



KERALA STATE ELECTRICITY BOARD LIMITED

(Incorporated under the Companies Act, 1956)

CIN: U40100KL2011SGC027424

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ABSTRACT

Payment of Advocate fee in the Petitions filed by KSEBL - Sanction accorded - Orders issued.

Corporate Office (Commercial & Tariff)

B.O. (FTD)No .757 /2020(KSEB/TRAC/CG/JPL case/2020-21 dtd. 21 -12-2020

Read: 1. Office Order (CMD)No. 1158/2020(KSEB/CG/TRAC/SHR Jhabua/2019-20/ dated 27 .08.2020

2. Office Order (DF) No.1225/2020(KSEB/CG/TRAC/SHR Jhabua/2019-20/ dated. 22 .09.2020.

3. Appeal DFR No.336 of 2020 filed by KSEBL before the APTEL.

4. Appeal DFR No.369 of 2020 filed by JITPL before the APTEL.

5. B.O. (FTD)No. 713/2020(KSEB/TRAC/CG/JITPL/2020-21/ dated 24.11.2020

6. Memo of fee dated 11-11-2020 of Adv.Prabhas Bajaj.

7. Letter dated 5-12-2020 of Adv.Prabhas Bajaj

8. Memo of fee of Sr.Adv.Maninder Singh.

9. Note No. KSEB/TRAC/CG/JPL Case/2020-21 dated 14-12-2020 of the Deputy Chief Engineer (Commercial & Planning) with full powers of Chief Engineer (Agenda 33/12/2020).

ORDER

KSEB Limited has entered into a Power Purchase Agreement with M/s. Jhabua Power Limited on 26.12.2014 for procuring 115 MW RTC power for 25 years. The firm started supplying the power with effect from 22-12-2016. However, the claim of the firm for monthly bills including fixed and fuel charges were not in accordance with the provisions in the PSA in the matter of SHR. Hence KSEBL had not been admitting fully the claim of the firm citing discrepancies in the value of SHR and GCV.

The Jhabua Power Ltd. filed a petition before the CERC for adjudication of the issue. The CERC vide order dated 25-05-2020 decided on the matter. The order of CERC has turned out to be in favour of Jhabua Power Ltd and will cause huge additional expenses for KSEBL. KSEBL as per the order read as 1st above decided to file appeal against the order of CERC and to engage Adv.Maninder Singh, Sr.Advocate, Supreme Court for dealing this case before the APTEL as per the terms and conditions specified in the annexure to the order and also to engage Adv.Prabhas Bajaj for assisting the Senior Advocate.

The Application for Stay along with the Appeal - DFR No. 336 of 2020 filed by KSEBL was taken up for hearing before the Hon'ble APTEL on 4.2.2020 and Shri Maninder Singh, Senior Advocate along with Adv.Prabhas Bajaj had appeared on behalf of KSEBL on 4.2.2020. After hearing the submissions of the parties, the Hon'ble Tribunal directed Jhabua Power Ltd not to precipitate the matter till final decision is made after hearing the matter in detail. This is equivalent to obtaining stay for the CERC order.

Adv. Prabhas Bajaj vide letter dated 5-12-2020 has forwarded the memo of fee of Shri.Maninder Singh, Senior Advocate along with his memo of fee in connection with the appeal. The details of fee claimed by Shri.Maninder Singh and Adv.Prabhas Bajaj are submitted below.

Sl.No.	Particulars	Amount (Rs)
Fee details of Adv.Prabhas Bajaj in appeal DFR no.336 of 2020		
1	Towards drafting rejoinder	40,000
2	Towards appearance on 4-12-2020	50,000
3	Towards conference with Sr.Adv.Maninder Singh for 2 hours on 3-12-2020	30,000
4	Towards conference with Sr.Adv.Maninder Singh on 4-12-2020	15,000
5	Clerkage charges @10% of (1+2+3+4)	13,500
	Total	1,48,500
Fee details of Sr. Adv.Maninder Singh in appeal DFR no.336 of 2020		
1	Towards conference with Adv.Prabhas Bajaj on 3-12-2020 for 2 hours	1,10,000
2	Towards conference with Adv.Prabhas Bajaj on 4-12-2020	55,000
3	Towards appearance (effective) on 4-12-2020	5,50,000
4	Clerkage charges @10% of (1+2+3)	71,500
	Total	7,86,500

Petition No.428/MP/2019 : KSEBL executed two long term Power Purchase Agreements (PPAs) with the Maithon Power Limited, a joint venture company between the Tata Power Company Ltd and Damodar Valley Corporation.

- PPA 1 (150MW) on 30-12-2013 for procuring RTC power from Maithon Right Bank Thermal Power Project in Jharkhand. The period of the PPA is valid till 31-12-2038. The Long Term Access was applied for contracting the power from the project on 1-1-2014 for which notional LTA was granted with effect from 1-04-2015.
- PPA2 (150 MW) on 29-06-2015 for procuring RTC power from Maithon Right Bank Thermal Power Project in Jharkhand for the period from 1-6-2016 to 31-5-2041. The application for grant of LTA with the firm PPA of Maithon Power Ltd. for drawing 140.5MW (quantum excluding auxiliary consumption) from 1-6-2016 to 31-5-2041 was filed before CTU on 30-6-2015.

KSEBL applied for LTA and MTOA for the above 2 PPAs considering the urgent requirement of power and the anticipated delay in getting corridor. The grant of LONG TERM open access during those period was in a flux due to irregular procedure adopted by PGCIL which was later corrected as per the orders of CERC issued consequent to the petition filed by KSEBL. The MTOA got granted for the above 2 PPAs before grant of LTA due to the above irregular procedure, and subsequently LTA got granted on PGCIL correcting the procedure. The MTOA was subsequently relinquished by KSEBL on grant of LTA.

After the grant of LTA, PGCIL raised demand for relinquishment charges for the relinquished MTOA citing CERC Regulation. Since the grant of MTOA was due to the irregular procedure of PGCIL, KSEBL did not admit the claim and intimated the matter to PGCIL and requested for waiver of relinquishment charges. However, PGCIL has not accepted the request and warned that they are going to regulate the supply if relinquishment charges are not paid. Since as per the Regulation, CERC is the statutory authority to resolve the disputes,

KSEBL filed a petition before CERC for intervention and for quashing the demand raised by PGCIL. Considering the importance of the matter, KSEBL decided to file a petition before CERC and to engage a counsel to appear before CERC during the deliberations of the petition and to deal with the petition. The respondent PGCIL filed counter on the petition and rejoinder was filed on the counter. Adv.Prabhas Bajaj has claimed fee for drafting and filing the rejoinder as follows:

Sl.No.	Particulars	Amount (Rs)
Fee details of Adv.Prabhas Bajaj in Petition No.428/MP/2019		
1	Towards drafting rejoinder	40,000
2	Clerkage charges @10% of (1)	4,000
	Total	44,000

Appeal DFR No.369 of 2020 filed by JITPL before APTEL.

M/s.Jindal India Thermal Power Ltd.(JITPL) one of the generator under bid-2 has filed an appeal before APTEL challenging the order of KSERC dated 14-02-2020 in Petition No.OA 29 of 2019 and order dated 27-4-2020 in OA 2 of 2020, read with common order dated 14-08-2020 passed in Review Petition No.2 of 2020 and 4 of 2020. M/s.JITPL has also prayed that the procurement of power of 100MW capacity by KSEBL from the Appellant's power project stands approved in the PSA dated 29-12-2014 stands adopted in terms of Section 63 of the EA,2003 and the guidelines issued thereunder. KSEBL is the second respondent in the appeal. KSEBL as per the order read as 5 has engaged Adv.Prabhas Bajaj for dealing this case before the APTEL. The hearing on this case was held on 20-11-2020 and Adv.Prabhas Bajaj prepared the counter of KSEBL and appeared before APTEL. His memo of fee for the same has also been furnished as follows:

Sl.No.	Particulars	Amount (Rs)
Fee details of Adv.Prabhas Bajaj in Appeal DFR No.369 of 2020		
1	Towards drafting rejoinder	40,000
2	Towards conference	15,000
3	Towards appearance	50,000
4	Clerkage charges @10% of (1+2+3)	10,500
	Total	1,15,500

The total fee claim of Adv.Prabhas Bajaj for the above petitions and Sr.Adv.Maninder Singh are submitted below:

Sl.No.	Particulars	Amount (Rs)
Total Fee details of Adv.Prabhas Bajaj		
1	Appeal DFR no.336 of 2020	1,48,500
2	Petition No.428/MP/2019	44,000
3	Appeal DFR No.369 of 2020	1,15,500
	Total	3,08,000
Fee details of Sr. Adv.Maninder Singh		
1	Appeal DFR no.336 of 2020	7,86,500
	Total	7,86,500

The Deputy Chief Engineer (Commercial & Planning) with full powers of Chief Engineer as per the note read as 9th above placed the memo of fee before the Full Time Directors and recommended to approve the fee claimed by the Sr.Adv.Maninder Singh amounting to Rs.7,86,500/- (Rupees Seven Lakh Eighty Six Thousand Five Hundred only) towards fee in Appeal petition and Adv.Prabhas Bajaj amounting to Rs. 3,08,000/- (Rupees Three Lakh Eight Thousand only).

Having considered the matter in detail, the Full Time Directors in its meeting held on 16-12-2020, resolved to accord sanction for the following:

1. To approve the fee and other charges claimed by the Sr.Adv.Maninder Singh amounting to Rs.7,86,500/- (Rupees Seven Lakh Eighty Six Thousand Five Hundred only) towards fee in Appeal Petition DFR no.336 of 2020 for arranging payment.
2. To approve the fee and other charges claimed by Adv.Prabhas Bajaj amounting to Rs. 3,08,000/- (Rupees Three Lakh Eight Thousand only) for arranging payment.
3. To authorize the Deputy Secretary (Administration) to release the Advocate Fee in favour of Sr.Adv.Maninder Singh and Adv.Prabhas Bajaj after deducting statutory deductions through RTGS.

Orders are issued accordingly.

By order of the Full Time Directors,
Sd/
Lekha G.
Company Secretary

To

1. The Deputy Secretary (Administration)

Copy to:

Financial Advisor.

Deputy Chief Engineer (TRAC)/ Commercial

Stock file

Library

Forwarded by order


Asst: Exe.Engineer