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**Petition No. 1667 of 2021**  
**BEFORE**  
**THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION**  
**LUCKNOW**

**Date of Order (25.06.2021)**

**PRESENT:**

1. Hon'ble Sh. Raj Pratap Singh, Chairman
2. Hon'ble Sh. Kaushal Kishore Sharma, Member
3. Hon'ble Sh. Vinod Kumar Srivastava, Member (Law)

**IN THE MATTER OF:** Petition under section 86(1)(e), 86(1)(f) and other relevant provisions of the Electricity Act, 2003 read with the relevant provisions of power purchase agreement dated 24.12.2016.

1. M/s Seksaria Biswan Sugar Factory Ltd. (SBSFL)  
5th Floor, Seksaria Chambers, 139, Nagindas Master Road, Fort,  
Mumbai-400001, Plant: Seksaria,  
Distt: Sitapur, (U.P.)

----- **Petitioner**

1. Uttar Pradesh Power Corporation Ltd.  
Shakti Bhawan, 14-Ashok Marg, Lucknow - 226001.
2. Electricity Import Export and Payment Circle  
Shakti Bhawan Extension, 14-Ashok Marg, Lucknow-226001.
3. Chief Engineer,  
Directorate of Power Purchase Agreement,  
U.P. Power Corporation Limited,  
Shakti Bhawan Extension, 14-Ashok Marg, Lucknow-226001.

----- **Respondents**

Following were present:

1. Sh. B.K Saxena, Counsel, UPPCL
2. Sh. Deepak Raizada, CE-PPA, UPPCL
3. Sh. Desh Deepak Chopra, Counsel, SBSFL
4. Sh. Bajinder Singh, SBSFL



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## ORDER

(Date of Hearing 17.06.2021)

1. The Petitioner has established Power Generation Plant of 32 MW using Bagasse at a cost of approximately Rs. 180 Cr, out of which Rs. 150 Cr is financed. The generating plant was commissioned in January 2018. Petitioner entered into PPA dated 24.12.2016 with Respondent No.1 to export surplus power at a discount of 38 paise on the applicable tariff determined by the Commission in all the subsequent years during the term of the PPA.
2. The Prayers of the Petitioner are as below: -
  - a) the Hon'ble Commission may graciously be pleased to direct Respondent No.1 to make immediate and full payment of the difference amount claimed in bills total amounting to Rs. 1,48,20,513.00 along with interest, and
  - b) the learned Commission may pass any other/ further order or direction in favor of the Petitioner as it may deem fit and proper under the facts and circumstances of the case.
3. Sh. D. D. Chopra, Petitioner's Counsel, submitted that UPPCL influenced the Petitioner to agree to export power at lower tariff of Rs. 5.56 as against prevailing tariff of Rs. 6.00 and Rs. 6.11 per unit for FY 2017-18 and FY 2018-19 respectively and to raise bills accordingly. Thereafter, Petitioner through its letter dated 18.11.2017 & 27.03.2018 respectively agreed to supply power up to 31st March 2018 and subsequently up to 30.06.2018 at a tariff of Rs. 5.56 per unit. The difference of payment of the bills for the period January 2018 till June 2018 is Rs. 1.48 Cr to be paid by the UPPCL.
4. Respondent Counsel, Sh. B.K Saxena submitted that the Petitioner willfully offered to reduce the tariff of power and there was no arbitrary action or using dominant position to force the Petitioner to supply electricity at reduced rate of Rs. 5.56 per unit. Further, the Petition has been filed with delay and latches as the dispute is raised before the Commission after almost 3 years.
5. On specific query of the Commission, Sh. D.D. Chopra confirmed that Petitioner has raised bills @Rs. 5.56 per unit during the period of dispute. The Commission observed that it was a mutual agreement between the parties for the short period. The Petitioner could have come to the Commission at the time of facing difficulty from the procurers. The Commission asked the parties, whether they have signed any Supplementary PPA (SPPA), the parties responded that they have not signed.



6. Sh. Saxena also submitted it had invited the Petitioner for signing of SPPA. He also stated that it had already filed reply on the Petition, however, requested the Commission two-week time more for filing detailed reply.
7. After hearing the parties, the Commission allowed two-week to the Respondent for filing of additional reply with a copy to the Petitioner. The Petitioner can file comprehensive rejoinder on both replies thereafter.

List the matter for next hearing on 05.08.2021.

**(Vinod Kumar Srivastava)**  
Member

**(Kaushal Kishore Sharma)**  
Member

**(Raj Pratap Singh)**  
Chairman

**Place:** Lucknow

**Date:** 25. 06.2021

