

PUNJAB STATE ELECTRICITY REGULATORY COMMISSION
SITE NO. 3, BLOCK B, SECTOR 18-A MADHYA MARG, CHANDIGARH

Petition No. 48 of 2023
Alongwith IA No. 15 of 2023
Date of Hearing: 05.10.2023
Date of Order: 06.10.2023

Petition under Section 86(1)(f) of Electricity Act, 2003 seeking quashing of Procurer Preliminary Default Notice dated 01.06.2023 issued by the Respondent, Punjab State Power Corporation Limited on the Petitioner, GVK Power (Goindwal Sahib) Limited under Article 14.3.1. of the Amended and Restated Power Purchase Agreement Dated 26.05.2009.

AND

In the matter of : GVK Power (Goindwal Sahib) Limited Paigah House, 156-159 Sardar Patel Road, Secunderbad, 540003
.....Petitioner

Vs.

Punjab State Power Corporation Limited (PSPCL)PSEB Head Office,
The Mall, Patiala (Punjab)
.....Respondent

Commission: Sh. Viswajeet Khanna, Chairperson

Sh. Paramjeet Singh, Member

GVK : Sh. Vishrov Mukerjee, Advocate

PSPCL: Sh. Anand K Ganesan, Advocate
Ms. Harmohan Kaur, CE/ARR&TR
Sh. Ajay Bansal, Dy.CE/TR-II

ORDER

The petition was taken up for hearing on admission. After hearing the Ld. Counsel for the parties, petition is admitted. PSPCL may file its reply to the petition within two weeks with a copy to the Petitioner (through hard copy and soft copy). The Petitioner may file rejoinder to the reply filed by PSPCL within a week thereafter with a copy to PSPCL.

The Petitioner has also filed an IA alongwith the petition seeking stay of the preliminary default notice dated 01.06.2023 issued by PSPCL, during the pendency of the petition. The Ld. Counsel for PSPCL requested for time to file reply to the IA. The same may be filed by PSPCL within two weeks with a copy to the Petitioner. The Ld.

Counsel for PSPCL further stated that the impugned penalty has been already deducted while making payment against GVK's invoice dated 06.09.2023. However, subsequently vide e-mail dated 05.10.2023 PSPCL submitted as under:

“.....This has reference to the hearing before the Hon'ble Commission today, wherein it was inadvertently argued that invoice dated 06.09.2023 of GVK had been paid after deduction of amount of penalty under Article 14.3.2 of the PPA. It is now clarified that against the bill dated 06.09.2023, an amount of about Rs.29 Crore has been paid till date as advance payment, no formal communication has been issued regarding any appropriation or adjustment of the amounts, as the due date of the bill is on 06th October, 2023 and subject to the orders of the Hon'ble Commission. Subject to the orders of the Hon'ble Commission on the interim application of GVK, the balance payment or appropriation would be arrived at by PSPCL.....”

PSPCL submitted that it has been inadvertently argued that invoice dated 06.09.2023 of GVK had been paid after deduction of amount of penalty under Article 14.3.2 of the PPA. PSPCL has clarified that an amount of about Rs. 29 crore has been paid as advance payment against the bill dated 06.09.2023 and the balance amount of the bill had been held back subject to the orders of the Commission, since the due date of payment is 6th of October, 2023. Ld. Counsel for petitioner had asserted during the hearing that the preliminary default notice dated 01.06.2023 is against the terms of the PPA and hence should be set aside. Ld. Counsel for PSPCL opposed this contention and argued that it is within the provision of PPA and sought time to file PSPCL reply. Considering these contrary assertions relating to the provisions of the PPA and the dispute which has substantial financial implications, the Commission finds that it needs detailed examination and allows the time sought by PSPCL to file its reply as stated above in this order and also directs the petitioner to file its rejoinder in time. In the meanwhile, PSPCL is directed not to take any adverse precipitative action on the preliminary default notice dated 01.06.2023 till the next date of hearing.

The petition shall be taken up for hearing on 08.11.2023 at 11.30 AM.

Sd/-
(Paramjeet Singh)
Member

Sd/-
(Viswajeet Khanna)
Chairperson

Chandigarh
Dated: **06.10.2023**