

## Supreme Court Upholds APTEL Judgment on Interim Relief under Section 11 of the Electricity Act



The Supreme Court of India has dismissed the Civil Appeals filed by Gujarat Urja Vikas Nigam Limited (**GUVNL**) and Punjab State Power Corporation Limited (**PSPCL**), thereby refusing to interfere with the Judgment dated 31.10.2025 passed by the Appellate Tribunal for Electricity (**APTEL**). Tata Power Company Limited (**TPCL**), represented by SKV Law Offices, successfully defended the interim relief granted by CERC.

By dismissing the Appeals, the Supreme Court has affirmed the APTEL Judgment upholding the interim relief granted by the Central Electricity Regulatory Commission (**CERC**) in proceedings arising from the Section 11 directions issued during the coal shortage period, subject to safeguards and final adjudication.

### Background

The dispute arose from directions issued under Section 11(1) of the Electricity Act, 2003, whereby generating stations, including Tata Power Company Limited's Mundra Ultra Mega Power Project (formerly Coastal Gujarat Power Limited), were mandated in public interest to generate and supply electricity using imported coal due to acute domestic coal shortages and high demand.

The Energy Charge Rate (**ECR**) notified under the Section 11 directions was substantially lower than the actual cost of generation using imported coal, resulting in sustained adverse financial impact on generators operating under statutory compulsion. Consequently, the generator approached CERC under Section 11(2) seeking adjudication of the adverse financial impact, along with interim financial relief pending final determination.

### Orders of CERC and APTEL

By its Interim Order dated 10.03.2025, CERC exercised its powers under Section 94(2) of the Electricity Act and permitted limited interim recovery, allowing 50% of the differential energy charge between benchmark rates, strictly as a provisional measure and subject to final adjustment upon adjudication of the Section 11(2) petition.

The interim order was challenged by multiple procurers, including GUVNL and PSPCL, before APTEL. By its Judgment dated 31.10.2025, APTEL:

- Declined to set aside the interim relief granted by CERC;
- Directed a limited remand to CERC solely for arithmetical re-computation, without reopening

the merits;

- Recorded that even on the procurers' own computations, the interim benchmark adopted by CERC was conservative and non-prejudicial;
- Directed the generator to furnish unconditional bank guarantees for the entire recomputed amount and to provide an undertaking to pay carrying cost in the event of an adverse final determination; and
- Requested CERC to finally decide the Section 11(2) petition within a specified timeframe.

### **Supreme Court's Decision**

The Supreme Court, after hearing the parties, dismissed the Civil Appeals and declined to interfere with the APTEL Judgment. In doing so, the Court allowed the following to stand:

- The competence of CERC to grant interim relief under Section 94(2) in proceedings under Section 11(2);
- The balanced interim arrangement crafted by APTEL, which protected procurers through bank guarantees, restitution safeguards, and carrying cost; and
- The provisional and adjustable nature of the interim relief, pending final adjudication by the regulatory commission.

As a result, the interim recovery mechanism, together with the safeguards directed by APTEL, continues to operate pending final determination by CERC.

### **Significance**

The decision reinforces key principles of regulatory jurisprudence under the Electricity Act, 2003, including that:

- Statutory directions under Section 11(1) do not oust or dilute the adjudicatory powers of regulatory commissions under Section 11(2);
- Regulatory commissions retain full authority to grant interim financial protection under Section 94(2) where generators are compelled to operate in public interest at regulated rates; and
- Appellate courts will ordinarily not interfere with well-balanced interim regulatory orders, particularly where complete restitution and consumer protection mechanisms are in place.

The ruling secured by SKV Law Offices is significant for the evolving jurisprudence on emergency powers, fuel cost recovery, and interim regulatory reliefs in the power sector.

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

*Tata Power Company Limited (TPCL) was represented before the Supreme Court of India by the SKV Law Offices team comprising Shri Venkatesh (Founding Partner), Shryeshth Ramesh Sharma (Senior Partner), Ashutosh K. Shrivastava (Partner), Aashwyn Singh (Senior Associate), Nuha Rahman (Associate), and Vedant Choudhary (Associate).*