

HIGH COURT OF JAMMU & KASHMIR AND LADAKH

SKV Law Offices Secures Ad Interim Stay of Arbitral Tribunal Orders Appointing Expert Committee Before the High Court of Jammu & Kashmir and Ladakh on Behalf of Tata Power Renewable Energy Limited

Background

TPREL was awarded a contract by the State Procurement and Supplies Agency (“SPSA”), UT of Jammu & Kashmir, for the design, supply, installation, testing, and commissioning of 3.5 kWp Off-Grid Solar PV Power Plants at 1,013 Panchayat Ghars across 20 districts, under two division-wise agreements executed in September 2021.

TPREL duly performed its contractual obligations. All 1,013 installations were physically verified and certified by JAKEDA (the State Nodal Agency), which issued official Commissioning Certificates in January 2024 — 485 Panchayat Ghars for the Jammu Division and 528 for the Kashmir Division. Project sites were handed over to the respective Panchayat Ghars upon termination of the contract on 08.06.2023.

Notwithstanding certified completion, confirmed by SPSA’s own CEO/MD by letter dated 05.10.2024, SPSA failed to release TPREL’s legitimate dues of Rs. 38,66,26,621/-. The Department had itself directed processing of these dues by letter dated 17.09.2024. Aggrieved by the continued non-payment, TPREL invoked the arbitration clause, and the dispute was referred to the Hon’ble Sole Arbitrator, Mr. Justice Ali Mohammad Magrey (Retd.), Former Chief Justice, High Court of Jammu & Kashmir and Ladakh, in Arbitration Petition No. 36 of 2023.

The Dispute

After pleadings and evidence were closed and the matter reached the advanced stage of final arguments, SPSA filed an application under Section 26 of the Act seeking appointment of an Expert Committee for physical inspection of all

1,013 project sites. The Hon’ble Arbitral Tribunal rejected that application by a detailed reasoned order dated 23.12.2025 (“Earlier Order”), holding that a post-evidence-closure inspection was unjustified and imposing four specific, cumulative conditions for any renewed request.

In disregard of the Earlier Order, SPSA filed a fresh application dated 25.03.2026 (“Renewed Application”) without satisfying any of the four conditions, and relying instead upon four entirely new categories of material never pleaded in its Statement of Defence, Supplementary Statement of Defence, or Evidence Affidavit: (i) post-termination district-level inspection reports from March 2026; (ii) a belated individual disclaimer dated 25.03.2026 by Mr. Fayaz Ahmad Bhat; (iii) alleged signature deficiencies in inspection reports; and (iv) fresh site-specific allegations of non-installation.

By order dated 20.04.2026 (“Impugned Order”), the Tribunal allowed the Renewed Application and appointed a five-member Expert Committee of retired electrical engineers drawn from JKPTCL, KPDCCL, and the Power Development Department, directing inspection of all 1,013 sites to be completed by 27.04.2026 — notwithstanding that the matter had already been reserved for award on 28.03.2026. A further Modification Order dated 29.04.2026 substituted one committee member without notice to TPREL and directed commencement of inspections from 30.04.2026.

Key Grounds Urged on behalf of TPREL

- 1. Post-termination inspection has no basis in law:** The contract was terminated on 08.06.2023 and all installations handed over to the Panchayat Ghars. A physical

inspection in 2026 of sites under a terminated contract serves no cognizable legal purpose.

2. **Non-compliance with the Earlier Order:** The Earlier Order dated 23.12.2025 imposed four cumulative conditions for any renewed application. The Renewed Application satisfied none, yet the Impugned Order was passed without any examination of compliance.
3. **De facto amendment of pleadings post-evidence closure:** The Impugned Order permits introduction of four categories of new factual assertions never pleaded at any prior stage, in violation of the proviso to Order VI Rule 17 CPC as applicable to arbitral proceedings.
4. **Estoppel by SPSA's own correspondence:** SPSA's letter dated 05.10.2024 confirmed project completion and the Department's letter dated 17.09.2024 directed processing of dues, operating as an insurmountable estoppel against any fresh inquiry into project completion, an argument the Impugned Order entirely failed to address.
5. **Unlawful displacement of JAKEDA:** The Expert Committee of retired general electrical engineers substitutes an ad hoc body for JAKEDA, the constituted State Nodal Agency with statutory mandate to certify renewable energy installations.
6. **Misuse of Section 26 to fill a self-created evidentiary vacuum:** SPSA led no technical evidence and produced

no expert report during the entire evidence stage. The Impugned Order converts Section 26 into a substitute for a party's burden of proof.

7. **Non-application of mind:** The Impugned Order fails to address six grounds of opposition and fifteen binding precedents cited in TPREL's Reply dated 17.04.2026, rendering it perverse and unsustainable in law.

Outcome

The Hon'ble High Court of Jammu & Kashmir and Ladakh, by order dated 21.05.2026 passed in WP(C) No. 1433/2026, being satisfied that some **ad interim relief was warranted** pending adjudication of the main petition on all factio-legal grounds, directed that the operation of both impugned orders dated 20.04.2026 and 29.04.2026 passed by the Learned Sole Arbitral Tribunal be kept **in abeyance** until the next date of hearing. The Court further directed that the appointed Expert Committee members shall not undertake the inspection task assigned to them under the impugned orders. The matter is listed for further hearing on 30.06.2026.

TPREL was represented by Mr. Shryeshth Ramesh Sharma (Senior Partner), Mr. Akash Lamba (Counsel), Mr. Shourya Vir Das (Senior Associate) and Mr. Vedant Choudhary (Senior Associate)

FOR FURTHER INFORMATION PLEASE CONTACT

Kanika Chugh

MANAGING PARTNER

Kanika.chugh@skvlawoffices.com