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ODISHA ELECTRICITY REGULATORY COMMISSION
BIDYUT NIYAMAK BHAWAN
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Present: Shri Pradeep Kumar Jena, Chairperson
Shri G. Mohapatra, Member
Shri S. K. Ray Mohapatra, Member

Case No. 105/2024

M/s. Jagannath Power and Infra Pvt. Ltd. Petitioner
Vrs.
GRIDCO Ltd. & Another Respondents

In the matter of: Application under Section 86(1)(f) of the Electricity Act, 2003 and other enabling provisions to adjudicate the dispute and arbitration of the matter between GRIDCO and M/s. Jagannath Power & Infra Pvt. Ltd. and issuance of direction to GRIDCO for renewal of the PPA i.e. to extend the terms of the PPA originally signed on dated 30th December, 2010 between M/s. Shalivahana Green Energy Ltd. & GRIDCO Ltd. and tripartite agreement signed among M/s. Jagannath Power & Infra Pvt. Ltd., GRIDCO Ltd. and M/s. Shalivahana Green Energy Ltd.

For Petitioner: Shri Bibhu Charan Swain, the Authorized Representative.

For Respondents: Shri B.P. Mohapatra, CGM (Elect.), GRIDCO Ltd. along with Ms. Rutupurna Mansingh, DGM (Elect.) & Ms. Shaswati Mohapatra, AGM (RE) and Shri Soumyaranjan Aich, Director (Tech.), OREDA.

ORDER

Date of Hearing: 13.05.2025

Date of Order: 13.05.2025

The Petitioner-M/s. Jagannath Power & Infra Pvt. Ltd. (M/s. JPIPL) has filed the present application under Section 86 (1) (f) of the Electricity Act, 2003 and other enabling provisions to adjudicate the dispute and arbitration of the matter between GRIDCO and M/s. JPIPL and issuance of direction to GRIDCO for renewal of the PPA i.e. to extend the terms of the PPA originally signed on dated 30th December, 2010 between M/s. Shalivahana Green Energy Ltd. & GRIDCO Ltd. and tripartite agreement signed among M/s. JPIPL, GRIDCO Ltd. and M/s. Shalivahana Green Energy Ltd.

6. The matter in brief, are as under:

- a) M/s. Shalivahana Green Energy Ltd. (M/s. SGEL) had entered into a PPA with GRIDCO Ltd. on 30.12.2010 for sale of power generated from its 20 MW Bio Mass Power Plant located at Village- Nimidha in Dhenkanal District. The plant came into operation on 19.12.2011.

- a) Adjudicate the dispute under Section 86 (1) (f) of the Electricity Act, 2003, between GRIDCO and JPIPL regarding the renewal of the PPA.
 - b) Direct GRIDCO for amendment of the PPA i.e. to extend its terms of PPA for additional 12 years.
 - c) Grant any interim relief necessary to maintain uninterrupted operations and financial stability of the project during the pendency of this matter and maintain the status quo.
 - d) Direct GRIDCO to procure biomass energy from the Petitioner's plant as per the existing tariff and continue to pay on monthly basis till the PPA is amended formally.
 - e) Pass such order/orders as this Hon'ble Commission may deem fit and proper.
9. According to the Respondent- M/s. GRIDCO Ltd., the tenure of the PPA entered with M/s. SGEL dated 30.12.2010 was for a period of 13 years from the date of its Commercial Operation. As per the terms and conditions of the PPA dated 30.12.2010, the Agreement with M/s. SGEL has expired on 18.12.2024. The transfer of business to another Entity doesn't automatically entitle the Developer for an extension of tenure of the agreement. It had the provision of renewal only with mutual agreed terms and conditions of both the parties before six months of the expiry of the PPA. In the case at hand, M/s. GRIDCO Ltd. has not provided its consent to extend the PPA beyond its term.

It is also stated that considering the request of the Biomass Developers, the GRIDCO Management, after analyzing the proposal for renewal of PPA, decided not to renew the Agreement as the price offered by the Developer is not competitive and there is no special category for Biomass Power in meeting RPO target. To meet required RPO target, cheaper offer / sources of power are available. Decision of GRIDCO in this regard has been communicated to the Biomass Developer vide letter dated 16.04.2025 of the Department of Energy, Government of Odisha.

It is also stated that Odisha Renewable Energy Policy, 2022 provides that, if GRIDCO does not guarantee off-take of power from the Biomass projects, the Developers are free to sell the entire saleable power within or outside the State or use it for meeting captive needs. Selling of power to GRIDCO in the PPA route is not the only available option for the Developer.

10. Accordingly, it is prayed by the Respondent-GRIDCO as under:
- "In view of the above, the Respondent-GRIDCO Ltd. humbly prays the Hon'ble Commission to kindly consider the submissions of GRIDCO and reject the Petitioners submission for extension of Power Purchase agreement and pass necessary orders/directions thereof."*
11. We heard the parties through hybrid mode. We have given our thoughtful consideration to the rival submissions of the parties.

12. Invoking jurisdiction of the Commission under Section 86(1)(f) of the Electricity Act, 2003 in the instant case does not appear to have arisen, inasmuch as the agreement executed between the Parties on 30.12.2010 has already come to an end and the Respondent-GRIDCO Ltd. has not renewed the said agreement. As such, there is no subsisting agreement between the Respondent-M/s. GRIDCO Ltd. and the Petitioner. For the sake of clarity, it can be stated here that by way of legitimate expectation, the Respondent-GRIDCO cannot be compelled to accept the proposition of the Petitioner in the matter of purchase of power. For further clarity, the conditions for power purchase cannot be thrust upon the Respondent-GRIDCO Ltd. To reiterate, the parties have not arrived at any agreement either to extend the terms of PPA originally signed on 30.12.2010 between M/s. Shalivahana Green Energy Ltd. and M/s. GRIDCO Ltd. The Cause of action as projected by the Petitioner for extension of the PPA for another period of 12 years is beyond the jurisdiction of the Commission.
13. Under the above scenario, the Petition stands disposed of with liberty to the parties to explore possibility of consensus on the issues. If they succeed, they may approach the Commission for necessary orders.

Sd/-
(S.K. Ray Mohapatra)
Member

Sd/-
(G. Mohapatra)
Member

Sd/-
(P. K. Jena)
Chairperson