

COURT-II

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)**

**IA NO 1060 OF 2020 & IA NO 1276 OF 2019
IN APL NO 297 OF 2019**

Dated: 28th August, 2020

**Present: Hon'ble Mr. Ravindra Kumar Verma, Technical Member
Hon'ble Mr. Justice R.K. Gauba, Judicial Member**

In the matter of:

Jindal India Thermal Power Limited		Appellant(s)
Vs.		
Odisha Electricity Regulatory Commission &Ors.		Respondent(s)

**Counsel for the Appellant (s) : Sajan Poovayya, Sr. Adv.
Matrugupta Mishra,
Pratibhanu Singh
Samyak Mishra
NeeleshNema**

**Counsel for the Respondent (s) : Ganesan Umapathy ,
Rutwik Panda
Anshu Malik for Res.1**

Arijit Maitra for Res.2

**Arunav Patnaik,
Anandini Kumar for Res.3**

ORDER

This matter is taken up on urgent application for hearing by video conference, physical presence being not possible due to National Lockdown imposed for containing spread of coronavirus (Covid-19).

IA NO 1060 OF 2020 – (For early hearing)

This matter has been listed before us on application (IA No. 1060 of 2020) for early hearing. Having regard to the grounds stated, the request is granted. The application is disposed of.

APL NO 297 OF 2019 & IA NO 1276 OF 2019

The report of the Registry is that service is complete and pleadings on the interim application are also complete.

The impugned order is challenged on several grounds, the prime one being that the State Commission, in spite of objections taken by the Appellant, has directed inclusion of clause in PPA for compensation to be payable in case there is no supply of electricity by the Appellant to second Respondent. It is stated that there was an interim order of the High Court in writ proceedings having a bearing on the subject at hand in terms of which the Respondents could and should not have taken any precipitate action. The Appellant is also facing consequences in the form of invoices having been raised demanding compensation to be paid, the matter having been taken by the second respondent to the State commission under Section 142 of the Electricity Act, 2003 for penal action.

The learned counsel on both sides agree that the contentions to be considered and adjudicated upon in the interim application for stay and also in the main appeal would be same. In these circumstances, the learned counsel on both sides also fairly agree that instead of the interim application being taken up, the main appeal itself can come up for expeditious hearing.

We, thus, direct the pleadings on the main appeal to be completed expeditiously. The Respondents may file their replies to the main appeal within two weeks, unless already so done, followed by rejoinder within two weeks thereafter.

The appeal at hand shall be included at the bottom of the ongoing VC list for final hearing in terms of our order dated 17.07.2020 in the matter of *Jaiprakash Power Ventures Ltd. Vs. Madhya Pradesh Power Management Company Ltd. &Ors.*, to be taken up in its own turn. Meanwhile, the operation of the impugned order and all consequential action taken thereupon shall remain stayed.

(Justice R.K. Gauba)
Judicial Member

(Ravindra Kumar Verma)
Technical Member

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