06.02.2026
DL-74
Ct. No. 07
Srimanta

In the High Court at Calcutta

Constitutional Writ Jurisdiction
Appellate Side

WPA 24150 of 2025

Indian Power Corporation Limited & Anr.
-Vs.-
The West Bengal State Electricity Transmission Company Limited & Anr.

Mr. Tridib Bose,
Mr. Rahul Poddar
…for the petitioners.

Mr. Swapan Kumar Dutta, Ld. G.P.,
Mr. Jayanta Samanta
…for the State.

Mr. Abhratosh Majumder, Sr. Adv.,
Mr. Sujit Sankar Koley
…for the WBSETCL.

1. Despite the endorsement in the list of the file not being available, by the time the matter was taken up for hearing, the file had been produced by the Department. Both parties consented to the matter being taken up for hearing.

2. The writ petition has been filed challenging a communication dated 9 October, 2025. By the impugned communication a demand for Rs.8,95,54,969/- has been raised by the respondent no.1 against the petitioner.

3. Briefly, the petitioner no.1 India Power Corporation Limited is a licensed electricity

distribution company supplying power to the Asansole and Raniganj region. In course of business, the petitioner purchases power from various generating companies and depends on the respondent nos.1 and 2 for transmission and standing clearance for drawal and injection of electricity.

4. By an order dated 1 February 2024, the West Bengal Electricity Regulatory Commission had *inter-alia* directed the petitioners to make payment of deviation charges including late payment surcharge within one month.

5. There has been no challenge to the above order by the petitioner or any other party. There is no stay nor embargo of any kind whatsoever of the order dated 1 February 2024 and the same has attained finality and is binding on all parties.

6. Pursuant to the above order passed by the WBERC, the respondent no.1 has by repeated correspondence dated 1 August 2024 and 26 December 2024 respectively raised a demand on the petitioner no.1. By a communication dated 27 December 2024, the respondent no.1 has sought for time to make such payment. For convenience the communication dated 9 October, 2025 is set out below:-

"In compliance of the order of the Hon'ble WBERC vide Case No. OA-418/22-23 dated 01.02.2024, IPCL was directed by the Hon'ble WBERC to deposit all their outstanding dues to the State DSM Pool within 30 days from the date of the order i.e. by 2nd March, 2024.

However it has been observed that in compliance of the said direction of the Hon'ble WBERC and also several communications, the total outstanding DSM balance as on 08.10.2025 stood at Rs.8,95,54,969.00 (Rupees Eight Crore Ninety Five Lakh Fifty Four Thousand Nine Hundred Sixty Nine Only).

Therefore, you are again strongly advised to comply with the order of the Hon'ble WBERC and deposit all outstanding DSM as on 08.10.2025 amounting to Rs.8.9554 crore to the State DSM Pool Fund immediately."

7. It is pertinent to mention that the payment of DSM and late payment surcharge is an ongoing and continuous process. It is also an admitted position that the petitioner has made periodic payments on account of both Deviation Settlement Mechanism (DSM) and Late Payment Surcharge (LPS). By the impugned communication, on account of clearance of DSM dues, the respondent no.1 informed the petitioner that an amount of Rs.9 crores approximately had become due and payable and the same was required to be paid in terms of the order passed by WBERC.

8. Upon receipt of the impugned demand, the petitioner filed this writ petition wherein an order dated 14 October 2025 came to be passed

directing *status quo* on the condition that the petitioner would pay 50% of the outstanding dues within 10 days. Thereafter, no steps have been taken in the writ petition.

9. The grounds as enumerated in the writ petition do not justify any concession being granted to the respondent no.1 in making of payment of their lawful dues. Having accepted the order dated 1 February 2024 passed by the WBSEDCL, the petitioners cannot justify non-payment. The petitioner is in the business of distributing electricity and is carrying out such business for profit. There is no reason as to why the petitioner should be granted any preferential treatment in the payment of their lawful dues.

10. In this background, there is no reason to interfere with the impugned communication. There is no violation of natural justice nor contravention of law nor irrationality nor perversity in the impugned communication which warrants any interference. There is no enforceable legal right which the petitioner can claim which warrants interference with the impugned demand. On the contrary, status quo orders of such nature cause incalculable

detriment to the finances and working of the respondent authorities.

11. In such circumstances, the writ petition is misconceived and dismissed. The interim order dated 14 October 2025 stands vacated.

12. Liberty is granted to the respondents to take necessary steps in accordance with law for recovery of their dues.

(Ravi Krishan Kapur, J.)