



ORDER

OF THE

**WEST BENGAL ELECTRICITY REGULATORY
COMMISSION**

IN THE MATTER OF

CASE NO: APR(R)-10/20-21

IN REGARD TO PETITION SUBMITTED BY INDIA POWER CORPORATION LIMITED FOR REVIEW OF FUEL AND POWER PURCHASE COST ADJUSTMENT AND ANNUAL PERFORMANCE REVIEW ORDER DATED 27.11.2020 FOR THE YEAR 2013 – 14 ISSUED BY THE COMMISSION IN CASE NO. FPPCA -69/14-15 AND APR – 47 / 14 – 15.

PRESENT:

**DR MALLELA VENKATESWARA RAO, CHAIRPERSON
SRI PULAK KUMAR TEWARI, MEMBER**

DATE: 13.12.2022



FACTS IN BRIEF

1. This is in regard to the petition submitted by India Power Corporation Limited on 25th January, 2021 in terms of section 94(1)(f) of the Electricity Act, 2003 read with regulation 3.3 of the West Bengal Electricity Regulatory Commission (Conduct of Business) Regulations, 2013 for review of Fuel and Power Purchase Cost Adjustment (FPPCA) and Annual Performance Review (APR) for the year 2013 – 2014 issued by the Commission vide dated 27.11.2020 in case no. FPPCA-69/14-15 and APR-47/14-15.
2. In their review petition, IPCL has sought review on the following points:
 - a) Non-consideration of DVC arrear adjustment amounting to Rs. 834.35 lakh;
 - b) Exclusion of expenses towards employees under contract in regular establishment amounting to Rs. 81.20 lakh;
 - c) Disallowance of production incentive of Rs. 29.40 lakh;
 - d) Correction of error in VRS expenses of Rs. 183.12 lakhs;
 - e) Computation of depreciation;
 - f) Non-consideration of actual expenses towards Coal and Ash Handling Charges;
 - g) Non-consideration of actual amount billed towards Water Charges;
 - h) Consideration of rent received from Corporate Office Building at Salt Lake in the other miscellaneous income; and
 - i) Error in calculation of Weighted Average Interest Rate of 12.08%.

OBSERVATIONS OF THE COMMISSION

3. The Commission observed that, after filing the review petition before the Commission, IPCL has preferred an appeal before the Hon'ble Appellate Tribunal for Electricity (APTEL) in DFR No. 72 Of 2021 and IA No. 302 of 2021. Under Section 114 and Rule 1(2) of Order 47 of the Code of Civil



Review order against petition submitted by India Power Corporation Limited for review of FPPCA and APR order for the year 2013 – 2014 issued by the Commission vide dated 27.11.2020 in case no. FPPCA-69/14-15 and APR-47/14-15.



Procedure, the commission cannot entertain review application on the issues in respect of which an appeal has been filed by the same person before the higher Court.

4. Issues raised in appeal before the Hon'ble APTEL are same as are raised in the review petition pending before this Commission both in terms of letters and spirit. Therefore, the Commission has no jurisdiction to entertain the review petition in respect of which the appeal is pending before higher court of law, in terms of Section 114 and Order 47 rule 1(2) of the Code of Civil Procedure.

ORDER OF THE COMMISSION

5. In view of the above, the Commission dispose of the review petition in the negative.
6. IPCL is to take note of this order.
7. IPCL shall download the copy of the order from the website of the Commission and act on it. Certified copy of the order, if applied for, be given to the parties on completion of formalities laid down in the West Bengal Electricity Regulatory Commission (Conduct of Business) Regulations, 2013, as amended and on submission of necessary fees.

Sd/-
(PULAK KUMAR TEWARI)
MEMBER

Sd/-
(MALLELA VENKATESWARA RAO)
CHAIRPERSON

DATED: 13.12.2022

Sd/-
SECRETARY