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Petition No. 90/2006

In the matter of setting up of new Captive Thermal Power Plant of 38.5 MW by Jaiprakash Associates Ltd. and consequent disconnection of power supply to its Jaypee Rewa Plant from 30/09/2006.

O R D E R
Dated 27th September, 2006.

M/s. Jaiprakash Associates Ltd., Jaypee Nagar, Rewa, - Petitioner

V/s

M.P. Poorva Kshetra Vidyut Vitaran Co. Ltd., Jabalpur - Respondent

Shri P.L. Nene, Consultant and Shri Ajay Tiwari Sr. G.M appear for the petitioner

Shri S.K. Okhade, Addl. Executive Engineer O/o CMD, (EZ), Jabalpur appears on behalf for the respondent.

The petition is in the matter of setting up of new Captive Thermal Power Plant of 38.5 MW by Jaiprakash Associates Ltd. And consequent disconnection of power supply to its Jaypee Rewa Plant from 30/09/2006.

2. It is submitted by the petitioner that petitioner has installed an additional new Captive Thermal Power Plant of 38.5 MW capacity at its Jaypee Rewa Plant in addition to the existing 21.6 MW Thermal Power Plant commissioned earlier in 2003-04. Consequently, petitioner made a request to the Respondent East Discom to permanently disconnect the power supply and terminate the agreement w.e.f. 31/08/2006. However for technical reasons the request was made by the petitioner to extend the date of permanent disconnection till 30/09/2006 Respondent vide letter dated 04/09/2006 informed the petitioner that the consent for permanent disconnection of the above connection of the petitioner is withdrawn

3. It is further submitted by the petitioner that order for reduction of contract demand was issued by the Commission on 28/08/2003 directing the Board to reduce the contract demand from 36 MVA to 18 MVA temporarily for five years from 01/08/2003 to 30/07/2008 and thereafter to restore the contract demand to 36 MVA as required by the petitioner. Respondent has filed a Petition in the Hon'ble High Court, Jabalpur against the orders of the Commission granting reduction of contract demand. No stay order against the order of the Commission has been granted. Petitioner has approached the Commission with request that the licensee be advised to terminate the agreement and to permanently disconnect the power supply to the Petitioner's Jaypee Rewa Plant w.e.f. 30/09/2006, without imposing any conditions.

4. During the course of hearing today, the Respondent M.P. Poorv Kshetra Vidyut Vitaran Company Ltd has submitted in its reply that its predecessor Board had filed an appeal against the order of the Commission dated 28/08/2003 before the Hon'ble High Court which has been registered as M.A. 2554/2003, challenging the temporary reduction in contract demand for the period 01.08.2003 to 30.07.2008 and thereafter to restore the contract demand to 36 MVA. The appeal is still pending. It is submitted by the respondent that the petitioner has availed the benefit of the order dated 28.08.03 of reduction in contract demand but does not wish to comply the said order in full. Petitioner is prevented by the law of estoppel to seek termination of agreement and dis-continuance of supply at this stage after availing the full benefits for a period of about 3 years. Therefore respondent submits that since the matter is pending decision of Hon'ble High Court, the request of the petitioner should not be admitted.

5. Having heard both the parties, Commission observes that the matter is being heard in as appeal before the Hon'ble High Court. There is no justification for the Commission to interfere in this matter. Commission is of the opinion that it is not within the competence of the Commission to hear this petition, as it is sub-judice at a higher forum. The Petitioner is at liberty to request the Hon'ble High Court in this regard. If the petitioner is having any grievance against the licensee for non-compliance of the provisions of supply code, the petitioner may approach the Grievances Redressal Forum for any relief.

6. With the above directions, the Commission decides to close the case.

Ordered accordingly.

(R. Natarajan)
Member (Eco.)

(P.K.Mehrotra)
Chairman