



KERALA STATE ELECTRICITY BOARD LIMITED

(Incorporated under the Companies Act, 1956)

CIN: U40100KL2011SGC027424

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ABSTRACT

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

Corporate Office (Commercial & Tariff)

Board Order (FTD)No 671/2020(KSEB/TRAC/CG/JPL Case/2020-21 dtd. 6-11-2020

Read: 1.Petition No.169/MP/2019 filed by Jhabua Power Ltd.before CERC.

2. CERC order dtd. 25-5-2020 in Petition No.169/MP/2019
3. Office order (CMD)No. 1158/2020(KSEB/CG/TRAC/SHR Jhabua/2019-20/ dtd. 27 .8.2020
4. Letter dated 7-9-2020 of Adv.Prabhas Bajaj
5. Office order (DF) No.1225/2020(KSEB/CG/TRAC/SHR Jhabua/2019-20/ dtd. 22 .9.2020
- 6.Appeal DFR No.336 of 2020 filed by KSEBL before the APTEL.
7. Letter dated 17-10-2020 of Adv.Prabhas Bajaj
8. Note no. TRAC/CG/JPL Case/2020-21 dated 30-10-2020 of Deputy Chief Engineer (Commercial & Planning) with full powers of Chief Engineer (Agenda 31/11/2020).

ORDER

KSEB Limited has entered in to 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.

Jhabua Power Ltd. filed a petition before the CERC for adjudication of the issue. The CERC as per order read 2 above 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 order read 3 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 APTEL and present the matter before 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.

Accordingly, Adv.Prabhas Bajaj has briefed Sr.Adv.Maninder Singh on the mater involved in the appeal and discussions on the same were held with KSEBL officials on 15-10-2020. The Application for Urgent Listing alongwith the Appeal - DFR No. 336 of 2020 filed by KSEBL was taken up for hearing before the Hon'ble APTEL on 16.10.2020. Shri Maninder Singh, Senior Advocate alongwith Adv.Prabhas Bajaj had appeared before the Hon'ble APTEL on 16.10.2020.

It was, inter alia, submitted on behalf of KSEBL that the judgment dated 25.05.2020 passed by CERC is erroneous and contrary to law and further, it has resulted in creating a huge financial liability for KSEBL. Submissions were made in support of the Application for Stay, inter alia, to the effect that adopting two different SHR values for the same generating plant was impermissible in law, and that Respondent No.2

(Jhabua Power Limited) stands to be unjustly enriched by crores of rupees, at the cost of the consumer, if the impugned judgment is not stayed. It was further submitted that Respondent No.2 is undergoing insolvency proceedings and even if KSEBL finally succeeds in the Appeal, once the money has gone to Respondent No.2 and the consumers are out of pocket, it would not be possible to recover the money from Respondent No.2, owing to the insolvency proceedings. It was prayed that the Appeal alongwith the Application for Stay would deserve to be taken up at the earliest date convenient to the Tribunal, for considering the interim prayers. The Jhabua Power Limited was also represented at the hearing through its Advocate.

After hearing the submissions of the parties, the Hon'ble Tribunal was pleased to issue Notice in the Appeal as well as the Application for Stay. The Hon'ble Tribunal further directed that the Application for Stay be listed for further hearing on 04.12.2020. The daily order of APTEL is enclosed.

Adv. Prabhas Bajaj as per letter read 7 above 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 appearance (effective) on 16-10-2020	50,000
2	Towards conference with Sr.Adv.Maninder Singh on 15-10-2020 and KSEBL officials	15,000
3	Towards conference with Sr.Adv.Maninder Singh on 16-10-2020	15,000
4	Clerkage charges @10% of (1+2+3)	8,000
	Total	88,000
Fee details of Sr. Adv.Maninder Singh in appeal DFR no.336 of 2020		
1	Towards conference with Adv.Prabhas Bajaj along with officials on 15-10-2020	55,000
2	Towards conference with Adv.Prabhas Bajaj on 16-10-2020	55,000
3	Towards appearance (effective) on 16-10-2020	5,50,000
4	Clerkage charges @10% of (1+2+3)	66,000
	Total	7,26,000

The Deputy Chief Engineer(Commercial & Planning) with full powers of Chief Engineer as per the note read as 8 above placed the matter before the Full Time Directors and recommended to approve the fee claimed by the Sr.Adv.Maninder Singh amounting to Rs.7,26,000/- (Rupees Seven Lakh Twenty Six Thousand only) towards fee in Appeal petition and Adv.Prabhas Bajaj amounting to Rs. 88,000/- (Rupees Eighty Eight Thousand only).

Having considered the matter in detail, the Full Time Directors in its meeting held on 4-11-2020, resolved to approve the following:

1. Fee and other charges claimed by the Sr.Adv.Maninder Singh amounting to Rs.7,26,000/- (Rupees Seven Lakh Twenty Six Thousand only) towards fee in Appeal petition against CERC order dated 25-5-2020 in Petition No.169/MP/2019.
2. Fee and other charges claimed by Adv.Prabhas Bajaj amounting to Rs. 88,000/- (Rupees Eighty Eight Thousand only).

Further resolved to authorize Deputy Secretary (Administration) to release the Advocate fee in favour of Sr.Adv.Maninder Singh and Adv.Prabhas Bajaj after deducting statutory deductions.

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