ORDER

OF THE

WEST BENGAL ELECTRICITY REGULATORY COMMISSION

IN THE MATTER OF

CASE NO: RP – 9 /24 – 25

APPLICATION SUBMITTED BY WEST BENGAL POWER DEVELOPMENT CORPORATION LIMITED (WBPDCL) FOR REVIEW OF ORDER DATED 19.11.2024 IN CASE NO. OA – 450 / 22 – 23 PASSED BY THE WEST BENGAL ELECTRICITY REGULATORY COMMISSION FOR DETERMINATION OF INPUT PRICE OF COAL FROM CAPTIVE MINE AT GANGARAMCHAK AND GANGARAMCHAK – BHADULIA COAL MINES FOR THE YEARS 2019 – 20, 2020 – 21 AND 2021 – 22

DATE: 24.08.2026

Facts in brief:

1.0 The West Bengal Power Development Corporation Limited (hereinafter referred to as "the review petitioner" or "WBPDCL") submitted an application on 17.01.2025, under Section 94 (1) (f) of the Electricity Act, 2003 and regulation 3.3 of the West Bengal Electricity Regulatory Commission (Conduct of Business) Regulations, as amended from time to time, seeking review of the order dated 19.11.2024 in Case No. OA – 450/ 22 – 23 (hereinafter referred to as "the impugned order"), passed by the West Bengal Electricity Regulatory Commission (hereinafter referred to as "the Commission") for determination of input price of coal from captive mine at Gangaramchak and Gangaramchak – Bhadulia coal mines from 2019 – 20 to 2021 – 22. Subsequently, WBPDCL has also submitted a supplementary petition on 30.06.2025 providing further reasons and justifications to the original petition.

The Commission admitted the aforesaid review application along with the supplementary petition in Case No. RP – 9 / 24 – 25.

2.0 In the instant application, WBPDCL has inter alia sought review on the following issues:

A) Disallowance of capital expenditure amounting to Rs. 6.80 Lakh incurred during 2021 – 22;

B) Disallowance the admitted Interest During Construction from the capital cost while computing depreciation for 2020 – 21 and 2021 – 22;

C) Disallowance Notional Interest During Construction;

D) Disallowance Other Mining Expenses amounting to Rs. 298.36 Lakh for 2020 – 21;

E) Disallowance of escalation of Mining Charge by not considering the month-wise coal supplied from the mine on weighted average basis;

Observations of the Commission:

3.0 The Commission now proceeds to determine whether any case for review has been established by the Review Petitioner under Section 114 and Order 47 Rule 1 of the Code of Civil Procedure (CPC). According to these provisions, a person aggrieved by an order of a court may file a review on the following grounds, provided no appeal against the said order has been lodged:

(a) **Discovery of New Evidence:** The petitioner discovers new and important matter of evidence which, after exercising due diligence, was not within their knowledge or could not be produced at the time the decree was passed or the order was made.

(b) **Apparent Mistake or Error:** There exists a mistake or error apparent on the face of the record.

(c) **Sufficient Other Reasons:** Any other sufficient reason that warrants a review.

3.1 In this connection, reference is made to the following judgments:

(a) **Lily Thomas & Ors. vs. Union of India & Ors. [(2000) 6 SCC 224]:** The Hon'ble Supreme Court held that the power of review is limited to the correction of mistakes and does not extend to substituting views or re-hearing cases. The review cannot be treated as an appeal in disguise, and the mere possibility of differing views does not constitute a ground for review.

(b) **Union of India vs. Sandur Manganese and Iron Ores Limited & Others {(2013) 8 SCC 337}:** The Hon'ble Supreme Court reiterated that the power of review jurisdiction is intended solely for the correction of mistakes, not for substituting views. In **Parsion Devi & Others vs. Sumitri Devi & Others**, it was held that an error must be apparent on the face of the record to justify the exercise of review power under Order 47 Rule 1 of CPC. An error requiring reasoning to detect does not qualify as an apparent error. Additionally, a review petition cannot be used as an appeal in disguise.

(c) **M/S Goel Ganga Developers India Pvt. Ltd. vs. Union of India [2018 SCC Online SC 930]:** The Hon'ble Supreme Court emphasized that the power of review is to be used sparingly and is not akin to appellate power. It should be exercised only when there is an error apparent on the face of the record. Judicial discipline mandates that a review application must be heard by the same Bench, preventing it from becoming an intra-court appeal to another Bench, which would undermine judicial consistency.

A. Disallowance of capital expenditure amounting to Rs. 6.80 Lakh incurred during 2021 – 22:

Submission of WBPDCL:

4.1 WBPDCL stated that the Commission in paragraph 24.4 of the impugned order had disallowed capital expenditure of Rs. 6.80 Lakh claimed towards supply of containerized cabin office stating that such expenditure is to be borne by the MDO in terms of clause 12.1.3 (g) of the Coal Mining Agreement (CMA). WBPDCL in the instant review petition submitted that for the sake of operation of coal mine, the MDO has set up the establishment for their employees in terms of applicable clause of CMA. However, the said containerized cabin office was developed by the petitioner for its own employees engaged in the mine site and this does not fall under the ambit of clause 12.1.3(g) of the CMA. Hence, WBPDCL prayed to allow the expenditure incurred for containerized cabin office as capital expenditure.

Analysis:

4.2 The Commission observes that in the impugned order, the expenditure related to supply of containerized cabin office was disallowed on the premise that such cost was to be borne by the Mine Developer and Operator (MDO) in terms of Clause 12.1.3(g) of the Coal Mining Agreement. However, upon perusal of the submissions made in the review petition, it is noted that the containerized cabin office in question has been established by WBPDCL at the mine site for its own administrative purposes and for deployment of its personnel, which is distinct and separate from the infrastructure required to be created and maintained by the MDO for its operational staff. The Commission is of the considered view that such expenditure, being necessary for the administrative functioning of WBPDCL in relation to coal mining operations, cannot be construed as part of the obligations of the MDO under the aforesaid agreement. Accordingly, the Commission finds merit in the submission of WBPDCL and allows the capital expenditure of Rs. 6.80 lakh towards containerized cabin office under capital cost for FY 2021 – 22. The revised capital cost and consequential impact on such revision in shown in Annexure – I of this order.

B. Disallowance the admitted Interest During Construction from the capital cost while computing depreciation for 2020 – 21 and 2021 – 22:

Submission of WBPDCL:

5.1 WBPDCL submitted that the Commission while computing depreciation amount for FY 2020 – 21 and FY 2021 – 22 had considered the capital cost amounting to Rs. 5139.98 Lakh whereas the actual admitted capital cost for the project was Rs. 5176.75 Lakh as provided in Table 17 of the impugned order. Such reduction in capital cost during computing depreciation has disallowed Rs. 36.77 Lakh admitted as Interest During Construction. WBPDCL has prayed to rectify the computational error.

Analysis:

5.2 The Commission has observed that while the admitted capital cost for the project is Rs. 5176.75 lakh, as recorded in Table 17 of the impugned order, the depreciation was inadvertently computed by considering a reduced capital cost of Rs. 5139.98 lakh. Accordingly, the Commission allows the review on this issue and allows depreciation on the admitted capital cost for FY 2020 – 21 and FY 2021 – 22 as shown in Annexure I of this order.

C. Disallowance Notional Interest During Construction:

Submission of WBPDCL:

6.1 WBPDCL submitted that the Commission has disallowed the claim of Notional Interest During Construction stating that the Regulation 36D of the CERC (Terms and Conditions of Tariff) (Second Amendment) Regulations, 2021 does not provide the notional IDC. WBPDCL in the instant petition has propose to allow notional IDC in line with the CERC order dated 12.06.2024 regarding determination of the input price of coal of Talabira Coal Mine. WBPDCL has accordingly claimed to allow Rs. 677.62 Lakhs as notional IDC for Gangaramchak and Gangaramchak – Bhadulia Coal Mine in view of the order of CERC dated 12.06.2024.

Analysis:

6.2 The Commission in its Tariff Order dated 14.07.2021 in Case No. TP – 85/ 19 – 20 for FY 2018 – 19 and FY 2019 – 20 and Tariff Order dated 08.10.2021 in Case No. TP – 95 / 20 – 21 for FY 2020 – 21, FY 2021 – 22 and FY 2022 – 23 had directed WBPDCL to submit all the details of its allotted captive mines in line with *CERC Second Amendment Regulations* for determination of price of integrated coal mines for the respective years. Accordingly, in compliance to the directive of the Commission, WBPDCL had submitted its petition on 24.03.2023 for determination of input price of coal from captive mine at Gangaramchak and Gangaramchak – Bhadulia for FY 2019 – 20 to FY 2021 – 22.

6.3 The Commission in the impugned order has accordingly determined the input price of coal following the provisions of the CERC Regulations. CERC has specified separate sets of principles for determination of capital cost in respect of (a) generation and transmission and (b) integrated coal mines. The relevant provisions of the CERC (Terms and Conditions of Tariff) (Second Amendment) Regulations, 2021 are reproduced below:

"3(9) ***'Capital Cost'*** *means the capital cost as determined in Regulation 19 of these regulations in respect of generating station or transmission system, as the case may be, and Regulation 36D of these regulations in respect of integrated mine(s)."*

*"**36(D) Capital Cost:** (1) The expenditure incurred, including IDC and IEDC, duly certified by the Auditor, for development of the integrated mine(s) up to the date of commercial operation, shall be considered for arriving at the capital cost.*

(2) Capital expenditure incurred shall be admitted by the Commission after prudence check.

(3) Capital expenditure incurred on infrastructure for crushing, transportation, handling, washing and other mining activities required for mining operations shall be arrived at separately in accordance with these regulations:

Provided that where crushing, transportation, handling or washing are undertaken by the generating company, the expenditure incurred on infrastructures of these components shall be capitalized;

Provided further that where mine development and operation, with or without any component of crushing, transportation, handling or washing are undertaken by the generating company by engaging Mine Developer and Operator or an agency other than Mine Developer and Operator, the capital expenditure incurred by Mine Developer and Operator or such agency shall not be capitalised by the generating company and shall not be considered for the determination of input price.

(4) The capital expenditure shall be determined by considering, but not limited to, the Mining Plan, detailed project report, mine closure plan, cost audit report and such other details as deemed fit by the Commission

(5) In case of integrated mine(s) which have declared the date of commercial operation prior to 1.4.2019, the capital expenditure allowed by the Commission for the period ending 31.3.2019 shall form the basis for computation of input price."

6.4 From the clause (9) of regulation 3 of CERC Regulations it is clear that Capital cost determination principles for integrated mines are different from that of generating station or transmission system. Regulation 19 specifies the principles related to generating station and transmission system, whereas for integrated mines regulation 36D shall be applicable. Unlike Regulation 19 of the CERC Regulations, regulation 36D of CERC do not specify computation of IDC on normative loan. Thus, the Commission in the impugned order has properly computed the IDC on loan component in line with regulation 36(D) of CERC.

D. Disallowance of Other Mining Expenses amounting to Rs. 298.36 Lakh for 2020 – 21:

Submission of WBPDCL:

7.1 WBPDCL stated that the Commission in paragraph 26.21 of the impugned order had disallowed Other Mining Expenses of Rs. 298.36 Lakh stating that such expenditure is to be borne by the MDO in terms of clause 12.1.3 (k) of the Coal Mining Agreement. WBPDCL in the instant review petition submitted that as per clause 12.1.3 (k) of the CMA, the roads within the mine are under the scope of MDO whereas the cost claimed as Other Mining expenses are incurred for repairing roads which are outside of the mine site. Such repair was necessary for smooth transportation of coal. WBPDCL has submitted copies of work order for repair of roads and prayed to allow the expenditure incurred for Other Mining Expenses.

Analysis:

7.2 The Commission has observed that in the impugned order, the Other Mining Expenses amounting to Rs. 298.36 lakh was disallowed considering it to be within the scope of obligations of the MDO under Clause 12.1.3(k) of the Coal Mining Agreement. However, upon perusal of the submissions and supporting documents, including work orders furnished by WBPDCL, it is observed that the expenditure pertains to repair of roads located outside the mine area, which are not covered under the scope of work of the MDO. In view of the above, the Commission is satisfied that the said expenditure is not attributable to the MDO under the aforesaid clause. Therefore, the Commission admits the expenditure of Rs. 298.36 lakh as Other Mining Expenses under the head 'Coal Transportation & allied charges.

E. Disallowance of escalation of Mining Charge by not considering the month-wise coal supplied from the mine on weighted average basis:

Submission of WBPDCL:

8.1 WBPDCL submitted that the Commission in the impugned order has arrived at the annual escalation rate by way of simple average of escalation rates of each quarter. Whereas, as per the terms of CMA, WBPDCL is paying the mining charge comprising actual coal dispatched with applicable escalation rate of the quarter. Thus, to arrive at the annual average rate, instead of simple average of quarterly escalation rates, weighted average of four quarters duly considering the actual quantum of coal needs to be considered.

8.2 WBPDCL further submitted that the Commission in the impugned order has adopted two different approaches while determining the Reference Index values in computation of escalation rate. The Reference Index of quarter prior to the bid submission date (WPI_0, CPI_0 and HSD_0) were computed as average of three months of the quarter, whereas the Reference Index values of the quarter preceding the revision (WPI_1, CPI_1 and HSD_1) were considered as the last month of the quarter. Thus, there is an inconsistency in the approach of the Commission while computing the escalation of the Mining Charge. WBPDCL prayed to consider the WPI_0, CPI_0 and HSD_0 as per the index of last month of the preceding quarter of the bid submission date in terms of the definition of 'Reference Index Date' given in the CMA.

Analysis:

8.3 The Commission observes that in the impugned order, escalation on Mining Charges was computed based on the average of four quarters to arrive at the yearly value by assigning equal weightage to coal dispatch from the mine. The Commission had considered that the impact of actual coal supply from the mine would be addressed at the time of true-up based on actual figures. However, in the instant review petition, WBPDCL has furnished the actual monthly coal dispatch details from the mine to each siding. Accordingly, the Commission is of the view that the escalation can now be computed based on the actual dispatch figures and, therefore, no further adjustment on this account is required for true-up.

The Commission further notes that the indices, namely WPI_0, CPI_0, HSD_0 and WPI_1, CPI_1, HSD_1, are required to be determined in a consistent manner in terms of the provisions of the Coal Mining Agreement. Accordingly, the Commission recomputes the escalation on Mining Charges in accordance with the provisions of the Coal Mining Agreement, considering quarterly escalation linked to actual coal dispatch and adopting the reference indices as per the CMA.

8.4 The Commission observes that the grounds urged in respect of the issues enumerated under **'C'** do not warrant interference in review and accordingly, rejected. However, the Commission finds merit in the review sought on the issues at **'A'**, **'B'**, **'D' and 'E'** and accordingly allows the same.

8.5 Consequently, to give effect to the aforesaid findings, the revised computations for determination of input price of coal are set out in **Annexure** – I to this Order along with the revised tables. As the year has already been completed, the revised input price of the coal is determined in **Table 10** of Annexure-1 considering the actual quantum of coal dispatched as proposed by WBPDCL.

Order:

9.0 Considering the facts and observations stated above, the Commission admits Rs. 1911.08 per MT for FY 2020 – 21 and Rs. 1958.05 per MT for FY 2021 – 22 as input price of coal from captive mine at Gangaramchak and Gangaramchak – Bhadulia coal mines considering the actual coal dispatched during the years.

10.0 The review petition is hereby disposed of.

11.0 A copy of this Order shall be posted on the official website of the Commission.

12.0 WBPDCL is directed to download the copy of this Order from the Commission's website and act accordingly. Certified copies of this Order, upon application and fulfilment of the requisite formalities as per the West Bengal Electricity Regulatory Commission (Conduct of Business) Regulations, 2013, as amended, and upon submission of necessary fees, shall be provided to the parties.

Sd/-

(DR. MALLELA VENKATESWARA RAO)
CHAIRPERSON

Dated: 24.08.2026

Sd/-

DEPUTY DIRECTOR, WBERC

Annexure – I

Table 1: Capital Cost

Rs. Lakh

Particulars	Cost as on COD i.e. 01.04.2020	Addition during FY 2020-21	Total Capital Cost upto FY 2020 – 21	Addition during FY 2021-22	Total Capital Cost upto FY 2021-22
Approved Capital Cost as per table-17 of the impugned order	4998.14	178.61	5176.75	0.00	5183.55
Add: Capital cost for containerised cabin in para 4.2 of this order				6.80	
Revised admitted Capital Cost	**4998.14**	**178.61**	**5176.75**	**6.80**	**5183.55**

Table 2: Depreciation

Rs. Lakh

Particulars	FY 2020-21	FY 2021-22
Approved Depreciation as per table-22 of the impugned order	856.66	856.66
Add: Depreciation of containerised cabin admitted in para 4.2 of the order		0.43
Add: Additional depreciation as for the balance amount of capital cost (Rs. 5176.75 – Rs. 5139.98 lakh) as admitted in para 5.2 of this order	6.13	6.13
Revised admitted Depreciation	**862.79**	**863.22**
Note: Depreciation rates as per Table -21 of the impugned order		

Table 3: Coal Transportation and Allied Charged

Rs. Lakh

Particulars	FY 2020-21	FY 2021-22
Approved Depreciation as per table-22 of the impugned order	1723.78	162.41
Add: Expenses towards road repair as admitted in para 7.2 of this order	298.36	
Revised admitted expenses	**2022.14**	**162.41**

Table 4: IMPACT OF REVIEW ON THE COAL EXTRACTION COST FOR FY 2020 – 21 AND FY 2021 – 22

Rs. Lakh

Sl No	Particulars	FY 2020-21		FY 2021-22	
		Impugned order	Revised order	Impugned order	Revised order
A	Interest on Loan Capital				
	Opening Loan	3498.70	3498.70	2767.07	2760.94
	Addition during the year	125.03	125.03	0	4.76
	Repayment	856.66	862.79	856.66	863.22
	Closing Loan	2767.07	2760.94	1910.41	1902.48
	Average normative Loan	3132.89	3129.82	2338.74	2331.71

Rs. Lakh

Sl No	Particulars	FY 2020-21		FY 2021-22	
		Impugned order	Revised order	Impugned order	Revised order
	Interest rate	9.00%	9.00%	9.00%	9.00%
	Interest	**281.96**	**281.68**	**210.49**	**209.85**
	Impact on Interest on Loan ----A		-0.28		-0.64
B	**Return on Equity**				
	Opening Equity	1499.44	1499.44	1553.02	1553.02
	Addition during the year	53.58	53.58	0	2.04
	Closing Equity	1553.02	1553.02	1553.02	1555.06
	Average Equity	1526.23	1526.23	1553.02	1554.04
	Base rate of RoE	14.00%	14.00%	14.00%	14.00%
	Effective Tax Rate	17.47%	17.47%	17.47%	17.47%
	Rate of RoE	16.964%	16.964%	16.964%	16.964%
	Return on Equity (RoE)	**258.90**	**258.90**	**263.45**	**263.63**
	Impact on Return on Equity ----B		0.00		0.18
C	**Interest on Working Capital**				
	Input cost of coal stock (7days)	365.86	372.34	381.78	384.28
	Stores & Spares (15% of O&M Exp)	0	0	0	0
	O&M Expenses excluding Mining charges (1month)	0	0	0	0
	Working Capital	365.86	372.34	381.78	384.28
	Interest rate *	10.50%	10.50%	10.50%	10.50%
	Interest on Working Capital (WC)	**38.42**	**39.1**	**40.09**	**40.35**
	Impact on Interest on Working Capital ---C		0.68		0.26

Table 5: REVISED EXTRACTION COST OF COAL

Particulars	Units	FY 2020-21	FY 2021-22
Total Extraction + Transportation cost approved in Table-36	Rs. Lakh	3534.64	1945.61
Add: Additional depreciation as in Table-2	Rs. Lakh	6.13	6.56
Add: Additional cost on Coal Transportation & allied charges as in Table -3	Rs. Lakh	298.36	0
Add: Impact on Interest on Laon as in Table-4	Rs. Lakh	-0.28	-0.64
Add: Impact on Return on equity as in Table-4	Rs. Lakh	0.00	0.18
Add: Impact on Interest on WC as in Table-4	Rs. Lakh	0.68	0.26
Revised Extraction + Transportation Cost	Rs. Lakh	**3839.53**	**1951.97**
Total Quantum of coal	Tonne	1200835	1342879
Extraction Cost per Tonne	Rs. / Tonne	**319.74**	**145.36**

Table 6: COMPUTATION OF ESCALATION OF MINING CHARGE FOR FY 2020 – 21

Particulars\ Quarter ending	June – 20	Sept – 20	Dec – 20	March – 21
WPI_O	176.80	176.80	176.80	176.80
WPI_1*	197.46	195.65	201.56	205.66
CPI_O	269.00	269.00	269.00	269.00
CPI_1*	326.00	332.00	340.13	342.14
HSD_O	181.70	181.70	181.70	181.70
HSD_1*	249.12	206.21	224.06	229.82
Base Mining Charge (Rs. /MT)	930.45	930.45	930.45	930.45
Mining Charge for the Quarter (Rs. /MT)	1110.49	1047.38	1089.61	1105.60
Escalation in Mining Charge (Rs. /MT)	180.04	116.93	159.16	175.15
Average Escalation in Mining Charge for the year 2020-21 (Rs./MT)	**168.66**			

**The conversion factors for WPI and CPI for conversion to series prevailing at the time of bidding has been considered as 1.64, 2.88 and 2.88 for WPI, HSD and CP*

Quarter-wise Coal Transported in MT during FY 2020 - 21

Particulars	For receipt at Dumper	For receipt at PFPD Rly Siding	For receipt at Hazratpur Rly Siding
Quarter – 1	23056.88	371579.40	0.00
Quarter – 2	23332.45	61757.32	0.00
Quarter – 3			298160.79
Quarter – 4			422948.49
Total	**46389.33**	**433336.72**	**721109.28**

Table 7: COMPUTATION OF ESCALATION OF MINING CHARGE FOR FY 2021 – 22

Particulars\ Quarter ending	June – 21	Sept – 21	Dec – 21	March – 22
WPI_O	176.80	176.80	176.80	176.80
WPI_1*	213.04	219.27	225.34	235.01
CPI_O	269.00	269.00	269.00	269.00
CPI_1*	344.45	350.50	355.10	361.15
HSD_O	181.70	181.70	181.70	181.70
HSD_1*	298.37	329.76	340.13	391.97
Base Mining Charge (Rs. /MT)	882.33	882.33	882.33	882.33
Mining Charge for the Quarter (Rs. /MT)	1159.37	1217.83	1244.29	1336.84
Escalation in Mining Charge (Rs. /MT)	277.04	335.50	361.96	454.51
Average Escalation in Mining Charge for the year 2021-22 (Rs./MT)	**373.90**			

**The conversion factors for WPI and CPI for conversion to series prevailing at the time of bidding has been considered as 1.64, 2.88 and 2.88 for WPI, HSD and CP*

Quarter-wise Coal Transported in MT during FY 2021 - 22

Particulars	For receipt at Dumper	For receipt at Hazratpur Rly Siding
Quarter – 1	1612.06	251698.36
Quarter – 2	53154.29	126122.31
Quarter – 3		453387.24
Quarter – 4		456904.91
Total	**54766.35**	**1288112.82**

Table 8: REVISED MINING CHARGE FOR FY 2020 – 21 AND FY 2021 – 22

Particulars	Unit	FY 2020-21	FY 2021-22
Base Mining Charge – as per Table 43 of the impugned order	Rs. / Tonne	930.45	882.33
Add: Revised Escalation – as per Table 6 and 7 of this order		168.66	373.90
Less: Adjustment for LD – as per Table 43 of the impugned order		0.24	0.00
Revised Mining Charges		**1098.87**	**1256.23**

Table 9: REVISED ROM COST FOR FY 2020 – 21 AND FY 2021 – 22

Sl. No.	Particulars	Units	FY 2020-21	FY 2021-22
1	Revised Extraction Cost – as per Table 5 above	Rs. /Tonne	319.47	145.36
2	Revised Mining Charge – as per Table 8 above		1098.87	1256.23
3	Fixed Reserve Price – as per Table 45 of the impugned order		100.00	100.00
4	**Revised ROM Cost (4=1+2+3)**		**1518.61**	**1501.59**

Table 10: REVISED INPUT PRICE OF COAL FOR FY 2020 – 21 AND FY 2021 – 22

Particulars	Unit	FY 2020-21	FY 2021-22
Revised ROM Cost – as per Table 9 above	Rs. / MT	1518.61	1501.59
Statutory Charges – as per Table 47 of the impugned order		392.47	456.46
Revised Input Price		**1911.08**	**1958.05**