

# ALL INDIA POWER ENGINEERS FEDERATION



(REGISTERED UNDER SOCIETIES ACT XXI of 1860), Regd. No. 24085/93

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No.25-2022/Coal Import

21-05-2022

Sri R K Singh  
Power Minister  
Govt of India  
New Delhi

Sub : MoP directions under Section 11 of Electricity Act 2003.

Respected Sir,

Ministry of Power, vide its advisory 23/13/2021-R&R(Pt-1) dated 05 May 2022 has issued directions to generating companies under Section 11 of the Electricity Act 2003. MoP vide letter dt 18-05-2022 , in para 2, has referred to the directions under sec 11 of Electricity Act 2003. The scope and applicability of Sec 11 is clear from the Act itself as under Section 11. (Directions to generating companies): --- (1) Appropriate Government may specify that a generating company shall, in extraordinary circumstances operate and maintain any generating station in accordance with the directions of that Government.

Explanation. - For the purposes of this section, the expression "extraordinary circumstances" means circumstances arising out of threat to security of the State, public order or a natural calamity or such other circumstances arising in the public interest.

(2) The Appropriate Commission may offset the adverse financial impact of the directions referred to in sub-section (1) on any generating company in such manner as it considers appropriate.

The term Appropriate Government is defined in the Electricity Act 2003 as under (5) "Appropriate Government" means, -

(a) the Central Government, -

- (i) in respect of a generating company wholly or partly owned by it;
- (ii) in relation to any inter-State generation, transmission, trading or supply of electricity and with respect to any mines, oil-fields, railways, national highways, airports, telegraphs, broadcasting stations and any works of defence, dockyard, nuclear power installations;
- (iii) in respect of National Load Despatch Centre; and Regional Load Despatch Centre;
- (iv) in relation to any works or electric installation belonging to it or under its control ;

(b) in any other case, the State Government, having jurisdiction under this Act;  
2 From a plain reading of Sec 11 along with the definition of Appropriate Government , it is concluded that the jurisdiction of Central Govt, in applying section 11 of Electricity Act 2003, is limited to a generating company that is wholly or partly owned by it. In case of State Govt owned

generating stations, it is the jurisdiction of State Government in the matter of applying Sec 11.

- 3 The jurisdiction and applicability of GOI letter FU-21/2020-FSC dated 18-05-2022 is therefore limited to NTPC or NTPC JV, since the appropriate govt for State generating stations is the respective State Govt and not the Central Govt.
- 4 While MOP is now seeking to actively intervene to arm-twist the States into importing coal at prohibitive cost, the MoP can not and must not ignore the underlying factors which caused the coal shortage in the first place, as under
  - i) When CIL had built up reserves of Rs 35000, in 2016, to be ploughed back into opening of new mines, and augmenting existing mines, when GOI diverted this surplus funds towards general budget in 2016, the MoPower as the End-user Ministry should have intervened in favour of plough-back of these funds in coal sector. This was absolutely essential measure to address coal shortage on a long term basis.
  - ii) The direction of GOI to CIL to divert its functioning to fertilizer sector, it was for MoPower as the end user of coal to have intervened and stressed that first the coal shortage has to be addressed before taking up new responsibility of fertilizer plants.
  - iii) Keeping top level posts of CIL and companies under CIL vacant for years on end required intervention by MoPower as end-user ministry
  - iv) As the end-user of coal, the MoP had a sacred responsibility to coordinate with Railways to address the continuing curse of wagon shortage.
  - v) When CIL executives were ordered by GOI to take up the work of constructing toilets under swacch bharat (and thereby abandon their primary job of developing coal mines,) the power ministry should have intervened and stressed on priority to address coal shortage.

To conclude we stress that Govt must now take up the responsibility to import coal on Govt to Govt basis and ensure that the imported coal is made available to State gencos at the prevailing CIL rates. For the coal shortage resulting from policy lapses of GOI, the States must not be penalised. For the above listed policy lapses the financial burden must not be loaded on States by way of high cost imported coal.

Thank you with regards.

Yours Sincerely



Shailendra Dubey  
Chairman

CC:

1. Chief Minister - All States/Union Territories with the request to take up the issue with Govt of India to take up the responsibility of importing coal and make it available to State Generation Companies at CIL rate.
2. Secretary(Power), Govt of India, New Delhi.
3. Chief Secretary-All States/Union Territories.