

**Before the  
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION  
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**Case No. 54 of 2015**

**Date: 28 January, 2016**

**CORAM: Shri. Azeez M. Khan, Member  
Shri. Deepak Lad, Member**

In the matter of Petition filed by Rattan India Power Limited, under Section 86 (1) (f) of the Electricity Act, 2003 read with Article 4.7.1 of the PPA dated 05.06.2010 seeking quashing of the notice dated 07.05.2015 of the MSEDCL seeking Liquidated Damages

Rattan India Power Limited (RIPL)	...Petitioner
V/s	
Maharashtra State Electricity Distribution Company (MSEDCL)	...Respondent

Advocates for the Petitioner: Adv. J. J. Bhatt

Advocates for the Respondent: Adv. Deepa Chawan

**Daily Order**

The Commission informed the parties that since the final Order could not be issued before the Chairperson demitted Office on 9 November, 2015, this matter is scheduled for rehearing. Parties requested the Commission to take on record all their earlier submissions and gave their consent to hear and decide this matter in continuance of the earlier proceedings.

Advocate of the Petitioner briefly summarized the chain of events in the case. On being asked by the Commission, he informed the time lines specified for its generating Units as well as the transmission line for evacuation as stipulated under the Power Purchase Agreement. Further, on query from the Commission, Shri. Bhatt informed that the generation Units were not ready to supply on the Scheduled Delivery Date (SDD).

Shri. Bhatt further mentioned that, as regards Article 4.1.1 and 4.3.1 of the PPA, the provisions are mutually supplemental and interdependent. Articles 4.2 and 4.3 clearly show that they are reciprocal to each other. MSEDCL, throughout the period of commissioning of RIPL's power plant leading to commencement of supply of 750 MW, had acted in a manner which makes it clear that obligation of the Petitioner to commence supply of power and

MSEDCL's obligation to provide transmission infrastructure under the PPA are mutually co-existing and inter-dependant. Obligations of both the parties are reciprocal promises, which could not decide who has to act first.

During the period for which MSEDCL is claiming Liquidated Damages for power procured on short term basis due to non-commencement of power supply by RIPL on the SDD, MSEDCL had sold surplus power through IEX as well as and also to BEST, which is contrary to MSEDCL's claims of alleged loss.

Ms. Deepa Chawan submitted that MSEDCL has already provided its submission in previous proceedings. She questioned RIPL's reliance on the force majeure conditions which arose regarding evacuation arrangements/Transmission Network. As per PPA, RIPL would have informed MSEDCL regarding the status of the commissioning of Units for which PPA is executed on or prior to SDD. She cited a hypothetical example stating that, in case a Generator is hit by a Force Majeure due to environmental issues by a Court Order in the middle of the project, whether the transmission line developer could have said that, because of Force Majeure on Generator side, it could not commission the evacuation line.

**The Case is reserved for the Orders.**

**Sd/-  
(Deepak Lad)  
Member**

**Sd/-  
(Azeez M. Khan)  
Member**