

**MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION  
BHOPAL**

**Sub: In the matter of petition for approval of first amendment to PPA to be executed with the Respondent under Section 86(1)(b) of the Electricity Act, 2003 and MPERC (Power Purchase and Procurement Process) Regulations, 2004 Revision-1, 2006, read alongwith Hon'ble Supreme Court order dated 02.12.2019 passed in CA 8860/2019.**

**Petition No. 06 of 2020**

**ORDER**

**Hearing through video conferencing**

**(Date of Motion hearing: 24<sup>th</sup> November '2020)**

**(Date of order: 17<sup>th</sup> December' 2020)**

**M.P. Power Management Company Ltd.,**

Block No. 7, Shakti Bhawan, Rampur, Jabalpur – 482008

- **Petitioner**

**Vs.**

**M/s. Orient Green Power Co. Ltd.**

Through its Director

Sigappi Achi Building – 4<sup>th</sup> Floor, No. 18/3,

Rukmani (Marshalls Road), Egmore,

Chennai – 600008, Tamil Nadu

- **Respondent**

Shri Ayush Dev Bajpai, Advocate and Shri R.K. Thukral, GM (RE) appeared on behalf of the petitioner.

The subject petition has been filed by the petitioner (M.P. Power Management Co. Ltd) on 03.01.2020 for approval of first amendment to the PPA dated 18.01.2016 executed between the petitioner and the Respondent under Section 86(1)(b) of the Electricity Act, 2003 and MPERC (Power Purchase and Procurement Process) Regulations, 2004 Revision-1, 2006, read with the order dated 02.12.2019 passed by the Hon'ble Supreme Court in CA 8860/2019.

**2.** The subject petition was first heard in motion hearing held on 21.01.2020 when the following was observed by the Commission:

- (i) The copy of principal PPA dated 18.01.2016 was not filed with the petition.
- (ii) The approval of the Commission was not obtained under Section 86(1)(b) of the Electricity Act'2003 on the aforesaid principal PPA dated 18.01.2016.
- (iii) Ld. Counsel of the petitioner had sought permission to amend the petition in light of the above observations.

**3.** At the next motion hearing held on 06.10.2020, the following was observed by the Commission:

- (i) By affidavit dated 10.02.2020, the petitioner had filed the copy of principal PPA dated 18.01.2016 seeking ex-post facto approval to the aforesaid PPA under Section 86(1)(b) of the Electricity Act'2003 read with MPERC (Power Purchase and Procurement Process) Regulations, 2004 Revision-1, 2006.
- (ii) There was no written agreement/consent of the Respondent on the first amendment to the PPA filed before the Commission for approval along with the subject petition.

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4. In view of the above observations, the petitioner was asked to explain the reasons and grounds for seeking ex-post facto approval to the PPA executed between the parties on 18.01.2016. In response,

Ld. Counsel for the petitioner had again sought 15 days' time for filing the amended petition with an appropriate prayer.

5. Vide Commission's order dated 13.10.2020, the Petitioner was allowed to file the amended petition by 25.10.2020 explaining the reasons and grounds for seeking ex-post facto approval to the PPA executed between the parties on 18.01.2016. The petitioner was also directed to file amendment petition along with an affidavit for written agreement to the said amendment between the parties in terms of Article 14.1 of the PPA dated 18.01.2016. With the aforesaid directions, the case was re-scheduled for motion hearing on 24.11.2020.

6. At the last hearing held on 24.11.2020 in the subject matter, the Commission observed the following:

- (i) By affidavit dated 12.10.2020, the petitioner filed the same Amended Application under Order 6 rule (17) of CPC that had been filed by the petitioner by earlier affidavit dated 10.02.2020.
- (ii) Despite clear directives in last order dated 13.10.2020, the petitioner has not submitted the reasons and grounds for seeking ex-post facto approval to the PPA executed between the parties on 18.01.2016.
- (iii) No affidavit for written Agreement between the parties for the amendment in PPA, in terms of Article 14.1 of the PPA is filed by the petitioner.
- (iv) Ld. Counsel who appeared for the petitioner sought adjournment in the subject matter.

7. Based on the above, the Commission has observed that the subject petition was filed on 03.01.2020 however, despite giving several opportunities thereafter for admission of this petition, the petitioner has failed to submit the reasons and grounds for seeking ex-post facto approval to the PPA executed between the parties on 18.01.2016. Further, the petitioner has also not been able to place before the Commission an affidavit for written agreement between the parties to the amendment in terms of Article 14.1 of the PPA dated 18.01.2016. In view of the aforesaid reasons, the subject petition is not maintainable in the present form hence dismissed and disposed of. However, the petitioner shall be at liberty to file afresh petition along with all necessary details and documents under the provisions of aforesaid PPA and MPERC (Power Purchase and Procurement Process) Regulations, 2004 Revision-1, 2006.

**(Shashi Bhushan Pathak)**  
Member

**(Mukul Dhariwal)**  
Member

**(S.P.S. Parihar)**  
Chairman