

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 340/MP/2018

Subject : Petition under Section 79 of the Electricity Act, 2003 read with Article 16.3.1 of the Power Purchase Agreements executed between the Petitioners and NTPC Limited dated 12.5.2016, seeking release of Performance Bank Guarantees arbitrarily and illegally retained by NTPC Limited and seeking extension of time and deferral of the Scheduled Commissioning Date for the commissioning of two 70 MW solar power projects in accordance with Power Purchase Agreements dated 12.5.2016 executed under the National Solar Mission Phase-II, Batch-II, Tranche-I.

Petitioners : Rising Sun Energy Private Limited (RSEPL) and Others

Respondents : NTPC Ltd. and Others

Date of hearing : 8.3.2019

Coram : Shri P.K. Pujari, Chairperson
Dr. M.K. Iyer, Member
Shri I.S. Jha, Member

Parties present : Shri Jafar Alam, Advocate, RSEPL
Shri Sahil Kaul, Advocate, RSEPL
Shri B.S. Dandona, RSEPL
Shri Jagat Sheravat, RSEPL
Shri M.G. Ramachandran, Advocate, NTPC
Ms. Poorva Saigal, Advocate, NTPC
Ms. Tanya Sareen, Advocate, NTPC
Shri Nishant Gupta, NTPC
Ms. Susan Mathew, Advocate, RSPDCL
Shri. Anil Kumar Garg, RSPDCI

Record of Proceedings

Learned counsel for the Petitioner advanced extensive arguments and reiterated the submissions made in the pleadings. In support of his contentions, learned counsel for the Petitioner relied upon the Hon'ble Delhi High Court judgment in the case of Kailash Nath & Associates Vs. New Delhi Municipal Committee {(2015) 14 SCC 136}.

2. Learned counsel for the Respondents NTPC and RSPDCL advanced extensive arguments and reiterated the submissions made in their respective pleadings. Learned counsel for NTPC in support of his contention, relied upon the judgments of the Hon'ble Supreme Court in the cases of Fateh Chand Vs. Balkishan Dass {(1964) 1 SCR 515; AIR 1963 SC 1405}, Maula Bux Vs. Union of India {(1969) 2 SCC 554}, Oil & Natural Gas Corp. Ltd. Vs. Saw Pipes Ltd. {(2003) 5 SCC 705}, BSNL Vs.

Reliance Communication Ltd. {(2011) 1 SCC 394}, Construction & Design services Vs. Delhi Development Authority {(2015) 14 SCC 263} and the judgment of the Appellant Tribunal in the case of Lanco Kondapadi Power Ltd. Vs. APERC & Ors {2015 ELR (APTEL) 1243}, PTC India Ltd. Vs. GERC and Others {2014 ELR (APTEL) 755}, the judgment of the Hon'ble Bombay High Court in the case of Ultratech Telecom Limited Vs. Sunfiled Resources Pvt.Ltd. {2016 SCC OnLine Bom 10023}, Hon'ble Delhi High Court judgment in the case of Kailash Nath & Associates Vs. New Delhi Municipal Committee {(2015) 14 SCC 136}, Haryana Telecom Limited Vs. Mahanagar Telephone Nigam Ltd. {2018 SCC OnLine Del 11812] and the Commission's order dated 24.1.2019 in Petition No. 4/RP/2018 in the case of Raichur Sholapur Transmission company Private limited Vs. Power Grid Corporation of India Limited and Ors and Order dated 8.3.2017 in Petition No.96/MP/2015 in the case of Chettinad Power Corporation Ltd. Vs. Power Grid Corporation of India Ltd.

3. After hearing the learned counsels for the Petitioner and the Respondents, the Commission directed the parties to file their written submissions by 18.3.2019, with copy to each other. Subject to this, the Commission reserved the order in the Petition.

By order of the Commission

**Sd/-
(T. Rout)
Chief (Law)**