process.

d) Transmission Constraints: Limited transmission capacity and substation infrastructure pose significant challenges, particularly for hybrid, storage, and large-scale renewable projects requiring reliable grid connectivity and stability mechanisms.

e) Cancellation of Renewable Procurement Tenders: A substantial number of renewable energy procurement tenders—approximately 11,400 MW until June 2025—have been cancelled due to insufficient participation, high discovered tariffs, or withdrawal by end-procurers. Such cancellations affect market confidence and disrupt project execution.

f) Dependence on Imports and Supply Chain Risks: India's reliance on imported critical minerals and components for renewable technologies exposes procurement to price volatility and geopolitical risks, thereby impacting project costs and timelines.

g) Combined Impact: The financial health of discoms, regulatory clarity, infrastructure readiness, and evolving market dynamics collectively influence the ability of state distribution companies to procure renewable energy effectively, thereby affecting India's progress toward its renewable energy targets.

15. It was submitted that distribution companies faced substantial financial stress, including revenue shortfalls and high transmission and distribution losses, which constrained their ability to invest in the purchase of Renewable Energy Certificates (RECs).

16. It was submitted that limited cash flows and the prioritization of other operational expenses constrained the ability of distribution companies to purchase Renewable Energy Certificates (RECs). Specifically:

a) For Fiscal Year 2010-11, the revenue gap reported for JSEB was approximately Rs. 49.58 crore.

b) For Fiscal Year 2011-12, the revenue gap reported for JSEB, after accounting for resource gap funding and based on provisional accounts, was approximately Rs. 476.84 crore.

c) For Fiscal Year 2014-15, the revenue gap reported was Rs. 1,092.36 crores, based on provisional Annual Revenue Requirement (ARR) and revenue from power sales at existing tariffs.

d) For Fiscal Year 2015-16, the approved revenue gap after resource gap funding was approximately Rs. 4,566.08 crores, relating to the successor entity. Jharkhand Bijli Vitran Nigam Limited (JBVNL), which succeeded JSEB.

It was submitted that in view of these substantial revenue gaps, both JSEB and subsequently JBVNL. were unable to procure the requisite RECs.

17. It was stated and submitted that JBNVL's losses have grown significantly over the years, exacerbated by revenue gaps determined by JSERC. Under such financial constraints, purchasing RECs would have necessitated external borrowing from financial institutions at interest, which would have materially increased the cost burden if passed on to the largely domestic and tribal consumer base.

18. It was submitted that Early REC prices (FY 2010-11 to FY 2013-14) were in the range of Rs. 3000-2500 per REC, stabilizing later around Rs. 2100. Coupled with limited liquidity regionally, this made immediate REC procurement impractical.

19. It was submitted that JBVNL also entered into long-term PPAs with thermal developers, leaving minimal scope for high-cost RE energy procurement without causing financial imbalance. Future planning includes battery storage at grid substations to optimize additional solar energy for peak usage.

20. It was submitted that RE was mainly concentrated in a few States and within the State to a few generation pockets. Geographical distribution of such resources caused problems in integrating RE to the grid. RE projects, being location specific cannot be aligned with existing load centers necessarily.

21. It was submitted that the existing grid infrastructure was insufficient at most places to transport renewable power (wind specially) to load centers. State utilities were unable to create sufficient infrastructure for variable power. Hence, construction of new intrastate as well as interstate transmission infrastructure was critical to meet the needs of large scale RE deployment.

22. It was submitted that the RE targets were very stiff for states like Jharkhand where there are limited resources for RE development and distress financial conditions. It was further stated that RE policy was developed lately and there was little incentive for RE generation from the state government. Further, there was huge dependency on the other states for RE procurement and in the absence of national grid, there was limited transmission infrastructure available for Jharkhand to source RE power from other states like Rajasthan.

23. It was submitted that Jharkhand's GDP growth, though positive, remains significantly lower than Gujarat's, indicating a smaller and less industrialized economy. This disparity has a direct bearing on the financial capability of JBVNL to procure renewable energy or RECs without creating undue burden on consumers.

24. It was submitted that the delay in renewable energy procurement from FY 2010-11 to FY 2022-23 arose due to multiple factors including high initial solar tariffs, grid limitations, operational challenges, financial distress, and prioritization of basic power requirements over high-cost renewable procurement.

25. It was submitted that during FY 2010-11, solar tariffs averaged Rs. 12.16/unit versus thermal tariffs of Rs. 4.20 /unit, gradually reducing over time to Rs. 2.5-3.0/unit in FY 2024-25, while thermal tariffs averaged Rs. 3.80/unit.

26. It was submitted that India's grid from 2010-2015 faced major operational and infrastructure limitations, including grid instability, inadequate transmission capacity, fuel supply deficits, and the need for unifying regional grids into a national synchronized grid Intermittent renewable energy posed additional scheduling challenges.

27. It was submitted that the REC and renewable energy targets set by JSERC were extremely challenging given Jharkhand's _ limited renewable resources, financial constraints, and dependence on external procurement.

28. It was submitted that the National Solar Mission also known as the Jawaharlal Nehru National Solar Mission (JNNSM) launched in 2010 aimed at 100 GW solar capacity by 2022, with phased implementation. JSERC's RPO regulations in 2010 aligned with this mission but did not adequately account for the State's financial and infrastructure limitations. which aims to install 100 GW of solar power capacity by 2022, comprising 60 GW from utility-scale projects and 40 GW from rooftop solar installations. The mission has set a target to generate 100 GW of solar power by 2022, including 40 GW from rooftop solar and 60 GW from large-scale grid-connected solar projects.

29. It was submitted that the Jawaharlal Nehru National Solar Mission (JNNSM) was implemented in the following phases:

    a) Phase 1 (2010-2013): This phase primarily focused on establishing the foundational infrastructure for solar power, including the development of 1,000 MW of grid-connected solar capacity and small-scale off-grid applications.

    b) Phase 2 (2013-2017): This phase aimed to ramp up solar power generation capacity, with an emphasis on expanding: both grid-connected projects and rooftop solar systems.

    c) Phase 3 (2017-2022): This phase sought to further develop solar energy through increased funding, technological advancements, and scaling of solar power deployment across the country.

30. It was submitted that to off take the power from JNNSM schemes, GOI has initiated renewable purchase obligations through state regulatory commissions mandated obligations for utilities. In sync with the central government initiative, the JSERC came up with renewable purchase obligation regulation in 2010 when the targets were defined for solar procurement and consequently there were amendments in the said regulations where in the targets were revised accordingly.

It is further stated that targets were revised amid push for greater penetration of RE power in the grid and its uptake by the designated entities such as power discoms. However, while designing so, the financial health of the states; the RE resource potential of the states, the system requirement, demand supply mismatch and the infrastructure requirement and connectivity matters are completely ignored. This started a never-ending process of RPO targets, its non-fulfilment due to various reasons, carryover process which are a future burden to the future consumers, in some cases various litigations in APTEL and other platforms, several requests from the designated entities for waiver to the state commissions and delaying process both from the utilities and the state commissions.

31. It was submitted that after the 2010 regulations, when the targets were fixed, JSERC in its orders highlighted the same to JBVNL and has directed the JBVNL to either procure RE power or buy REC certificates in the market with a fixed price and subsequently, allowed REC procurement cost in its ARR.

It is further stated that however, in absence of any procurement from JBVNL due to financial constraints and other concerns, it allowed REC procurement cost in ARR till FY19-20. However, it discontinued allowing the REC procurement cost in FY 20-21 citing that JBVNL has entered into specific PPA for RE procurement but agreed to provide in true up for any REC procurement for balance deficit in RPO. In its tariff orders judgement, it warned JBVNL for penalty for non-compliance of RPO and started deducting 2% of ARR as part of the non-compliance of all directives from FY 18-19.

32. It was submitted that compliance with RPO regulations was constrained by financial stress. Limited internal resources, high RE tariffs, non-alignment of RECs with local demand, and regulatory suspension of REC trading (July 2020-Oct 2021).

33. It was submitted that JBVNL has consistently highlighted these financial and operational challenges to the Hon'ble Commission, requesting optimization of RPO obligations and REC procurement strategies to balance consumer tariffs and fiscal responsibility.

34. It was submitted that the non-fulfillment of Renewable Purchase Obligations (RPOs) by JBVNL has arisen from several persistent challenges, which have been highlighted to the Commission over the years including:

a) Insufficient internal funds to purchase high-cost renewable energy.

b) The RPO targets were overly ambitious for a financially constrained state like Jharkhand, where low tariffs and limited revenues primarily supported essential power requirements, leaving no surplus for high cost RE procurement,

c) The inability to purchase RECs as approved by JSERC was due to financial constraints, passing these costs onto consumers would have imposed an undue burden without corresponding energy delivery.

d) Efforts to procure RE power through SECI via competitive bidding were largely unsuccessful due to project developers' inability to execute, resulting in litigation.

e) Limited internal resources for RE development affected both JBVNL and JREDA.

f) State-level RE generation capacity was restricted, and regional REC liquidity issues compounded the problem.

g) The RPO targets set by the Ministry of Power and approved by JSERC did not align with the state's financial or infrastructural capacity.

h) Constraints arising from existing long-term PPAs limited flexibility in accommodating additional RE procurement.

i) A high proportion of domestic and tribal consumers made significant tariff increases untenable.

j) JBVNL continues to explore competitive bidding and grid-level storage solutions to optimize RE integration while safeguarding consumer interests.

35. It was submitted that it has been communicated with the Commission regarding regulatory assets, tariff management, and compliance with Supreme Court and APTEL directives, emphasizing financial prudence and social justice obligations under Sections 65, 107, and 108 of the Electricity Act, 2003.

36. It was submitted that a letter has been sent from the Executive Director (Commercial & Revenue), JBVNL to the Secretary, Jharkhand State Regulatory Commission, Ranchi regarding the compliance with Supreme Court and APTEL Orders on regulatory assets and its liquidation in time bound manner.

37. It was submitted that the Hon'ble Supreme Court of India, in its order dated 6 August 2025, has underscored and addressed the roles and expectations of the State Government where it clearly stated that the State Government holds social justice obligations related to the electricity sector, including providing subsidies to certain consumer classes under Section 65 of the Electricity Act, 2003. While policy directions affecting public interest may be issued the State Government under Sections 107 and 108, these are advisory and not binding on the Regulatory Commissions.

38. It was submitted that Regulatory Commissions have discretionary power to create a regulatory asset as per guidelines such as Clause 8.2.2 of the National Tariff Policy but only in exceptional circumstances (force majeure or natural calamities). However, the same was not followed by the Commission and there was never a clear road map of its liquidation in time bound manner as regulatory asset as such was never recognized by the state commission.

39. It was submitted that Supreme Court clearly stated that failure to adhere to mandated procedures and prolonged accumulation of unmanageable regulatory assets constitute regulatory failure, for which the Commissions are accountable.

40. It was submitted that the Supreme Court in its order, emphasized that tariff determination and regulatory asset management are exclusive functions of the Regulatory Commissions, which must maintain independence and autonomy in decision-making. State Governments should avoid undue interference that could lead to regulatory capture or failure.

41. The Respondent further submitted that Supreme Court guidelines underscore the Commission's independence in tariff determination and regulatory asset management. JBVNL's adherence to these principles is consistent with financial prudence and consumer protection.

42. That Respondent submitted that Jharkhand being a poor state can not be at par with other rich States of the Country. The purchase of renewable energy would have put additional burden on the consumers considering the per capita income of the residents of Jharkhand. The renewable energy sources are developing over the years. Considering the entirety of facts, the non-compliance, in discharging the renewable energy purchase obligation, cannot be said to be willful and deliberate.

43. On the other hand, JREDA has filed the rejoinder to the counter affidavit filed by Respondent JBVNL and did not controvert the facts with respect to the non-compliance of mandatory RPO and RECs.

Commission's Observations and findings

44. The Commission has considered the submissions made by the Respondents-JBVNL as well as JREDA and perused the materials available on records.

45. This is to be noted that Regulations framed by the Commission under section 181 of the Electricity Act, 2003 and various directions given by the Commission under those regulations are subordinate legislation under the Electricity Act, 2003. Non-compliance of the Regulations and directions issued by the Commission is liable for punishment under Section 142 of the Electricity Act, 2003.

46. Further, under Section 86(1)(e) of the Electricity Act, 2003, the State Commission is statutorily obligated to:

"Promote cogeneration and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licensee."

47. In pursuance of this mandate, the Commission notified JSERC (Renewable Energy Purchase Obligation and its compliance) Regulations, 2010 and JSERC (Renewable Energy Purchase Obligation and its Compliance) Regulations, 2016 along with respective amendments thereof. Where clause 5.1 of Article A5 of the said Regulation (read with subsequent amendments) deals with the applicability of RPO to all Distribution Licensees in the state of Jharkhand, Clause 5.2 clearly defines the annual RPO targets.

48. These Regulations require obligated entities to fulfill the Renewable Energy Purchase Obligation either by procuring power from Renewable Energy Sources or through the purchase of Renewable Energy Certificates (REC) in order to mitigate the shortfall of renewable energy purchase. Therefore, RPO is not a discretionary policy goal but a statutory obligation, enforceable under Section 142 and Section 146 of the Act.

49. It is further observed that JBVNL, despite the various directives issued by the Commission in the Tariff orders didn't comply with the relevant JSERC (Renewable Energy Purchase Obligation and its Compliance) Regulations and failed to mitigate its shortfall of Renewable Energy Purchase for FY 2010-11 to FY 2023-24 even by procuring the RECs.

50. Eventually, in compliance of the order of Hon'ble APTEL dated 02.01.2025 in Appeal No. 364 of 2024, where the Commission was directed to take appropriate action for non-compliance of the Renewable Purchase Obligation (RPO) by JBVNL in terms of Section 142 of the Electricity Act, 2003, read with the relevant provisions of the JSERC (Renewable Energy Purchase Obligation and its Compliance) Regulations, 2016 and subsequent amendments thereto, the Commission initiated the *suo-moto* proceedings on 01.07.2025 and issued notice to JBVNL through its Executive Director (Commercial & Revenue).

51. During the course of hearing, the JBVNL filed its reply on 17.10.2025. The Commission perused the reply of JBVNL and it was observed that JBVNL has advanced several grounds to justify non-compliance of RPO obligations, including:

    (i) Financial distress and accumulated revenue gaps;

    (ii) Historical high solar tariffs;

    (iii) Limited renewable potential within the State;

    (iv) Transmission bottlenecks and market unavailability of RECs during certain periods;

    (v) Inadequate support from the State Government.

    While these arguments reflect operational and financial constraints of the Licensee, the Commission notes that such grounds cannot dilute or override statutory obligations imposed under the Electricity Act and the RPO Regulations framed thereunder.

52. The Commission observes that Financial inability cannot be sought as an excuse for non-fulfilment of RPO. The cost of RPO compliance (whether through direct RE procurement or RECs) is a pass-through expense in ARR, duly allowed by the Commission. Therefore, JBVNL could have sought regulatory approval for inclusion of such cost reflective tariff petitions instead of defaulting. Further, Section 61(c) and Section 62(4) of the Act enable the recovery of prudent costs through tariff determination. It has been observed that JBVNL has not taken any suitable steps for fulfillment of RPO compliance since long. This indicates that noncompliance by JBVNL is willful and deliberate.

53. Furthermore, on the issue of "Limited renewable potential within the State", it is observed that the RPO is not contingent on local renewable resource availability. The REC mechanism, introduced under the relevant Regulations specifically addresses this issue. Therefore, a licensee in a low-RE-potential State such as Jharkhand can fulfil its RPO through REC purchase on the power exchanges. Hence, limited renewable potential within the State cannot absolve JBVNL of its obligation.

54. Having regard to the gravity of the default, its continuing nature, and the period of

non-compliance, the Commission is of considered view that it is a fit case for taking action under section 142 of the Electricity Act 2003.

<u>ORDER</u>

55. Considering the facts and circumstances of the case as discussed above herein, it is found that RPO is a *statutory condition of licensee* for improvement of environmental *condition* and is not subject to financial distress. The Commission has a legal duty under Sections 86(1)(e) and 142 of the Act to enforce compliance. JBVNL's failure to meet the RPO as per the JSERC (Renewable Energy Purchase Obligation and its Compliance) Regulations 2010 & 2016 and its amendments thereof, constitutes a breach of both law and public policy.

56. Hence the Commission imposes a penalty of Rs. 25,000/- (Rupees Twenty-five Thousand only) and directs JBVNL to deposit the same in JSERC Regulatory Fund and will comply the outstanding Renewable Purchase Obligation within six months from the date of issue of this Order.

57. The Executive Director (Commercial & Revenue), JBVNL, shall file a compliance affidavit before the Commission within 30 days with a concrete RPO compliance plan.

58. The Commission further directs JBVNL to ensure 100% RPO compliance for FY 2024-25 onwards, failing which an appropriate action will be taken as per provisions.

59. Accordingly, the current petition stands disposed off.

Sd/-	Sd/-	Sd/-
Member(T)	Member(L)	Chairperson