

# Delhi Electricity Regulatory Commission

Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 17

No. F. 11(1289)/DERC/2015-16/

## Petition No. 69/2015

**In the matter of:** Petition u/S 86(1)(b) read with Section 86(1)(f) of the Electricity Act 2003 seeking appropriate Orders/directions in relation to the bidding process being conducted by the Respondent under the DBFOO Guidelines pursuant to RFP dated 10.06.2015

Lanco Anpara Power Ltd.  
Through : its Managing Director  
397, Udyog Vihar,  
Phase III, Gurgaon 122 016

.....Petitioner

vs.

Tata Power Delhi Distribution Ltd.  
Through its Managing Director  
Grid Sub Station Building  
Hudson Lines, Kingsway Camp,  
Delhi 110 009

....Respondent

**Coram:** Sh. P. D. Sudhakar, Chairperson  
Sh. J. P. Singh, Member  
Sh. B.P. Singh, Member

### **Appearance:**

1. Mr. Jayant Bhushan, Sr. Advocate, Lanco Anpara
2. Mr. Deepak Kumar, Advocate, Lanco Anpara
3. Mr. Vikas Mishra, Advocate, Lanco Anpara
4. Mr. Vishal Anand, Advocate, TPDDL
5. Mr. Rahul Kinra, Advocate, TPDDL
6. Mr. Arun Tholia
7. Mr. M. Narasimha Murthy
8. Mr. Navasinga Kiran,
9. Ms. Shikha Pandey
10. Mr. Mithun Chakraborty
11. Mr. Sumit Schdev
12. Mr. Sandeep Kumar
13. Ms. Nayantara

### **INTERIM ORDER**

(Date of Hearing: 14.09.2015)  
(Date of Order: 06.10.2015)

1. M/s Lanco Anpara Power Ltd. has filed a petition u/S 86(1)(b) read with Section 86(1)(f) of the Electricity Act, 2003 seeking directions in relation to the bidding process being conducted by the Respondent, viz, TPDDL under the DBFOO Guidelines pursuant to RFP dated 10.06.2015. The Petitioner has challenged the procurement process which TPDDL has initiated to source the powers from generators through competitive bidding. The Petitioner has contended that in the RFP for procurement of power supply, they have deviated from the standard documents which have been prescribed by the Government of India. In this regard as per the guidelines issued by MoP, GOI any deviation requires prior approval of the appropriate Commission. These Guidelines are statutory in nature which stipulates that any deviation from the Standard Billing Documents shall be made only with the prior approval of the Commission.

2. The Sr. Counsel appearing on behalf of the Petitioner whilst bringing out certain missing links in the Guidelines issued by MOP, urged that the guidelines may be correctly interpreted and requested to take cognizance of the deviation in following the procedure for the competitive bidding. He contended that in terms of Section 63 of the Electricity Act, 2003 it is incumbent that the bidding process should be a thorough transparent process of bidding in consonance with the Guidelines issued by the MOP Government of India.
3. The Counsel appearing on behalf of the Respondent submitted that though there may be some deviation in the process but they are supported by Law. He further submitted that they have filed a petition before CERC for surrender of some power which is costly. This bidding is being undertaken to find out cheaper source of power to reduce the tariff for the consumer of Delhi. The Petition is likely to be listed in the 3<sup>rd</sup> week of September, 2015 before CERC.
4. Advocate appearing on behalf of Respondents urged to observe the conduct of the Petitioner who has not come to the Commission with clean hands. It has been argued that the Petitioner preferred application at the last moment when the bidding was to commence. It has also been alleged that if the Petitioner had any grievances, he could have raised his concern long back with the Respondents. It has been contended that the last audit was issued on 10.08.2015 by TPDDL and OBD was forwarded 1 month after giving ample time to examine the amendments/tender documents and file the petition. In response, the Petitioner submitted that he had taken up his concern in writing and the records will speak for itself.
5. The Commission after hearing the arguments of both the parties observed that it is an admitted fact that DBFOO guidelines issued by MOP, GOI are statutory in nature in as much as the same are issued pursuant to Section 63 of the Electricity Act, 2003 which provides for procurement of electricity by competitive bidding process. The guidelines were amended on 16.04.2015 to provide that any deviation therefrom can be made only with the approval of appropriate Commission. Accordingly, the petition is admitted with the direction to the Respondent to file its reply within two weeks with an advance copy to the Petitioner. The Petitioner may also file rejoinder within two weeks thereafter. Meanwhile the Respondent shall maintain "*status-quo*" in respect of instant bidding process.
6. The next date of hearing will be informed in due course.
7. Ordered Accordingly.

Sd/-  
(B.P. Singh)  
Member

Sd/-  
(J. P. Singh)  
Member

Sd/-  
(P. D. Sudhakar)  
Chairperson