COURT-I
IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

IA NO. 129 OF 2019 IN
APPEAL NO. 253 OF 2018 &
IA NO. 1515 OF 2019

Dated: 15th May, 2020

Present: Hon'ble Mrs. Justice Manjula Chellur, Chairperson
Hon'ble Mr. Ravindra Kumar Verma, Technical Member

In the matter of:

D.B. Power Ltd.
Having its registered office at:
Office Block 1A, 5th Floor
Corporate Block:
DB City Park, DG City, Arera Hills
Opposite MP Nagar, Zone-I
Bhopal-462016
(Through its authorized signatory Sh. Vikas Adhia) …Appellant(s)

Versus

1. **Central Electricity Regulatory Commission**
3rd and 4th Floor, Chanderlok Building
36, Janpath, New Delhi – 110 001
Through its Secretary …. Respondent No.1

2. **PTC India Limited**
Having its office at 2nd Floor,
NBCC Tower, 15 Bhikaji Cama Place
New Delhi – 110 066
Though its Director – Marketing …. Respondent No.2

3. **Rajasthan Urja Vikas Nigam Limited**
(Through the Managing Director)
Vidyut Bhawan, Janpath, Jyoti Nagar,
Jaipur- 302005, Rajasthan

Though its Chief Engineer …. Respondent No.3

4. Jaipur Vidyut Vitran Nigam Limited
(Through the Chairman/Managing Director)
Vidyut Bhawan, Jyoti Nagar,
Near New Vidhan Sabha Bhawan
Jaipur – 302005
Though its Director – Power Trading …. Respondent No.4

5. Ajmer Vidyut Vitran Nigam Limited
(Through the Chairman/Managing Director)
Vidyut Bhawan, Panchsheel Nagar,
Makarwali Road,
Ajmer – 305004, Rajasthan
Though its Director – Power Trading …. Respondent No.5

6. Jodhpur Vidyut Vitran Nigam Limited
(Through the Chairman/Managing Director)
New Power House, Industrial Area
Jodhpur-342003, Rajasthan …. Respondent No.6
Though its Director – Power Trading

7. Prayas (Energy Group)
Unit II A & B,
Devgiri, Joshi Railway Muesum Lane,
Kothrud Industrial Area, Kothrud
Pune, Maharashtra – 411 038
Through its Secretar …. Respondent No.7

Counsel for the Appellant(s) : Mr. Deepak Khurana
Mr.Tejasv Anand

Counsel for the Respondent(s) : Mr.Aashish Anand Bernard
Mr.Paramhans Sahani For Res2

Mr.Anand K. Ganesan
Mr.Swapna Seshadri
Mr.Neha Garg

Mr. Ashwin Ramanathan For Res-3 to 6

Ms. Ranjitha Ramachandran
Ms. Poorva Saigal
Mr. Shubham Arya
Mr. Arvind Kumar Dubey
Ms. Anushree Bardhan For Res7

ORDER

PER HON'BLE MR. RAVINDRA KUMAR VERMA, TECHNICAL MEMBER

1. This is an Application seeking amendment of Appeal being Appeal No. 253 of 2018 filed by the Appellant which is pending for consideration before this Tribunal. The prayer of Applicant/Appellant as follows:-

   a. Allow the present Application seeking amendment of the Appeal filed by the Appellant herein;

   b. Take on record the amended Appeal and the documents referred to therein;

2. The main appeal under Section 111 of the Electricity Act, 2003 was filed on 2nd May, 2018 impugning Order dated 19.12.2017 of the Central Electricity Regulatory Commission **("Central Commission")** in Petition No. 101/MP/2017 to the extent the Order disallows certain claims raised by the Appellant for compensation on account of

occurrence of 'Change in Law' events and/or 'force majeure' events under the Power Purchase Agreements both dated 01.11.2013 entered between the Appellant and Respondent Nos. 2 to 6, herein.

3. It is the case of the Appellant that the Central Commission vide its order dated 19.12.2017 disposed of the Appellant's Petition No. 101/MP/2017 allowing certain claims raised by the Appellant in the said Petition. One of the claims raised by the Appellant in the Petition filed before the Central Commission was for compensation on account of additional cost being incurred by the Appellant for generation and supply of electricity due to reduction in supply of coal from South East Coalfields Ltd. The Central Commission while considering the claims under the heading *'Operational Parameters considered for Computation of relief'* and more specifically in respect of *'Station Heat Rate',* has held as under:

> *"132. Station Heat Rate: The Petitioner has 2 sub-critical units of 600 MW each. In the present petition, the Petitioner has not provided Design Heat Rate and the Gross Station Heat Rate (which is based on the Design Heat Rate). However, in the Schedule 10 of the PPA i.e. documents of selected bid, the expected SHR has been mentioned as*

2250kCal/ kWh in the computation of coal consumption. In the absence of Design Heat Rate, the expected SHR has been compared with the ceiling Design Heat Rate as per 2009 Tariff Regulations and 2014 Tariff Regulations for sub-critical units of 600 MW at pressure Rating of 170 Kg/ cm and Temperature of 537/565 °C using sub-Bituminous Indian Coal as 2276 kCal/ kWh & 2250 kCal/ kWh respectively. Accordingly, for the purpose of computation of coal consumption, SHR of 2250 kCal/ kWh provided by the Petitioner in the Schedule 10 of the PPA is reasonable to be considered."

3.1 The Central Commission observed that the Appellant has not provided the Design Heat Rate and the Gross Station Heat Rate and in the absence of the same, the Central Commission held that SHR of 2250 Kcal/kWh provided by the Appellant in Schedule 10 of the PPA is reasonable to be considered. The said details i.e. Design Heat Rate and Gross Station Heat Rate were inadvertently left out to be furnished by the Appellant in its Petition.

3.2. It is the submission of the Appellant that the said issue namely furnishing and/or non-furnishing of the said details did not arise during the course of proceeding before the Central Commission, and therefore, the said details could not be placed on record even during

the course of the proceedings. Inasmuch as the calculation of Station Heat Rate has a vital impact on computation of cost of coal, the Appellant herein, during the pendency of the present Appeal, preferred a Review Petition before the Central Commission to provide the said details of Design Heat Rate and Gross Station Heat Rate.

3.3. It is the submission of the Appellant that the Central Commission vide order dated 11.01.2019 summarily and erroneously dismissed the aforementioned review petition on the ground of delay, in as much as, while in Para 9 of the order it notes the submission of the Appellant that the occasion to file the review qua the issue of Station Heat Rate arose only while analyzing the Appeal in the last week of March, 2018; in Para 10 of its order it observes that without considering the time limit for a review, the Applicant kept on analyzing and discussing the order for 5 months after passing of impugned order dated 19.12.2017. In other words, it committed a grave error in not appreciating the fact that discussions for filing the review did not take place for 5 months after passing of the main order dated 19.12.2017, but only in the last week of March. Considering the same, as also of the fact that the decision for the purpose of computation of coal consumption was admittedly erroneous, it is submitted that the afore-extracted observations merited being set aside.

3.4 Considering all the aforesaid, the Appellant herein is seeking to amend the present Appeal, as under, by including therein the following additional averments and grounds relating to the aspect of Station Heat Rate in impugned order dated 19.12.2017.

- Additional factual averments [after Para 7.37 and before Para 8 (a)]

"

Re' claim under the heading 'Operational Parameters considered for Computation of relief' and more specifically in respect of 'Station Heat Rate'

7.38 *That one of the claims raised by the Appellant in the Petition filed before Respondent No. 1 Commission was for compensation on account of additional cost being incurred by the Appellant for generation and supply of electricity due to reduction in supply of coal from South East Coalfields Ltd. It is submitted that in the Order dated 19.12.2017, while considering the aforementioned claim under the heading 'Operational Parameters considered for Computation of relief' and more specifically in respect of 'Station Heat Rate', Respondent No. 1 had held as under:*

"132. Station Heat Rate: The Petitioner has 2 sub-critical units of 600 MW each. In the present petition, the Petitioner has not provided Design Heat Rate and the Gross Station Heat Rate (which is based on the Design Heat Rate). However, in the Schedule 10 of the PPA i.e. documents of selected bid, the expected SHR has been mentioned as 2250kCal/ kWh in the computation of coal consumption. In the absence of Design Heat Rate, the expected SHR has been compared with the ceiling Design Heat Rate as per 2009 Tariff Regulations and 2014 Tariff Regulations for sub-critical units of 600 MW at pressure Rating of 170 Kg/ cm and Temperature of 537/565 °C using sub-Bituminous Indian Coal as 2276 kCal/ kWh & 2250 kCal/ kWh respectively. Accordingly, for the purpose of computation of coal consumption, SHR of 2250 kCal/ kWh provided by the Petitioner in the Schedule 10 of the PPA is reasonable to be considered."

7.39 *That Respondent No. 1 Commission observed that the Appellant has not provided the Design Heat Rate and the Gross Station Heat Rate and in the absence of the same, Respondent No. 1 Commission held that SHR of 2250*

Kcal/kWh provided by the Appellant in Schedule 10 of the PPA is reasonable to be considered.

7.40 *That the Original Equipment Manufacturer of Boiler Turbine and Generator (BTG) Package was Bharat Heavy Electrical Ltd. (**BHEL**). As per the Contract Agreement dated 13.12.2010 for supply of 2 × 600 MW BTG Package executed between the Appellant Company and BHEL, under the Performance Guarantee Schedule of the said Agreement, based on the Design Heat Rate therein, the Gross Station Heat Rate works to be as 2353 Kcal/kWh. The said schedule forming part of the Contract Agreement dated 13.12.2010 is annexed hereto and marked as **Annexure A-14**.*

7.41 *That as per the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations 2014, which apply to the generating stations which have declared Commercial Operation Date on or after 01.04.2014, what is to be considered for computation of coal is the Gross Station Heat Rate and not the Station Heat Rate. As per Regulation 36 of the CERC Tariff Regulations, Gross Station Heat Rate is Design Heat Rate multiplied by 1.045. It is pertinent to note*

that the Station Heat Rate of 2250 kCal/ kWh provided in Schedule 10 of the PPA is in fact the 'expected' Station Heat Rate and not the Gross Station Heat Rate, which alone is to be considered for computation of coal cost under the CERC Tariff Regulations 2014. The Gross Station Heat Rate for the Appellant's Project works out to 2351 Kcal/KWh (lowest) as per calculation sheet marked as ***Annexure A-15****. It is submitted that the Commercial Operation of Unit-1 and Unit-2 of the Appellant's Project was declared on 03.11.2014 and 26.03.2016 respectively and therefore the said CERC Tariff Regulations 2014 apply to the Appellant's Project.*

7.42 *That in terms of the CERC Tariff Regulations 2014, the Gross Station Heat Rate ought to be taken into consideration for computation of cost of coal and not the expected Station Heat Rate. Accordingly, as per Regulation 36 of the said Regulations, as stated above, the Gross Station Heat rate for the Appellant's Project is 2351 Kcal/KWh (lowest) as explained in note being Annexure A-15 and therefore the same ought to be considered as 2351 Kcal/KWh. Therefore, inasmuch as the Order dated 19.12.2017 considers the expected Station Heat Rate is an error on the face of the*

Order, being contrary to Regulations, and therefore merit being set aside. In any event of the matter, in view the circumstances stated above, there was otherwise sufficient reason to review the Order dated 19.12.2017.

7.43 *It is further submitted that the Station Heat Rate of 2250 Kcal/kWh is virtually impossible to achieve, as can be seen from the Statement of Objects and Reasons to the CERC (Terms and Conditions of Tariff) Regulations, 2014, the relevant portion whereof are annexed hereto and marked as* ***Annexure A-16****.*

7.44 *That the said details i.e. Design Heat Rate and Gross Station Heat Rate were inadvertently left out to be furnished by the Appellant in its Petition. It is pertinent to note that the said issue namely furnishing and/or non-furnishing of the said details did not arise during the course of proceeding before Respondent No. 1 Commission, and therefore, the said details could not be placed on record even during the course of the proceedings. Inasmuch as the calculation of Station Heat Rate has a vital impact on computation of cost of coal, the Appellant herein preferred a Review Petition before*

Respondent No. 1 Commission to provide the said details of Design Heat Rate and Gross Station Heat Rate.

Copy of Petition/Application under Section 94(1)(f) of the Electricity Act, 2003 read with Regulation 103 of the CERC (Conduct of Business) Regulations, 1999 for review of the order dated 19.12.2017 passed by CERC in Petition No. 101/MP/2017 is annexed herewith as ***Annexure A-17****.*

7.45 *That, however, Respondent No. 1 Commission vide order dated 11.01.2019 summarily and erroneously dismissed the aforementioned review petition on the ground of delay, in as much as, while in Para 9 of the order it notes the submission of the Appellant that the occasion to file the review qua the issue of Station Heat Rate arose only while analyzing the Appeal in the last week of March, 2018; in Para 10 of its order it observes that without considering the time limit for a review, the Applicant kept on analyzing and discussing the order for 5 months after passing of impugned order dated 19.12.2017. In other words, it committed a grave error in not appreciating the fact that discussions for filing the review did not take place for 5 months after passing of the main order*

dated 19.12.2017, but only in the last week of March. Considering the same, as also of the fact that the decision for the purpose of computation of coal consumption was admittedly erroenoeus, it is most respectfully submitted that the afore-extrated observations merited being recalled and set aside.

Copy of order dated 11.01.2019 passed by Respondent No. 1 Commission is annexed herewith as ***Annexure A-18****."*

- Additional Question of Law [after Para 8. 7 and before Para 9]

  "**8.8** *Whether the Respondent No. 1 Commission erred in law in not appreciating that for computation of coal it is the Gross Station Heat Rate which is to be considered and not the Station Heat Rate?*"

- Additional Grounds of Appeal [after Para 9.25 and before Para 10]

  "

  Re' claim under the heading 'Operational Parameters considered for Computation of relief' and more specifically in respect of 'Station Heat Rate'

  9.26 *Because one of the claims raised by the Appellant in the Petition filed before Respondent No. 1 Commission was for*

compensation on account of additional cost being incurred by the Appellant for generation and supply of electricity due to reduction in supply of coal from South East Coalfields Ltd. It is submitted that in the Order dated 19.12.2017, while considering the aforementioned claim under the heading 'Operational Parameters considered for Computation of relief' and more specifically in respect of 'Station Heat Rate', Respondent No. 1 had held as under:

> *"132. Station Heat Rate: The Petitioner has 2 sub-critical units of 600 MW each. In the present petition, the Petitioner has not provided Design Heat Rate and the Gross Station Heat Rate (which is based on the Design Heat Rate). However, in the Schedule 10 of the PPA i.e. documents of selected bid, the expected SHR has been mentioned as 2250kCal/ kWh in the computation of coal consumption. In the absence of Design Heat Rate, the expected SHR has been compared with the ceiling Design Heat Rate as per 2009 Tariff Regulations and 2014 Tariff Regulations for sub-critical units of 600 MW at pressure Rating of 170 Kg/ cm and Temperature of 537/565 °C using sub-Bituminous Indian Coal as 2276 kCal/ kWh &*

2250 kCal/ kWh respectively. Accordingly, for the purpose of computation of coal consumption, SHR of 2250 kCal/ kWh provided by the Petitioner in the Schedule 10 of the PPA is reasonable to be considered."

That Respondent No. 1 Commission observed that the Appellant has not provided the Design Heat Rate and the Gross Station Heat Rate and in the absence of the same, Respondent No. 1 Commission erroneosuly held that SHR of 2250 Kcal/kWh provided by the Appellant in Schedule 10 of the PPA is reasonable to be considered.

9.27 *Because Respondent No. 1 Commission failed to appreciate that as per the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations 2014, which apply to the generating stations which have declared Commercial Operation Date on or after 01.04.2014, what is to be considered for computation of coal is the Gross Station Heat Rate and not the Station Heat Rate. As per Regulation 36 of the CERC Tariff Regulations, Gross Station Heat Rate is Design Heat Rate multiplied by 1.045. It is pertinent to note that the Station Heat Rate of 2250 kCal/*

kWh provided in Schedule 10 of the PPA is in fact the 'expected' Station Heat Rate and the not the Gross Station Heat Rate, which alone is to be considered for computation of coal cost under the CERC Tariff Regulations 2014. It is submitted that the Commercial Operation of Unit-1 and Unit-2 of the Appellant's Project was declared on 03.11.2014 and 26.03.2016 respectively and therefore the said CERC Tariff Regulations 2014 apply to the Appellant's Project.

9.28 *Because Respondent No. 1 Commission failed to appreciate that in terms of the CERC Tariff Regulations 2014, the Gross Station Heat Rate ought to be taken into consideration for computation of cost of coal and not the expected Station Heat Rate. Accordingly, as per Regulation 36 of the said Regulations, as stated above, the Gross Station Heat rate for the Appellant's Project is 2351 Kcal/KWh (lowest) as explained in note being Annexure A-15 and therefore the same ought to be considered as 2351 Kcal/KWh. Therefore, inasmuch as the Order dated 19.12.2017 considers the expected Station Heat Rate is an error on the face of the Order, being contrary to Regulations, and therefore merits being set aside.*

9.29 *Because Respondent No. 1 Commission failed to appreciate that the Station Heat Rate of 2250 Kcal/kWh is virtually impossible to achieve, as can be seen from the Statement of Objects and Reasons to the CERC (Terms and Conditions of Tariff) Regulations, 2014.*

9.30 *Because Respondent No. 1 Commission failed to appreciate that the Station Heat Rate reflected in the PPA is not the Gross Station Heat Rate. If Station Heat Rate as opposed to Gross Station Heat Rate is taken into consideration, then it would render Para 132 of the Order an error apparent on the face of the Order, being contrary to Tariff Regulations.*

9.31 *Because Respondent No. 1 Commission failed to appreciate that if cost of consumption of coal, which is being actually incurred by the Appellant, is not allowed to be passed through and recovered in the tariff, it would result in under-recovery of actual cost incurred, and would therefore render the Project unviable.*

9.32 *Because Respondent No. 1 Commission failed to appreciate that the said details i.e. Design Heat Rate and Gross Station Heat Rate were inadvertently left out to be furnished by the Appellant in its Petition. It is pertinent to note that the said issue namely non-furnishing of the said details did not arise during the course of proceeding before Respondent No. 1 Commission, and therefore, the said details could not be placed on record even during the course of the proceedings. Inasmuch as the calculation of Station Heat Rate has a vital impact on computation of cost of coal, Respondent No. 1 Commission out to have taken into account the details of Design Heat Rate and Gross Station Heat Rate.*

9.33 *Because Respondent No. 1 Commission failed to appreciate that the Original Equipment Manufacturer of Boiler Turbine and Generator Package was Bharat Heavy Electrical Ltd. (**BHEL**). As per the Contract Agreement dated 13.12.2010 for supply of 2 × 600 MW BTG Package executed between the Appellant Company and BHEL, under the Performance Guarantee Schedule of the said Agreement,*

based on the Design Heat Rate therein, the Gross Station Heat Rate works to be as 2353 Kcal/kWh."

3.5. The above amendments sought for by the Appellant herein arise in relation to the observations and findings contained in order dated 19.12.2017, being the order impugned in the present Appeal, and as such the said amendments would be necessary for the purpose of determining the legality and tenability of the said impugned order, which is main question in the present Appeal, and which amendments would facilitate the final decision and reliefs, if any, in the present matter. It is the submission of the Appellant that the aforesaid amendment sought for would not alter the nature of the Appeal as filed by the Appellant herein, and which amendment in fact goes to the root thereof.

3.6. That, as brought out in the Review Petition and the accompanying Application seeking condonation of delay therein, the occasion to file the review qua the issue of Station Heat Rate arose only while analyzing the Appeal in the last week of March, 2018, where after which the Appellant herein filed a review petition before the Central Commission. By this time, the Appellant herein had already preferred the present Appeal against order dated 19.12.2017. The Review

Petition came to be decided by the Central Commission only on 11.01.2019. It is in view of the said circumstances, that the Appellant has preferred the present Application seeking amendment of the present Appeal qua the aspect of Station Heat Rate.

4. The learned counsel appearing for the Appellant submitted the following supplementary submissions on account of a recent judgment dated 13.11.2019 passed by this Tribunal in *Appeal No. 77 of 2016, Appeal No. 136 of 2016 & Appeal No. 324 of 2016 – Sasan Power Limited v. Central Electricity Regulatory Commission.*

i) The issue of Gross Station Heat Rate (SHR) of the Plant for deciding the coal requirement for the purpose of calculating the relief under Change in law arose directly in the said Appeals and thus decided by this Tribunal. The findings of this Tribunal rendered in Para 19.8 of the judgment as follows:-

> *"19.8 Our Findings:*
> *19.8.1 We have carefully considered the rival contentions of both the parties and also taken note of various judgments relied upon by the parties. It is the main contention of the Appellant that principle of change in law provisions of PPA is*

restoration to the same economic position. On the other hand, the Respondents contend that SHR as quoted in the bid should be considered for computation of coal quantity to arrive at actual compensation to be made to the Appellant.

19.8.2 Having regard to the contentions of the Appellant and the Respondents and after critical analysis of the issue, we are of the opinion that while we have held that compensation of various levies cannot be linked to the dispatched quantity of coal, the compensation should not be restricted to bid SHR. It is also relevant to note that the Central Commission has in subsequent orders taken a position that compensation for Change in Law events cannot be restricted to bid parameters.

19.8.3 In light of the above, we are of the opinion that for determination of coal consumption for scheduled generation, SHR should be based on the actual instead of bid SHR. However, to adequately protect the interest of the procurers and consumers at large, the SHR is required to be capped to the applicable normative levels contained in the CERC Tariff Regulations, 2009. Hence, this issue, i.e. Issue (D) is partially decided in favour of the Appellant."

ii) The State Commission therefore laid down that determination of coal compensation cannot be on the basis of SHR indicated in the Bid/PPA and has to be on the actual SHR. However, SHR is to be capped to the applicable normative levels contained in the CERC

Tariff Regulations. In the present case the relevant CERC Tariff Regulations are CERC Tariff Regulations, 2014 (as the COD of the Plant is after 01.04.2014).

iii) In the background of the above legal position laid down by this Tribunal, it would be relevant to note the findings & decision in the impugned Order dated 19.12.2017 of the CERC in respect of the SHR. The said is reproduced hereunder:-

"119. Station Heat Rate: The Petitioner has 2 sub-critical units of 600 MW each. In the present petition, the Petitioner has not provided Design Heat Rate and the Gross Station Heat Rate (which is based on the Design Heat Rate). However, in the Schedule 10 of the PPA i.e. documents of selected bid, the expected SHR has been mentioned as 2250kCal/ kWh in the computation of coal consumption. In the absence of Design Heat Rate, the expected SHR has been compared with the ceiling Design Heat Rate as per 2009 Tariff Regulations and 2014 Tariff Regulations for sub-critical units of 600 MW at pressure Rating of 170 Kg/ cm and Temperature of 537/565 °C using sub-Bituminous Indian Coal as 2276 kCal/ kWh & 2250 kCal/ kWh respectively. Accordingly, for the purpose of computation of coal consumption, SHR of 2250 kCal/ kWh provided by the Petitioner in the Schedule 10 of the PPA is reasonable to be considered."

(emphasis supplied)

iv) The Appellant had filed an Application seeking review of the aforesaid Order of the CERC. In the said review application, the Appellant

sought to place on record documents showing the actual SHR of Appellant's Plant. The review application was however dismissed by the CERC on the ground of delay. Thereupon, the only remedy available to the Appellant was to challenge the original Order of the CERC by filing an Appeal before this Hon'ble Tribunal (as the Order rejecting review is not appealable). Inasmuch as the Appellant had already filed the Appeal before this Hon'ble Tribunal challenging certain change in law claims not allowed by the CERC, the Appellant filed the present Application seeking amendment of the Appeal to raise the issue of SHR as well. The Appellant also sought leave of this Hon'ble Tribunal to place on record certain additional documents in respect of its claim of SHR.

v) The Appellant has already filed its written submissions on the aspect of amendment and additional documents. The Appellant has submitted that the approach of the Hon'ble Court as regards amendment is liberal and has relied upon judgments of the Hon'ble Supreme Court in this regard. The Appellant has also relied upon judgments for placing on record additional documents at Appellate stage.

vi) As regards amendment, the only remedy available to the Appellant after rejection of the review application, was to challenge the decision of the CERC on SHR before this Tribunal, which the Appellant is seeking to do by amending the Appeal. The Application for amendment was filed within 14 days of the Order of the CERC dismissing the review application. It is an admitted position that the hearing the Appeal is yet to begun & therefore, no prejudice would

be caused to the Respondents if the Application to amend the Appeal is allowed and the issue of SHR is permitted to be raised. On the other hand, the Appellant shall suffer grave harm and injury if the Application to amend the Appeal is not allowed. The Appellant stands to lose an amount of 236 crore during the term of the PPA in the present Appeal & in case of TANGEDCO PPA, the loss is Rs 96 crore during the term of the PPA.

vii) The Appellant therefore submits that the decision of the CERC in considering the Bid/PPA SHR is an error of law and the Appellant ought to be permitted to challenge the said decision and the issue in respect of the SHR ought to be heard on merits by this Tribunal, more so, when this Tribunal has held in the judgment dated 13.11.2019 that the SHR has to be on actuals and not on bid/PPA parameters. It is also pertinent to note that a similar argument i.e. the Generator itself had submitted the Bid/PPA SHR as raised in the present matter by the Respondent Discom was also raised in the aforesaid judgment dated 13.11.2019, which is evident from the following extract

"*7.9 …… in the present case, appellant itself submitted the norm of 2241 kcal/Kwh……"*

……

19.5 Learned counsel for the Respondents were quick to submit that by virtue of its admission before the Central Commission in the proceedings in Petition No. 14/MP/2013, the Appellant is estopped from claiming the Station Heat Rate other than the Station Heat Rate

of 2241 kCal/kWh. Learned counsel, further, brought out that it is not open for the Appellants to claim any higher SHR for coal computation resulting in changing the bid terms…"

viii) The Appellant further submits that the Order of the CERC on SHR (as reproduced above) is patently erroneous on another count. That in reference to CERC Tariff Regulations 2014, the Order mentions that the SHR for sub-critical units of 600 MW is 2250 Kcal/Kwh and therefore considers the said SHR of 2250 Kcal/Kwh for the Appellant on the ground as being in line with that is provided in the Regulations. This is a patent error inasmuch as in the relevant regulation i.e. Regulation 36 of the CERC Tariff Regulations 2014, the number 2250 KCal/Kwh is the Design Heat Rate and not the Gross Station Heat Rate (SHR). Gross Station Heat Rate (SHR) is arrived at upon multiplying the Design Heat Rate with 1.045 as per the said Regulation. In this regard Regulation 36(C)(b) is reproduced hereunder:-

*"**(C) Gross Station Heat Rate***

……..

(b) New Thermal Generating Station achieving COD on or after 1.4.2014

*(i) Coal-based and lignite-fired Thermal Generating Stations = **1.045 X Design Heat Rate (kCal/kWh)***

Where the Design Heat Rate of a generating unit means the unit heat rate guaranteed by the supplier at conditions of 100% MCR, zero percent make up, design coal and design cooling water temperature/back pressure.

*Provided that **the design heat rate** shall not exceed the following maximum design unit heat rates depending upon the pressure and temperature ratings of the units:*

Pressure Rating (Kg/cm^2)	150	170	170	247
SHT / RHT (^0C)	535/535	537/537	537/565	565/593
Type of BFP	Electrical Driven	Turbine Driven	Turbine Driven	Turbine Driven
Max Turbine Heat Rate (kCal / kWh)	1955	1950	1935	1850
Min. Boiler Efficiency				
Sub-Bituminous Indian Coal	0.86	0.86	0.86	0.86
Bituminous Imported Coal	0.89	0.89	0.89	0.89
Max *Design Unit Heat Rate* (kCal/kWh)				
Sub-Bituminous Indian Coal	2273	**2267**	**2250**	2151
Bituminous Imported Coal	2197	2191	2174	2078

……."

ix) It is thus apparent that the figure of 2250 KCal/Kwh mentioned in Para 119 of the Order passed by the CERC in specific reference to the Regulations is Design Heat Rate and not the Station Heat Rate as wrongly mentioned in the Order. It is apparent from the Regulation 36 that Station Heat Rate is arrived at by multiplying the Design Heat Rate with 1.045 as per Regulation 36. So, upon multiplying the factor of 1.045, the Station Heat Rate for Appellant would be 2351.25 KCal/Kwh. Such patent error in the Order needs to be corrected & therefore the Appellant may be allowed to raise this issue in the Appeal by allowing the amendment.

x) Without prejudice to the above, the Appellant submits that the Appellant comes under 2nd Row of the aforesaid Table of Regulation 36 i.e. Maximum Turbine Heat Rate of 1950 kCal/Kwh instead of 1935 kCal/kWh considered by the CERC & therefore Design Heat Rate for Appellant's Plant is 2267 kCal/Kwh. Upon multiplying the Design Heat Rate with 1.045 as per Regulation 36, the Station Heat Rate for the Appellant's Plant is 2369 Kcal/Kwh. However, the actual Station Heat Rate of the Appellant's Plant is 2353 Kcal/Kwh. The Appellant therefore be permitted to challenge the aforesaid decision of the CERC by allowing the amendment Application of the Appellant, in order to have a correct decision on the SHR to be considered for calculation of coal for determination of Change in Law compensation.

. 5. **Per contra,** the learned counsel appearing for the Respondent Nos. 3 to 6 submitted as follows:-

i) The appeal had filed by the Appellant on 02.05.2018 under Section 111 of the Electricity Act, 2003 against the Order dated 19.12.2017 passed by the Central Electricity Regulatory Commission (the **"Central Commission"**) in Petition No. 101/MP/2017 to the extent the order disallowed certain claims of the Appellant for compensation on account of alleged Change in Law events under the Power Purchase Agreement dated 01.11.2013. The answering Respondents have also challenged the Order dated 19.12.2017 before this Tribunal by filing Appeal No 148 of 2018.

ii) Thereafter, on 25.01.2019 the Appellant filed the present Application seeking amendment of the appeal to include additional grounds on the aspect of Station Heat Rate (SHR) as a part of the challenge in the present appeal.

iii) The IA No. 129 of 2019 has been titled as 'Application seeking Amendment'. However, the Appellant had not cited the provision under which such amendment has been sought. Even in the written submissions filed, the Appellant has not cited any provision.

iv) However, Order VI Rule 17 of the Code of Civil Procedure, 1908 deals with amendment of pleadings as under –

> *"17. **Amendment of pleadings**.- The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties:*

Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial."

v) The rule clearly stipulates that the Court needs to come to the conclusion that inspite of due diligence, the party could not have raised the matter before commencement of trial. The Appellant has miserably failed to establish this aspect as to why it could not have given its Station Heat Rate to the Central Commission and why it was not given even at the stage of filing of the appeal. In fact, there is no due diligence at all and seeking amendment at this stage will result in additional financial burden to the answering Respondents which cannot be permitted.

vi) In fact, one of the objectors – PRAYAS specifically raised the objection related to production of data before the Central Commission

"Quantum of coal to be considered for change in law

90. With regard to impact of change in Law in coal, it is submitted that the quantum of coal is to be considered based on actual generation subject to scheduled generation and on the normative parameters of auxiliary consumption, Station Heat Rate, and GCV. The Petitioner be directed to provide the bid assumed parameters. In case the bid assumed parameters are not available, then OEM parameters or parameters contained in the Tariff Regulations whichever is lower would apply. This is as per the decisions of the Hon'ble Commission in Sasan Power Limited (153/MP/2015) and Coastal Gujarat Power Limited (157/MP/2015)."

vii) Despite the above, the Appellant chose not to place on record its Station Heat Rate. This is no manner can be said to satisfy the test of due diligence. There is no answer to this aspect by the Appellant except to say that this was 'inadvertence'. It is submitted that the test laid down in Order VI Rule 17 is that of 'due diligence' and not of 'inadvertence'.

viii) It is stated applying the above test, the Application is not maintainable and is liable to be rejected. The Appellant/Applicant has in the garb of seeking an amendment to the pleadings, sought to place on record new facts and evidence and change the very nature of the proceedings, which is not permissible at the appellate stage. It is pertinent to note that the Appellant has not filed any application for production of additional evidence, following the procedure and fulfilling the conditions for production of such additional evidence at the appellate stage.

ix) Since the Appellant had made change in law claims before the Central Commission including on the taxes / levies on the coal, it was necessary for the Appellant to place the technical parameters such as Station Heat Rate, Gross Calorific Value of coal before the Central Commission to enable the computation of its claims.

x) It is submitted that the Central Commission had come to the clear finding that the Appellant had not separately furnished the Design Heat Rate and the Gross Station Heat Rate of the generating station. The PPA, in schedule 10 of the PPA, provides for the expected Station Heat Rate as 2250kCal/kWh, which therefore has been

considered by the Central Commission for the computation of coal consumption.

xi) In the circumstances, when the PPA itself provides for the Station Heat Rate, the Central Commission has adopted the same. It is relevant to mention that there is no other evidence whatsoever produced by the Appellant.

xii) The conduct of the Appellant further becomes clear from the fact that it filed the present appeal on 02.05.2018 and thereafter filed a review petition being 22/RP/2018 on 23.05.2018 with a delay of 105 days. It is well settled that review cannot be filed after filing of an appeal. In M/s Thungabhadra Industries Ltd v. Government of Andhra, (1964)5 SCR174, it has been held as under:-

> '*Order XLVII R. 1(1) of the Civil Procedure Code permits an application for review being filed 'from a decree or order from which an appeal is allowed but from which no appeal has been preferred'. In the present case, it would be seen, on the date when the application for review was filed the appellant had not filed an appeal to this Court and therefore the terms of O. XLVII R1(1) did not stand in the way of the petition for review being entertained*……...
>
> *The crucial date for determining whether or not the terms of O. XLVII R. 1(1) Civil P.C are satisfied is the date when the application for review is filed. If on that date no appeal has been filed it is competent for the Court hearing the petition for review to dispose of the application on the merits notwithstanding the pendency of the appeal, subject only to this, that if before the application for review is finally decided the appeal itself has*

been disposed of, the jurisdiction of the court hearing the review petition would come to an end.'.

xiii) Despite being aware of the above position, the Appellant filed a review petition only to get it rejected and thereafter citing it as an excuse to seek amendment of the present appeal. This conduct needs to be deprecated and costs need to be imposed on the Appellant for following such a course.

xiv) Further, even though the IA has been sought to be filed as an innocuous application seeking amendment, as stated hereinabove the application is essentially seeking to file additional evidence not filed before the Central Commission.

xv) On the issue of Station Heat Rate (SHR) considered by the Central Commission, it is submitted that the Appellant in its Application for amendment has now sought to dispute the same, by bringing new facts and evidence which were never pleaded or placed before the Central Commission at all. It is an admitted position that the Appellant had not produced any data before the Central Commission with regard to the Station Heat Rate (SHR) to be considered for the purpose of computation of coal.

xvi) It is a settled position of law that a party to an appeal cannot normally be allowed to fill the gaps in its evidence at the appellate stage. Additional evidence can be filed only with the leave of the court and after fulfilling the conditions specified in Order 41 Rule 27 of the Code of Civil Procedure, which reads as under:

"27. Production of additional evidence in Appellate Court–

(1) The parties to an appeal shall not be entitled to produce additional evidence, whether oral or documentary, in the Appellate Court. But if –

(a) The Court from whose decree the appeal is preferred has refused to admit evidence which ought to have been admitted, or

(aa) the party seeking to produce additional evidence, establishes that notwithstanding the exercise of due diligence, such evidence was not within his knowledge or could not, after the exercise of due diligence, be produced by him at the time when the decree appealed against was passed, or

(b) The Appellate Court requires any document to be produced or any witness to be examined to enable it to pronounce judgment, or for any other substantial cause, The Appellate Court may allow such evidence or document to be produced, or witness to be examined.

(2) Wherever additional evidence is allowed to be produced by an Appellate Court, the Court shall record the reason for its admission."

xvii) Therefore, while the Appellant has not made a case to fall under any exception to the above rule, the application for amendment of pleadings cannot be entertained to the extent that it seeks to raise new grounds which were not pleaded before the Central Commission.

xviii) The Appellant has relied on the Judgment of this Court dated 13.11.2019 in Appeal No. 77 of 2016 and batch – Sasan Power wherein this Tribunal has held on the merits that the actual technical

parameters are relevant to claiming compensation under change in law. This is an argument on the merits and cannot be considered till the Appellant / Applicant satisfies the test of either Order 6 Rule 17 OR Order 41 Rule 27. Further, in the Sasan Case, the specific ground of appeal was that actual parameters are to be considered. Also, Sasan contended that when it had given the actulas, there was no question of the Central Commission adopting bid parameters. The present case is the converse one. Since the Appellant did not place the actuals, the Central Commission has done a favour by not rejecting the change in law claim but permitting it on the basis of bid assumed parameters. No further relief can be given to the Appellant at this stage.

xix) The Appellant has also relief on Regulation 36 of the Tariff Regulations, 2014. The Tariff Regulations of the Central Commission do not have any application for the tariff under Section 63 of the Electricity Act and the rights and obligations of the parties are provided for in the PPA, as in the present case.

xx) Apart from the vague contention of inadvertence, the Appellant has not made any specific averment as to why the Appellant could not furnish the said data relating to Design Heat Rate and Station Heat Rate. There is no submission whatsoever with regard to why such data could not be placed on record despite due diligence. Therefore, in view of no such effort having been shown by the Appellant, the present Application seeking amendment is liable to be rejected.

xxi) It is submitted that any decision in the present application will open a pandora's box and lead to all parties seeking to add evidence and raise additional grounds without properly filing the pleadings before the Regulatory Commissions.

6. Our considerations and analysis

6.1 This case in hand pertains to an application filed by the Appellant in the main appeal No. 253 of 2018 which is pending for consideration before this Tribunal. Through this application, the Appellant has sought relief for amendment of the appeal filed by him and also to take on record the amended appeal and the documents referred to therein.

6.2 The Appellant in the main appeal has challenged the impugned order dated 19.12.2017 passed by the Central commission to the extent that the order disallowed certain claim raised by the Appellant for compensation on account of change in law events and or force majeure events.

6.3 One of the claim raised by the Appellant in the petition was for compensation on account of additional cost incurred by him for generation and supply of electricity due to reduction of supply of coal.

6.4 The State Commission in its order has recorded that the Petitioner has not provided the Design Heat Rate and the Gross Station Heat Rate and therefore, in the absence of the same, the expected SHR, as given by the Appellant in Schedule 10 of the PPA i.e. documents of

selected bid, has been compared with the ceiling Design Heat Rate as per Regulation, 2014 and accordingly, the additional coal quantity have been computed.

6.5 The Appellant have submitted that the issue regarding furnishing or non-furnishing of the details did not arise during the course of the proceedings and therefore the said details could not be placed on record. The Appellant has submitted that during the pendency of the present Appeal, the Appellant preferred a Review petition before the Central Commission to provide said details of Design Heat Rate and Gross Station Heat Rate. However, the Central Commission summarily dismissed above said Review Petition on the ground of delay.

6.6 The Appellant submitted that the occasion to file the review *qua* the issue of Station Heat Rate arose only while analysing the appeal in the last week of March, 2018. In para 10 of the impugned order, it is observed that without considering time limit for a review, the Applicant took time for analysing and discussing the impugned order for five months after passing of the impugned order. In other words, the Appellant committed an error in not appreciating the fact that discussions for finalising did not take place for five months after passing of the main order.

6.7 The Respondent have submitted that the Appellant has failed to establish as to why it could not have given Station Heat Rate to the Central Commission and why it was not given at the time of filing the

appeal. They have further submitted that as there was no due diligence on the part of the Appellant.

6.8 The Central Commission in the impugned order has recorded as under:-

"16. The Petitioner, vide RoP for the hearings dated 15.6.2017 and 27.7.2017, was directed to file the following information:

a) Whether any change in law events reducing the cost have occurred during construction and operation period;

b) Submit the copy of the Gazette notification increasing the forest tax/ Chhattisgarh Environment Cess/Chhattisgarh Environment tax and Chhattisgarh Industrial Development Cess/Chhattisgarh Development tax;

c) Claim towards Fly Ash Transportation during the period from 30.11.2016 to 31.3.2017 is related only to the energy supplied to RUVNL and not to all the long term beneficiaries. Submit details of fly ash generation corresponding to energy supplied to all RUVNL during the period from 30.11.2016 to 31.3.2017, along with quantum of ash transported up to 100 km distance and beyond 100 km (up to 300km) and rate of ash transportation cost.

a) Revenue earned and cost incurred towards transportation from supplying as up to 100 km distance and beyond 100 km (upto 300 km).

e) Whether the petitioner has awarded the contract for transportation of ash through competitive bidding or through negotiation route. If the contract has been awarded through competitive bidding, then, submit copy of agreement along with the rate of transportation cost. If the contract has been awarded through negotiation route, then justify how can the price considered was competitive.

f) Actual fly ash transportation cost paid from 30.11.2016 (supply date to RUVNL) to 31.3.2017 duly certified by the auditor.

g) Under which head of account, transportation expenditure is booked and whether cost of such transportation was being recovered in tariff.

h) Whether the Petitioner is maintaining a separate account for revenue earned from sale of ash as per the notification of MoEF. If yes, the total revenue accumulated and the expenditure incurred from the

same account till date. If not, the reason for not maintaining such separate account;

i) Submit the following information with regard to additional cost due to reduction in supply of coal from SECL:

i. Total Power tied-up in MW by the Petitioner for long term Beneficiaries from the period from 30.11.2016 (supply date to RUVNL) to 31.3.2017.

ii. Break-up of coal received from difference sources viz. linkage coal, coal purchased from e-auction, imported coal, etc. during the period from 30.11.2016 (supply date to RUVNL) to 31.3.2017.

iii. Coal requirement for schedule generation and actual generation in respect of long term PPA during the period from 30.11.2016 to 31.3.2017.

iv. Quantum of power generated by the Petitioner based on the linkage coal received from SECL and quantum of power supplied to all the long term beneficiaries on daily basis during the period from 30.11.2016 to 31.3.2017.

j) Copy of contract agreements with the agencies who have taken ash from the power plant from 30.11.2016 to 31.3.2017 along with the copy of Expression of Interests invited by the Petitioner for transportation of fly ash;

k) Detailed justification of the difference in the rate of ash transportation cost submitted by the Petitioner in both the Petitions (101/MP/2017 & 229/MP/2016), whereas the agencies off-taking the ash and the distance of supply of ash from power plant are the same.

17. The Petitioner, vide its affidavits dated 24.7.2017 and 4.9.2017, has filed the information called for.

18. During the course of hearing, learned counsel for Prayas submitted that with respect to certain claims, the Petitioner has not annexed the appropriate Notifications and in respect of additional cost incurred due to reduction in supply of coal, the petitioner has annexed the Notifications by Coal India Subsidiary and not the actual law.

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19. The Petitioner vide RoP for the hearing dated 27.9.2017 was directed to file the following information along with the relevant Notifications in

respect of Change in Law events claimed by the Petitioner and the information sought by Prayas in Para 76 of its reply dated 25.9.2017:

a) Certificate from SECL regarding availability of quantum of coal for dispatch to the petitioner and actual supply of coal during the affected period i.e. from 30.11.2016 to 31.3.2017.

b) Detail note on order booking and delivery of coal clearly bringing out making requisition/requirement of coal to the fuel supplier, consent of the fuel supplier for quantum of coal/allotment of rakes and specific indent and offer made to railway for supply of coal and actual supply of coal on daily basis. The petitioner should also furnish the details of one year data for 2016-17 on monthly basis in terms of the Annexure annexed with the RoP.

c) Copy of the Notice inviting tender along with the detailed Terms and Conditions invited by the petitioner for lifting of Fly Ash and Transportation/Disposal of Fly Ash.

d) Copy of the documents and the detailed quotation quoted by the agencies showing their interest for participation in the respective EoI for lifting of Fly Ash & Transportation/Disposal of Fly Ash.

20. The Petitioner, vide its affidavits dated 26.10.2017, 01.11.2017 and 2.11.2017 has filed the information called for."

6.9 From the above it is observed as under:

(i) The Central Commission sought information twice from the Appellant.

(ii) The information sought was item-wise on the various issues raised in the appeal specifying the details required from the Appellant and it also included the information with regard to additional cost due to reduction in supply of coal from SECL

(iii) It is recorded in the impugned order that all the information sought by the Central Commission was furnished by the Appellant.

6.10 The Central Commission has further recorded as under:-

"Operational Parameters considered for Computation of relief

132. ***Station Heat Rate:*** *The Petitioner is having 2 sub-critical units of 600 MW each. In the instant petition, the Petitioner has not provided Design Heat Rate and the Gross Station Heat Rate (which is based on the Design Heat Rate). However, in the Schedule 10 of the PPA i.e. Documents of selected bid, the Expected SHR has been mentioned as 2250 kCal/ kWh in the computation of coal consumption. In absence of Design Heat Rate, the Expected SHR has been compared with the ceiling Design Heat Rate as per Tariff Regulations 2009 & Tariff Regulations 2014 for sub-critical units of 600 MW at pressure Rating of 170 Kg/ cm2 & Temperature of 537/565 °C using sub-Bituminous Indian Coal as 2276 kCal/ kWh & 2250 kCal/ kWh respectively. Accordingly, for the purpose of computation of coal consumption, SHR of 2250 kCal/ kWh provided by the petitioner in the Schedule 10 of the PPA is reasonable to be considered."*

6.11 From the above it is observed as under:

(a) Station Heat Rate of the plant of the petitioner was not available

(b) Station Heat Rate of the plant is essential for computation of coal quantity

(c) In the absence of the Station Heat Rate of the plant, the expected SHR, as given by the Appellant in Schedule 10 of the PPA i.e. documents of selected bid, has been compared with the ceiling Design Heat Rate as per Regulation, 2014 and accordingly, the additional coal quantity have been computed.

6.12 The Appellant have also placed reliance on similarly change in law petition (Petition No. 179/MP/2016) of another generator, wherein CERC directed the generator to provide the details of operational parameters including the SHR. The relevant extract of the order dated 08.10.2018 passed by the CERC in the said petition are as under:-

"6. Pursuant to the hearing of the Petition on 20.12.2017, the Petitioner was directed vide ROP to submit additional information on the following:

(i) Station Heat Rate:- Submit the Design Guaranteed Turbine cycle Heat Rate and Guaranteed Boiler efficiency along with design Temperature (Superheat & Reheat) and Pressure.

(ii) Aux. Consumption:- Submit the design guaranteed Auxiliary energy consumption and type of cooling system along with type of Boiler Feed pump.

(iii) PLF/ normative availability: As per the petition, PLF is 80%. However, PLF has been mentioned as 85% in the PPA. Submit the reason for variation in PLF.

7. In terms of the directions of the Commission, the Petitioner has filed the additional information vide affidavit dated 12.1.2018. Thereafter, in terms of the directions of the Commission vide ROP of the hearing dated 30.1.2018, the Petitioner vide affidavit dated 17.2.2018 has filed the additional information…"

In the present case however, such information relating to Station Heat Rate based on Design Heat Rate was not sought by the CERC.

6.13 The Respondents further submitted that the Appellant should not have filed review petition after filing the appeal with this Tribunal.

The Appellant submitted that issue regarding operational parameters requirement for computation of coal came up only while finalising the appeal. The main appeal does not include this item on account of reduction of coal supply.

6.14 In view of the foregoing, while adjudicating on issues raised before it in the appeal, the Central Commission should have directed the Petitioner to furnish all details, required for in the matter, for correct computation of coal quantity. If during the course of hearing it emerged that some more information was required to meet the ends of justice or the Central Commission had come to the conclusion that the information was essential and would have assisted the Central Commission to arrive at the truth, to enable it to pronounce judgment then it should have asked the Petitioner to furnish the same.

However, in this case it is observed that though the Central Commission required SHR for computation of coal quantity but the Central Commission did not ask the Petitioner to submit the same.

7.0 As such we are of the opinion that the though the Central Commission required the SHR of the plant but it never asked the Petitioner to furnish the same and accordingly the same was not furnished by the Petitioner.

Since the actual Station Heat Rate is essentially required for correct computation and would assist the court to arrive at the truth and would not cause any harm to the other party, therefore, we are of the

considered opinion that the Petitioner should be allowed to amend the appeal and to place the additional documents.

The Respondents have also placed reliance on a number of judgments of the Supreme Court regarding placement of additional document. We have gone through the judgments and we are of the opinion that these judgment do not apply in this instant appeal as the facts of the case are different.

In view of above, we are of the opinion that the interim application being no. IA No. 129 of 2019 filed by the Appellant in Appeal No. 253 of 2018 is in order. Accordingly, the IA is allowed.

Pronounced in the Virtual Court through video conferencing on this ***15th day of* May*, 2020.***

(Ravindra Kumar Verma)
Technical Member

(Justice Manjula Chellur)
Chairperson

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REPORTABLE/NON-REPORTABLE

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