



Chhattisgarh State Electricity Regulatory Commission  
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**Petition No. 17 of 2018(M)**

**In the Matter of**

**“Petition under section 86(1)(B) of the Electricity Act, 2003, for approval of procurement of power through tariff based competitive bidding for the distribution business of JSPL.”**

M/s Jindal Steel & Power Limited  
Office: Mandir Hasaud, Raipur  
Chhattisgarh

Petitioner

**PRESENT** : **Narayan Singh, Chairman**  
: **Arun Kumar Sharma, Member**

**APPEARANCE** : Shri Arun Verma, Sr. Advocate with Shri Rajesh Garg, Shri Aman Anand and Shri Anshuman Sharma advocates for petitioner.  
Shri Anshu Mahajan, Shri Jatin Joshi and Ms. Priya Bani, Advocates for the applicants who have filed application for impleadment.  
Shri Arvind Sharma for Raigarh Ispat Udyog Sangh.

**ORDER**  
**(July 13, 2018)**

The petitioner M/s Jindal Steel & Power Limited (JSPL-D) is a registered company and is primarily engaged in manufacturing of sponge iron, Ferro alloys and various other steel products. The petitioner is a licensee for distribution and retail supply of electricity in the area of the Jindal Industrial Park (JIP) and in the area of villages Tumdih and

Punjipathra of Gharghoda-Tehsil of Raigarh District, Chhattisgarh. The petitioner is referred as JSPL-D also in the petition.

- 2.** The JSPL-D is permitted to cater the needs of 70 industrial consumers with the maximum demand not exceeding 299 MW. The distribution license is valid for a period of 25 years from the date of its award i.e. till November 28, 2030. The JSPL-D is obligated supply to electricity to its consumers. The demand of consumers of petitioner is about 120 MW presently.

#### **Petitioner's submission**

- I.** The JSPL-D, in its application dated 25.01.2005 for grant of distribution license, had indicated that it will procure 90 MW power from the surplus power available at that stage from its Raigarh CPP of petitioner and balance from the proposed IPP of Jindal Power Limited (JPL). Initially, the petitioner procured power from the Raigarh CPP, but over the period power requirement of its steel plants is increased and it become impossible for the petitioner to procure power from the Raigarh CPP due to non availability of surplus power on a continuous basis.
- II.** Petitioner vide letter dated 30.06.2016 informed the inability of JPL to supply power beyond 31.03.2016. Petitioner as an interim measure, also proposed to procure power from JSPL's captive power plant at Dongamahua (DCPP), so as to ensure that the consumers in the licensed area are not adversely affected in any manner. It is submitted that this

Commission vide letter dated 31.03.2016 rejected petitioner proposal to procure power from DCPD.

- III.** JSPL submitted that after disconnection of electricity, three of consumers of JSPL-D filed petitions before the Hon'ble High Court of Chhattisgarh. The Hon'ble High court, after staying the effect and operation of the Commission's order dated 31.03.2016, permitted JSPL-D to procure power from DCPD and directed it to restore the supply of electricity to the petitioner consumers at a tariff of Rs. 4.20 per unit, which the petitioner consumers had offered to pay, subject to the final adjudication by the appellate authority.
- IV.** JSPL-D submitted that in order to supply reliable and continues power to it's consumers in the licensee area, it is necessary to procure power from other sources. These changed circumstances, coupled with expected growth in demand upto 299 MW in the near future, has mandated that the petitioner put up a fresh power procurement plan for approval of the Commission.
- V.** The proposed long-term procurement plan of the petitioner through a bidding process will not only enable the petitioner to comply with its universal supply obligation and be in line with the National Tariff Policy, but will also aid the petitioner to organize it's affairs in a manner that will be consistent with the proposed amendments to the Act.
- VI.** Relief sought by the petitioner are as follows:-
- a) Allow the petitioner to initiate bid process for tariff based competitive bidding to procure 240 MW plus / minus 25% (subject to a maximum of 299 MW) of power for balance life of the

distribution license in accordance with guidelines for procurement of electricity from thermal power stations on Design, Build, Finance, Own and Operate (DBFOO) basis issued by the Ministry of Power, Govt. of India on 09.11.2013.

- b) To allow the petitioner to submit the RFQ prepared in accordance with the above guidelines and standard bidding documents mentioned therein and seek approval for deviations, if any, within 30 days of admission of this petition.
- c) Till the time the competitive bid process is included and supply of power starts under the long-term arrangement, the petitioner be allowed to undertake another bid process for procurement of power on short term basis, till commencement of power under short term procurement, the petitioner may be allowed to supply power from DCPD as per the existing mechanism.

**VII.** The petitioner also prays as interim relief to allow the petitioner, in the mean time of bid process is concluded to undertake another bid process for procurement of power on short term basis. Till commencement of power under short term procurement, the petitioner will continued to procure power from DCPD as an interim measure as per the existing arrangement.

- 3.** On 21.05.2018, M/s Tirumala Balaji Alloys Pvt. Ltd. & Other eight applicants have filed an application seeking impleadment in the present proceedings seeking relief

that JSPL-D be directed to continue supply by making alternate arrangements through short term contracts, till completion of the long term bidding process. They also requested that their electricity is not disconnected from 01.06.2018.

- 4.** M/s Tirumala Balaji Alloys Pvt. Ltd. & Others submitted that the petitioner on 11.05.2018 served notices to all consumers in OP Jindal Industrial Park that on account of no orders being passed in interim application, it shall, in its capacity as distribution licensee for the licensed area, not be able to supply electricity to the consumers from 01.06.2018. They have also requested for grant of interim directions against petitioner from disruption in the supply of electricity. The application seeks protection of interest of consumers of JIP. The present application is filed seeking passing appropriate orders to ensure that bidding for short term period is finalized and electricity procured on or before 31.05.2018 so that electricity of consumers is not disrupted on 01.06.2018.
- 5.** M/s Raigarh Ispat Udyog Sangh, Raigarh (RIUS), a stakeholder, submitted vide e-mail dated 12.05.2018 and letter dated 18.05.2018 regarding issues related to disruption in power supply at O.P. Jindal Industrial Park (JIP). In this submission they have requested to issue directions to JSPL-D regarding not to discontinue supply of power to JIP. In their request, they have quoted Section 23 & 24 of the Electricity Act, 2003 which are related to direction to the distribution licensee and suspension of distribution license and sale of electricity.

- 6.** On 31.05.2018, RIUS submitted that JSPL had set up JIP on the basis of an understanding with Govt. of Chhattisgarh that industries set up therein would be supplied power from Raigarh CPP. However, after grant of the license, JSPL has taken a different position, and is seeking procurement of power from sources other than Raigarh CPP. It is also submitted that above understanding has also been upheld by the Hon'ble Appellate Tribunal in its judgment dated 07.03.2014 passed in Appeal No. 89 of 2012 as under:-

*"(a) The proposal given by Jindal Steel for distribution license keeping in view the future demand of 300 MW clearly indicated source of supply of 90 MW from its captive power plant and 210 MW from the 1000 MW power plant of Jindal Power, knowing fully well the functioning demand of its steel plant."*

- 7.** It is also submitted by RIUS that the Hon'ble Appellate Tribunal in its judgment dated 07.03.2014 passed in Appeal No. 89 of 2012 has extensively dealt with the question of availability of surplus power at JSPL's Raigarh CPP. The Hon'ble Tribunal has conclusively held that there is surplus power available at JSPL's Raigarh CPP. It is submitted that no appeal has been preferred by JSPL against the said order, and the same has attained finality.
- 8.** RIUS submitted that JSPL has always had surplus power available from its Raigarh CPP, and JSPL has willfully discontinued supply of power from its CPP and non supply of power JSPL's Raigarh CPP is a direct violation of the judgment passed by the Hon'ble Appellate Tribunal and order passed by this

Commission. It is also submitted that in terms of Section 43 of the Electricity Act, 2003, JSPL has a universal supply obligation. JSPL is required to fulfill the said obligation, it is petitioner obligation to procure power for its steel plant in such a manner that the supply to JIP is not disrupted.

- 9.** It is submitted by RIUS that the said actions of JSPL are malafide and in contravention of the Hon'ble Appellate Tribunal's judgment dated 07.03.2014. The present petition is a tactic adopted by JSPL to avoid supplying power from its CPP, and same cannot be permitted in law.
- 10.** On 16.05.2018, the petitioner was directed to published public notice inviting objections / suggestions from the stakeholders in two local news papers widely circulated in the license area of the JSPL-D by giving at least 21 days time.
- 11.** Petitioner submitted that public notices informing hearing date i.e. 15.06.2018 was published on 22.05.2018 in two newspapers namely (i) Ispat Times, Raigarh and (ii) Krantikari Sanket, Raigarh and was also uploaded in the website of petitioner's company.
- 12.** On 22.05.2018, the petitioner has filed an application seeking urgent interim directions stating that circumstances are changed at present and due to this no power from DCPD can be supplied to the distribution license business of the petitioner and prays to permit to procure short term power. Meanwhile, M/s Tirumala Balaji Alloys Pvt. Ltd. & Others and M/s RIUS are impleaded as parties in the present case.

- 13.** Petitioner submitted a copy of the Fuel Supply Agreement (FSA) and copies of five LoIs issued by South Eastern Coalfields Limited and Central Coalfields Limited to JSPL, Dongamahua. Petitioner submitted that FSA is yet to be signed and the same will be submitted immediately upon signing. The Commission directed the petitioner to submit the copies of FSA for both JSPL, Dongamauha and JSPL, Raigarh by 31.05.2018 and the following information / undertaking on affidavit:
- a. Undertaking that as per the Government guidelines the linkage coal can be used only for power generation from captive power plants for use for non-regulated steel business only and cannot be used for power generation by captive power plants for distribution business of JSPL to supply power to Jindal Industrial Park (JIP).
  - b. Undertaking that in view of 'a' above, there shall not be any surplus power available for supplying to JIP.
- 14.** Petitioner was also directed to file month wise details regarding his captive generation, consumption and sales of power to the consumers in Jindal Industrial Park (JIP), through open access i.e. IEX or bilateral and to the Chhattisgarh State Power Distribution Company Limited (CSPDCL) in last 12 months.
- 15.** The counsels of interveners requested that the petitioner may be directed to supply quality power 24x7 to them and submitted that there are two industries who have got connectivity after completing all formalities but still they are not supplied with power by



the petitioner. The petitioner be directed to supply power to these industries also.

Meanwhile, considering all the aspects, during hearing on 29.05.2018, the Commission directed the petitioner to ensure supply of uninterrupted power to the JIP till further orders in the present petition.

- 16.** The petitioner, in compliance of directive given on 29.05.2018, files an affidavit with documents and detail of generation and consumption of CPP for the year 2017-18. M/s RIUS again files an application informing that power cut for sixteen hours every day still continues.
- 17.** From the affidavit given by the petitioner it has been noted that the petitioner has submitted that under the existing circumstances and guidelines of the Government of India, the petitioner is prevented from supplying any electricity to his distribution business from it's CPP, which are generating electricity using the linkage coal. Perforce the direction of the Commission to ensure supply of uninterrupted power to JIP, till further orders, cannot be supplied with by the petitioner beyond 31<sup>st</sup> May, 2018, unless an alternate source of power is available to it. However, it is submitted that the petitioner has made arrangements for a very short period of three days only to procure power through a power trading company for supply to JIP. According to the submissions the power will be available to the petitioner only upto 03<sup>rd</sup> June, 2018. There is no submission regarding power supply beyond 03<sup>rd</sup> June, 2018.

- 18.** While submitting the affidavit during the course of proceeding, counsel of the petitioner kept silence on the above matter despite our reiterating the direction that the petitioner has to ensure uninterrupted power supply till further order in the present petition. This act of the petitioner is highly condemnable and we are of the firm view that the petitioner is trying to mislead the Commission as well as it's consumers in Jindal Industrial Park. Hence, we dismiss the plea taken by the petitioner in his affidavit that the petitioner has arranged power for supply only upto 03rd June, 2018.
- 19.** In these circumstances, it was directed to petitioner to ensure supply of uninterrupted power to the consumers of the petitioner in JIP till further orders in the petition. It was also directed that if the petitioner fails to comply the order, strict action against the petitioner according to the provisions of Electricity Act, 2003 shall be taken.
- 20.** During hearing on 15.06.2018, RIUS submitted that the petitioner is not complying with the orders passed by the Hon'ble Appellate Tribunal and this Commission and petitioner was not permitted to procure long term power.
- 21.** Further, other stakeholders submitted that petitioner is not supplying continuous power due to reason on non availability of power and on the other hand petitioner is issuing new connection. It is also submitted that the Hon'ble Appellate Tribunal directed petitioner to supply 90 MW power from its Raigarh CPP. Petitioner is supplying power to only four Ferro Alloys units and other are disconnected from supply.

- 22.** It is requested by the RIUS to direct petitioner to supply continuous power to all consumers of the licensed area. It is also submitted that petitioner is charging @ Rs
- 23.** . 4/kWh, while as per Commission's order the rate of power is Rs. 2.50/ kWh.
- 24.** List of persons attended the hearing on 15.06.2018 is attached herewith as Annexure -1.
- 25.** Hon'ble ATE in Order dated 07.04.2014 in appeal no 89 of 2012 in the matter of RIUS Vs CSERC and others has held as follows; (emphasis added)

*19. We are not convinced by the above reasons projected by the Jindal Steel due to the following:*

*(a) The proposal given by Jindal Steel for distribution licence keeping in view the future demand of 300 MW clearly indicated source of supply of 90 MW from its Captive Power Plant and 210 MW from the 1000 MW Power Plant of Jindal Power, knowing fully well the functioning demand of its Steel Plant.*

*(b) The demand of Jindal Industrial Park has so far, not reached the expected level of 300 MW and is presently of the order of 100 MW.*

*(c) The surplus availability from the sample half hourly data submitted by Jindal Steel indicated power availability varying from 20 to 80 MW. On the other hand, the average surplus power from the annual surplus energy indicated in the chart above is more than 100 MW (931 MU for FY 11 translates into average surplus of 106 MW and 945 MU for FY 10 translates into average surplus of 108 MW).*

*(d) The load pattern in the Jindal Industrial park will not be constant and will also have variations during different hours of the day.*

*(e) The surplus availability for Captive Power Plant can be made continuous and sustainable by Jindal Steel by contracting additional power from the CSPDCL, the State distribution licensee for its Steel Plant. According to Jindal Steel, they applied for increase in their contract demand to Chhattisgarh State Electricity Board on 6.9.2008. However, Board refused to sanction additional load vide their letter dated 22.12.2008. We feel that Jindal Steel should have approached the State Commission if the Board had refused to grant additional contract demand. Instead of arranging additional load from the State distribution licensee, Jindal Steel simply proceeded to enter into contract for supply of additional surplus power of 50 MW from its captive Power Plant to CSPDCL.*

It is to note here that above order of the Hon'ble ATE has attained finality.

- 26.** In the meantime, the Hon'ble High Court of Chhattisgarh passed an order dated 25.06.2018 in Writ Petition (C) No. 1595 of 2018 filed by M/s Jindal Steel & Power Ltd. Vs. CG State Electricity Regulatory Commission & Others, the findings of the order are as follows:-

*"Learned Senior Counsel appearing on behalf of petitioner-Jindal Steel & Power Ltd. would submit that overreaching the order of this Court passed in WPC Nos. 921/2016, 940/2016 and 1002/2016, an order has been passed by the Chhattisgarh State Electricity Regulatory Commission (henceforth "Commission") on 30.05.2018 directing the petitioner to ensure uninterrupted continuous power supply to the consumers of Jindal Industrial Park as per order dated 23.12.2014, which is contrary to the order passed by this Court in the aforesaid writ petitions, in which, this*

*Court has stayed the order dated 31.03.2016 and directed that the petitioner therein to pay the electricity charges @ 4.20 per unit. He would further submit that order passed by the Commission on 30.05.2018 has been questioned in this writ petition filed before this Court on 5.6.2018, in which parties have been served with advance copy as recorded by this Court on 06.06.2018 and all the parties are represented through their respective counsel. Meanwhile, Commission has passed an order dated 19th June, 2018 reviewing and omitting certain portion of order dated 30.5.2018, which amounts to overreaching the order passed by this Court and no notice was issued to the parties before reviewing the order dated 30.05.2018. He further submits that petitioner Company is ready and willing to supply electricity @ Rs. 4.20 per unit as per order passed in aforesaid three writ petitions.*

*Per contra, counsel for the respondent No. 7 would submit that instant writ petition as framed and filed is not maintainable as the remedy of appeal under Section 111 of the Electric Act, 2003 lies with the petitioner for redressal of his grievance.*

*I have head learned counsel appearing for the parties.*

*The effect & operation of the order dated 31.05.2018 (Annexure P-1) shall remain stayed until further order subject to petitioner's supplying electricity @ Rs.4.20 per unit to the respondents No. 2 to 7 / other consumers as stated in the order dated 13.04.2016 & 22.04.2016 passed in W.P. (C) No. 921/2016, W.P. (C) No.940 of 2016 & W.P. (C) No. 1002/2016 and as submitted by learned counsel for the petitioner.*

*As agreed by the parties, list this case on **24 th July, 2018** Meanwhile, Secretary, Chhattisgarh State*

*Electricity Regulatory Commission will send the record of Petition No. 04 of 2017 {M/s Raigarh Ispat Udyog Sangh, Raigarh Vs. M/s. Jindal Steel & Power Limited, Raigarh} to this Court explaining the circumstances, which compelled the Commission to pass the order dated 19th June, 2018 without noticing the petitioner and other affected parties.*

*Explanation will be submitted on or before the next date of hearing by the Regulatory Commission.*

*At this stage, learned Senior Counsel appearing for the petitioner would submit that appeal against the order dated 23.12.2014 is pending consideration before the Appellate Tribunal for electricity since 19th November, 2015 in which, he may be allowed to file an application for impleading respondents No. 2 to 6 herein within a period of one week i.e. after re-opening of the appellate Tribunal.*

*The petitioner is at liberty to move such an application before the appellate authority, which will be considered by the said Tribunal in accordance with law."*

- 27.** Hon'ble High Court has instructed to supply power @ Rs. 4.20/kWh to the respondents No. 2 to 7 / other consumers as stated in the order dated 13.04.2016 & 22.04.2016.
- 28.** On 09.07.2018 petitioner has submitted that members of the RIUS, other consumers and JSPL-D have mutually signed agreement and they have decided to withdraw their respective cases subjudice before Hon'ble ATE and Hon'ble High Court.

In the view of the above developments, the Commission is of the opinion that since the matter related to power supply

to the consumers of JIP is subjudice before Hon'ble High Court, no decision shall be taken in this instant petition till the final decision of Hon'ble High Court in the referred cases.

This petition is disposed off with direction to file a fresh petition considering all the relevant aspects related to the matter.

**Sd/-  
(ARUN KUMAR SHARMA)  
MEMBER**

**Sd/-  
(NARAYAN SINGH)  
CHAIRMAN**

**Annexure -1**

**List of persons attended the hearing in P. No. 17/2018 on  
15.06.2018 at 03:30 pm**

<b>Sl. No.</b>	<b>Name</b>	<b>Organization Name</b>
1.	Shri Manmohan Gupta	M/s Oreon Fearo tungs
2.	Shri A.K. Agrawal	M/s TBAPL
3.	Shri S. Mukherjee	M/s Tirumala Balaji
4.	Shri Rajeev Lochan	M/s Raigarh Iron
5.	Shri Naresh	M/s R.S. Ispat
6.	Shri Ashish Sharma	M/s Maa Shiva Steel
7.	Shri Neeraj Agrawal	M/s Sinena Steel
8.	Shri Dilip Arawal	M/s Maa Bajrang Ispat
9.	Shri A.K. Jain, Director	M/s Iron
10.	Shri P.K. Agrawal	M/s Sairam Steel
11.	Shri S.K. Agrawal	M/s Ganga Ispat (P) Ltd.
12.	Shri S.L. Agrawal	M/s Raja Ispat
13.	Shri S.K. Agrawal	M/s VA Sonam
14.	Shri Mahesh Kr. Agrawal	M/s Survyoday Steel
15.	Shri Amit Agrawal	M/s Jagadamba Sponge
16.	Shri Arvind Sharma	M/s Shri Balaji Ispat
17.	Shri Sanjeev Chauhan	Vice President, JSPL
18.	Shri N.K. Chandiramani	GM- Corp. Affairs, JSPL
19.	Shri Rajesh Garg, Advocate	JSPL
20.	Shri Rajesh Kr Agrawal	A.V.P., JSPL