

## APTEL Judgment Affirms Regulatory Relief for Power Generators Facing Government-Imposed Coal Supply Constraints



SKV Law Offices successfully represented NTPC in a significant decision of the Appellate Tribunal for Electricity (**APTEL**) that provides crucial regulatory relief to thermal power generation entities operating under challenging coal supply circumstances. In its judgment dated 13.01.2026 in Appeal No. 399 of 2019, the APTEL set aside the Central Electricity Regulatory Commission's (**CERC**) refusal to grant relaxation in the Normative Annual Plant Availability Factor (**NAPAF**), marking a notable development in energy sector regulation addressing the intersection of fuel management obligations and regulatory discretion.

The matter involved NTPC's four generating stations, Mouda Thermal Power Station (Stage I and II), Solapur Thermal Power Station, and Simhadri Super Thermal Power Station (Stage I), which faced substantial operational challenges during 2017-18 and 2018-19. NTPC contended that its inability to achieve the prescribed 85 percent NAPAF stemmed from domestic coal shortages imposed by Government of India policy directives and coal import restrictions. The Central Commission had rejected this plea, holding that generators bear responsibility for fuel procurement and cannot shift these obligations to beneficiaries. SKV Law Offices provided counsel on the regulatory framework governing fuel management obligations and the proper exercise of discretionary relaxation powers by regulators.

The complexity lay in reconciling competing regulatory principles regarding whether executive government directions restricting coal imports and limiting domestic coal supply should constitute uncontrollable events justifying regulatory relief. SKV Law Offices articulated arguments grounded in force majeure principles, the doctrine of change in law, and jurisprudence establishing that administrative directives merit distinct regulatory treatment. APTEL's Vallur judgment demonstrated that coordinate benches must adhere to consistent standards when confronted with substantially similar facts and legal questions, a principle recently affirmed by the Supreme Court in Adani Power Ltd. v. Union of India (05.01.2026).

SKV Law Offices' contribution centered on presenting evidence of NTPC's documented efforts to secure coal supply through domestic sources, government agency representations, and e-auction participation, while

emphasizing that coal linkages were established on domestic supply assumptions subsequently disrupted by government policy. It was established that the APTEL's Vallur precedent, which granted relaxation from 85 percent to 83 percent NAPAF under identical circumstances, compelled consistent treatment and demonstrated that CERC's refusal to exercise discretion under Regulation 54 of the Tariff Regulations, 2014 constituted regulatory failure. Stare decisis doctrine was evoked to establish that mere disagreement with precedent cannot justify deviation absent referral to a larger bench.

The APTEL's determination resulted in setting aside the impugned order entirely and directing the Central Commission to reduce NAPAF from 85 percent to 83 percent for the four thermal power plants for 01.04.2017 to 31.03.2019. This judgment establishes that regulatory authorities must exercise discretionary powers to relax normative performance standards when generators demonstrate that shortfalls result from externally imposed constraints rather than internal mismanagement. The decision affirms that government policies restricting coal imports and domestic supply cannot be dismissed as matters within a generator's control, and that regulatory equity requires similar treatment of similarly situated entities.

Click [here](#) to read the order.

*NTPC was represented before APTEL by Mr. Shri Venkatesh (Founding Partner), Mr. Akash Lamba (Senior Associate), and Mr. Kunal Veer Chopra (Associate) of the SKV Law Offices team.*