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**(2021) 12 DEL CK 0199**

**In the Delhi High Court**

**Case No :** Original Miscellaneous Petition (COMM.) No. 95 Of 2020,  
Miscellaneous Application No. 11175 Of 2020

Satluj Jal Vidyut Nigam Ltd

APPELLANT

Vs

Jaiprakash Hyundai Consortium (JHC)

RESPONDENT

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**Date of Decision :** 24-12-2021

**Acts Referred:**

Arbitration And Conciliation Act, 1996 — Section 34

**Citation :** (2021) 12 DEL CK 0199

**Hon'ble Judges :** Vibhu Bakhru, J

**Bench :** Single Bench

**Final Decision :** Dismissed

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## Judgement

Vibhu Bakhru, J

1. The petitioner has filed the present petition under Section 34 of the Arbitration and Conciliation Act, 1996 (hereafter "the A&C Act")

impugning an arbitral award dated 07.11.2007 (hereafter "the impugned award") passed by an Arbitral Tribunal comprising of Shri H.C.

Bharadvaj, Shri V.K. Tyagi and Shri R.S. Prasad as the Presiding Arbitrator (hereafter "the Arbitral Tribunal").

2. The impugned award has been rendered in the context of Contract No.3 under Agreement No. 04/93 dated 24.06.1993 for execution of Civil

Works of Pressure Shaft and Power House Complex of Naptha Jhakri Hydroelectric Project (hereafter "the Agreement").

Factual Context:

3. The respondent, Jaiprakash Hyundai Consortium (hereafter "JHC"), is a consortium between M/s Jaiprakash Associates Limited, a company

registered under the Companies Act, 1956 and M/s Hyundai Engineering &

Construction Co. Ltd, a company registered under the laws of South Korea. The consortium came into existence by an agreement dated 30.07.1992.

4. In 1992, the petitioner, (hereafter "SJVNL") invited bids for various works including civil works of pressure shafts and power house complex

relating to the Naptha Jhakri Hydroelectric Project (hereafter the "Project"). JHC submitted its bid and SJVNL awarded the contract for

executing the Project to JHC by a Letter of Award (hereafter "LOA") dated 26.05.1993. Thereafter, the Agreement was signed between the

parties on 24.06.1993 for a total value of Rs. 475.01 crores. In terms of the Agreement, the date of commencement of the Project was 01.07.1993

and JHC was expected to complete the pressure shafts within a period of fifty-seven months, and the power complex within a period of sixty-three

months from the date of commencement of the Project. Resultantly, the scheduled date of completion of the pressure shafts and power complex was

31.03.1998 and 30.09.1998, respectively.

5. Admittedly, disputes arose between the parties regarding SJVNL's failure to perform its obligations under the Agreement. JHC claims that in

terms of Sub-clause 4.5(i) of Chapter IV of the Additional Conditions of Contract (ACC) included as an integral part of the Agreement, SJVNL was

obligated to provide JHC with AC 3 phase 50 cycle, 440/400 V construction power at various work sites, colonies and offices. However, SJVNL had

failed to provide the requisite construction power at 440/400 V, as contracted; therefore, JHC had to incur additional expenses for stepping down and

stepping up the power for distribution and consumption at the site.

6. In view of the dispute between the parties, a meeting was held on 09.07.1993 between SJVNL and JHC wherein, SJVNL stated that it would

provide 22 KV construction power at various sites while power supply at JHC's camp would be provided on Low Tension supply (LT Supply),

that is, at 440/400 V. By its letter dated 03.09.1993, JHC disputed that the same was in conformity with their contract and it claimed that the relevant

clauses of the Agreement imposed an obligation on SJVNL to provide construction power at 440/400 V instead of 22 KV. Subsequently, various

meetings were held between the parties between the period 09.10.1993 to 12.10.1993 wherein SJVNL reiterated its stand that the construction power

would be provided to JHC at 22 KV only.

7. JHC, by its letter dated 23.12.1993, communicated to SJVNL that it required construction power at 440/400 V at five points â?" (i) the Main

Access Tunnel; (ii) Tail Race Tunnel (TRT) Adit; (iii) Butter Valve House; (iv) Camp and Office; and (v) Fabrication Shop. JHCâ??s power

requirements were also communicated to the General Manager, SJVNL and Deputy General Manager, CD-III Power House to the SE (E E & C) by

letters dated 30.12.1993 and 11.01.1994 respectively. Admittedly, the construction power was provided only at one point in the Power House Complex

and at one point near the Butterfly Valve House.

8. In view of the above, JHC claimed that it had incurred additional expenditure as it had to install a large number of transformers and other gadgets

for stepping down the construction power from 22 KV to 440/400 V. By its letter dated 16.03.1997, JHC submitted details of additional expenses

incurred by it to the Engineer-In-Charge. Further, by letters dated 18.11.1998 and 01.06.1999, JHC updated the details regarding additional

expenditure incurred by it.

9. On 05.04.2000, the Engineer In-Charge, replied to JHCâ??s letter dated 18.11.1998 and rejected the claims raised by JHC. According to the

Engineer-in-charge, JHC had applied for construction power for only two points, which was sanctioned; therefore, additional claim regarding additional

expenditure was not tenable.

10. JHC responded to the aforesaid letter of the Engineer In-Charge stating that it was compelled to apply for construction power at 22 KV and

requested the Engineer-in-Charge to review its case. The Engineer In-Charge, informed JHC on 29.05.2001 that he found no reason to review his

decision.

11. Aggrieved by the decision of the Engineer-in-Charge, JHC appealed to the Chairman-cum-Managing Director, SJVNL for approval of

reimbursement of the additional expenses incurred by it. However, JHC did not receive any response from the CMD, SJVNL. Thereafter, JHC sent

another letter dated 30.01.2002 and informed the CMD, SJVNL that since it had failed to communicate its decision to JHC within the period of thirty-

days as stipulated under the Agreement, it is deemed that the CMD, SJVNL has accepted its claims and accordingly, requested it to release the

expenditure incurred till 31.12.2001, along with interest. On 16.04.2002, the

CMD, SJVNL rejected the claims raised by JHC and stated that in terms of the "Schedule of tariff of HPSEL" and "Abridged Conditions" as applicable to the contract in question, the supply of power above 11 KV was to be provided at the option of the supplier (SJVNL) and thus, JHC's claim was not tenable.

12. Thereafter, on 30.04.2002, JHC communicated its intention to SJVNL regarding referral of the disputes to the Dispute Review Board (hereafter "DRB") in terms of the modified Clause 67 of the General Conditions of Contract (hereafter "GCC"). Before the DRB, JHC claimed an amount of ₹ Rs. 7,17,96,889/- along with interest as additional expenses incurred by it, till 31.03.2002.

13. SJVNL opposed JHC's claims before the DRB on grounds that Clause 4.5 of the ACC, SJVNL only mentioned that the power at 400/440

KV would be provided at the construction site; it had not undertaken any firm obligation to do so. SJVNL further contended that JHC had, in its bids,

submitted that it would make provisions for sufficient number of transformers for the purpose of stepping down power from 11 KV to 400/440 V and

thus, cannot contend to the contrary. SJVNL also relied on Para " III of the Himachal Pradesh State Electricity Board (HPSEB) Manual Part -1,

Instruction No. 10, wherein it was agreed between the parties that all connections with connected load exceeding 100 KW shall be supply power at

High Tension (HT). SJVNL stated that the same was discussed between the parties at the meeting held on 09.07.1993 and accordingly, power supply

of 22 KV was made available at several construction sites.

14. DRB delivered its decision on 13.01.2005 and by majority view, decided the dispute in favour of JHC. SJVNL did not accept DRB's decision

and the disputes remained unresolved. Thereafter, SJVNL invoked the Arbitration Clause: the modified Clause 67 of the GCC. And, the Arbitral

Tribunal was constituted.

15. Before the Arbitral Tribunal, JHC was treated as the "Claimant" while SJVNL was treated as the "Respondent".

16. JHC filed its Statement of Claims. JHC claimed that in terms of Sub-clause 1.10(ii)(f) of the Information and Instruction for Bidders (hereafter

"IIFB"), which was also included as a part of the Agreement, it had submitted its requirement for an estimated power of 7,000 kVA for six

separate locations and had also provided specific requirements for each location. JHC contended that on the basis of the aforesaid representation,

SJVNL had considered its bid as responsive and therefore, it was liable to meet the requirements of JHC.

17. Before the Arbitral Tribunal, JHC submitted that under Clause 4.5(i) of the ACC, SJVNL had failed to supply the construction power at 440/400

V at different supply points. JHC referred to Clause 4.5(ii) of the ACC and contended that it was obliged to make Advance Consumption Deposit at

Â Rs. 150/- per kW and service connection charges at the prevalent rate towards the capital cost. JHC contended that the parties had agreed that in

terms of the said clause, the energy consumed by JHC would be charged in terms of â??Schedule-B.S. Bulk Supplyâ?? of the Schedule of Tariff of

HPSEB, wherein the Bulk Supply Energy rate was stipulated at 100 paise per kWh with a monthly charge of Â Rs. 0.40 per kW. In this context, JHC

pointed out that as per the Schedule of Tariff of HPSEB, the tariff rate of 100 paise per kWh was applicable for A.C. 3 Phase 50 Cycles at 440/400

V and this also indicated that SJVNL had agreed that power would be supplied to JHC at 440/400 V.

18. JHC finally submitted that even in terms of Sub-clause 2.3.8.1 of the Technical Specifications, SJVNL was obliged to supply the construction

power at 440/400 V in terms of Clause 4.5 of the ACC. Accordingly, JHC claimed the following:

â??(i) award an amount of Rs. 2,71,95,687.00 (Rupees two crores seventy one lacs ninety five thousand six hundred eighty seven only) towards total

additional expenses to the Claimant as per Annexure-A.

(ii) award an amount of Rs. 2,92,42,364,00 (Rupees two crores ninety two lacs forty two thousand three hundred sixty four only (towards interest on

amount of claim up to 27.12.2005 as per Annexure-A.

(iii) award interest @16% per annum compounding on monthly basis on the sum of amounts as mentioned in para (i) and (ii) above from 28.12.2005

up to the date of award.

(iv) award interest @18% per annum compounding on monthly basis on the sum of amounts as mentioned in para (i),

(ii) and (iii) above for the period from the date of award to the date of payment.

(v) award Rs. 5.75 lacs (subject to modification to actuals) as the cost of

arbitration as requested in para 6.18 herein above

(vi) grant such other relief in addition to the above as considered fit and proper by the Tribunal.â??

19. SJVNL filed its Statement of Defence and contested the claims raised by JHC. SJVNL submitted before the Arbitral Tribunal that the claims of

JHC are not maintainable as JHC, being a consortium, was not a legal entity and therefore, could not sue under its own name. Further, SJVNL

submitted that JHC had applied for connection power of 1821 kW and 400 kW for the Project sites on 23.12.1993 and 01.02.1994, respectively. And,

the applied load was released by JHC on 04.02.1994 and 26.02.1994, respectively. SJVNL contended that JHC had protested against the power

supply after a period of three years, that is, only on 16.03.1997, and thus, its claims were barred by limitation. SJVNL also submitted that in terms of

Clause 4.5(i) of the ACC, it had â??proposedâ?? to supply the power, which was sourced from HPSEB; it had no obligation under the ACC to

supply the power at 440/400 V. SJVNL further referred to Clause 2.3.8 of the Technical Specifications and contended that JHC had agreed to install

the transformers, circuit breakers, liners poles, poles hardware etc., and therefore, it could not claim any additional expenses in this regard.

20. The Arbitral Tribunal considered the rival contentions and awarded an amount of Â Rs. 2,21,32,831/- along with interest for pre-reference period

up to 27.12.2005 at the rate of 10% per annum amounting to Â Rs. 1,35,67,750/- and, pendente lite interest from 28.12.2005 to the date of the award

at 10% per annum quantified at Â Rs. 40,57,700/-, in favour of JHC.

#### Submissions

21. Mr. Sanjay Jain, learned ASG appearing for SJVNL has assailed the impugned award, essentially, on three fronts.

22. First, he submitted that the findings of the Arbitral Tribunal are perverse and vitiated by patent illegality as the Arbitral Tribunal had completely

ignored the pre-bid meeting held on 21.04.1992. He submitted that during the course of the pre-bid meeting, a specific query was raised regarding

power supply and it was desired that the power supply should be at 11 KV and not at 440 V. In response, SJVNL had clarified that power supply

could be made available at 22 KV also. He further submitted that in view of this

clarification, there could be no doubt in the mind of the parties that the construction power would be supplied at 22 KV and not at 440 V.

23. Second, he submitted that the impugned award is contrary to Clause 2.3.8.1 of the Technical Specifications as it was JHC's obligations to install the transformer lines for distribution of power within the construction site. He submitted that in the circumstances, SJVNL was not required to compensate JHC for any costs that may have been incurred for stepping down the power supply or for distributing the same within the construction site.

24. Third, he submitted that no compensation was payable to JHC for providing transformers as JHC had already factored the costs for the same in its bid. He submitted that the list of equipments for which advance was provided included the transformers used by JHC.

25. Mr. Sawhney, learned senior counsel appearing for JHC, countered the aforesaid submissions. He referred to the decision of the DRB and submitted that the contentions advanced on behalf of SJVNL were also considered by the DRB and, it had rejected the same.

26. He submitted that Clause 4.5 of the ACC clearly provided that power would be supplied to various sites at 400/440 V and the said clause was not altered. He stated that a bidder had raised a query during the pre-bid meeting, however, SJVNL's response to the same did not amount to an alteration to the Agreement or the ACC, which were an integral part of the Agreement.

27. Insofar as the distribution of electricity within the construction site is concerned, Mr. Sawhney submitted that there was no dispute regarding JHC's obligation to make the arrangement for distribution of electricity supply within the campus. The disputes were mainly in regard to the supply of electricity at the points of supply.

#### Reasons & Conclusions

28. The principal question to be addressed is whether the impugned award is contrary to the terms of the Agreement and is thus, vitiated by patent illegality. According to SJVNL, the impugned award completely overlooks the proceedings of the pre-bid meeting held on 21.04.1992. During the said meeting, one of the bidders had raised a question regarding the supply of construction power. The relevant extract of the minutes of the said meeting

indicating the query and response of SJVNL, is set out below:

47. Construction Power Supply

A bidder pointed out that the Bidding Documents state that the construction power will be supplied at 440/400 volts. It was desired that whether it could be supplied at high tension.

It was informed that construction power could be supplied at 22 Kv.

29. A plain reading SJVNL's response indicates that it had merely indicated the possibility of supplying construction power at 22 kV. It is

important to note that the minutes records that one of the bidders had expressed a desire for power to be supplied at a higher tension. SJVNL claims

that the said query was raised by JHC but, JHC disputes the same. This controversy is not material.

30. Plainly, SJVNL's response to the query did not amount to an unequivocal clarification that the power supply would only be at 22 kV. Thus,

without going into the question whether a response of SJVNL made at a pre-bid meeting would override the express terms of the Agreement entered

into by the parties; it is apparent that SJVNL's response cannot be construed as an unambiguous agreement that the power supply would be made

at 22 kV instead of 400/440 V. At the highest, it indicates SJVNL's intention to accede to a request (as made by a bidder) that the supply could

be supplied at a higher tension.

31. The Arbitral Tribunal found that SJVNL had failed to substantiate that JHC had desired that the construction power should be provided at 11 kV

and/or it had any reservations in regard to Sub-Clause (i) of Clause 4.5 of the ACC.

32. In the first instance, the DRB had considered SJVNL's contention and had observed as under:

"SJVNL did have the option at the time of pre-bid meeting and if they had decided to supply power at 22 KV, the same could have been provided

in the bid document by issuing an addendum to contract provision. Had it been done at that time, Contractor would have suitably provided for the

resulting additional costs in the bid. At a later date as is the case here, the change to exercise of such an option resulted in additional cost to the

contractor, not envisaged in the bid, which is not fair and thus Contractor is entitled for the extra cost."

33. The Arbitral Tribunal also considered the said issue and held that the Agreement also clearly mentioned that the Minutes of the pre-bid meeting would not amount to an amendment to the terms of the Agreement unless the Agreement was suitably amended. Admittedly, no amendment was made to Agreement in respect of clauses relating to supply of power.

34. This Court finds no flaw in the decision of the Arbitral Tribunal in this regard. First of all, the response of SJVNL at the pre-bid meeting is not unambiguous. Second, it is admitted that no amendment was carried out to Clause 4.5(i) of the ACC, which clearly provided that construction power would be provided at various sites at 400/440 V. The contention that the Arbitral Tribunal had ignored the provisions of the pre-bid meeting and this was contrary to a judicial approach, is clearly unmerited. The Arbitral Tribunal had examined the controversy and had found SJVNL's contentions to be unmerited.

35. The next contention to be examined is whether the impugned award is contrary to the terms of the Agreement. According to SJVNL, the impugned award is contrary to Clause 2.3.8.1 of the Technical Specifications. It is also contended that Clause 4.5(i) of ACC cannot be read to mean that SJVNL was required to supply construction power at 400/440 V.

36. At this stage, it would be relevant to refer Clause 4.5(i) of the ACC, which reads as under:

4.5 Power for construction and for other purposes

(i) It is proposed that AC 3 phase, 50 Cycle, 440/400 Volts construction power to various sites, colonies, offices etc of Naptha Jhakri Hydroelectric

Project will be provided to the Contractor. The electrical energy consumed by the Contractor shall be measured by a suitable meter installed at the

point of supply, which shall be sealed in the presence of the Contractor or his authorized representative and read every month for determining the

consumption of electricity. Each supply point shall be treated as separate connection. Arrangements for further distribution of power to the

Contractor's sites, constructional plant, equipment, colonies, offices etc from the point of supply shall be made by the Contractor at his own cost.

The electrical installation plan shall be approved by the Engineer-In-Charge.

(ii) Before the release of the connection, NJPC will require the Contractor to make advance consumption deposit at the prevalent rates. The present

rate is Rs.150.00 per KW or part thereof of the connected load. In addition, the Contractor shall have to deposit Service Connection Charges at the prevalent rate towards the capital cost to be incurred by the HPSEB to make the required power available. The energy consumed as above shall be charged as per "Schedule B.S. Bulk Supply" of the Schedule of Tariff of HPSEB given at Annexure-XII. The Bulk supply energy rate is 100 paise per KWh with monthly minimum charges of Rs.40.00 per KW or part thereof of the connected load. In addition to the energy charges, the Contractor shall pay electricity duty as levied by the HP Govt. at the rate of 6 paise per KWh. Any changes in the energy rate and the electricity duty thereon during the tenure of the contract in respect of the energy consumed for the execution of permanent Work and Temporary Works will be to the account of the NJPC. Adjustment on this account will be carried out every quarter. However, any change in the rate of advance consumption deposit, Service Connection charges etc during the tenure of the contract shall be borne by the Contractor without any cost to NJPC. All changes in the schedule of Tariff (Annex-XII) in respect of supply of energy to the Contractor's residential colonies, street lighting, offices etc shall be borne by the Contractor without any extra cost to the NJPC."

37. Clauses 2.3.8.1 and 2.3.8.2 of the Technical Specifications, are set out below:

"Clause 2.3.8 Power Supply and illumination" Chapter -II of Technical Specification (Document-V) (Appendix-7)

#### 2.3.8.1 Power supply provided by NJPC

Provisions for supply of power for construction and other purposes by the NJPC to the Contractor as stipulated in Para 4.5 of Chapter IV Vol.(i) of

these documents shall apply.

#### 2.3.8.2 Power supply and illumination provided by the Contractor

(i) The contractor shall install, operate and maintain electrical distribution system which shall include transformers, circuit breakers, disconnecting and

safety switches, voltage regulators, lines poles, hardware, conductors, meters and other equipment necessary for power distribution throughout the site

and temporary facilities beyond established by the NJPC/HPSED."

38. The contention that the impugned award is in conflict with Clause 2.3.8.1 and 2.3.8.2 of the Technical Specifications, is unmerited. It is clear from

the express language of Clause 2.3.8.1 of the Technical Specifications that SJVNL was obliged to provide power as stipulated under Clause 4.5 of the

ACC. Clause 4.5 of the ACC expressly provided that construction power was proposed to be provided at AC 3 phase, 50 cycle, 400/440 V at various sites, colonies, offices etc.

39. There is no dispute that in terms of Clause 2.3.8.2 of the Technical Specifications, JHC was obliged to provide the infrastructure for distribution of

the electricity within the site. However, JHC's claims was not regarding the equipment required for distribution of electricity throughout the sites

but, the equipment required to step down the power from 22 kV to 400/440 V. Although there was no obligation on the part of SJVNL to distribute the

electricity within the site, SJVNL was nevertheless, obliged to ensure that construction power is supplied at certain points as agreed. The dispute

essentially is, whether SJVNL is required to provide construction power at 400/440 V or whether it was permissible for SJVNL to do so at 22 kV.

40. According to JHC, SJVNL had committed to provide construction power at 400/440 V in terms of Clause 4.5(i) of the ACC. It was contended on

behalf of SJVNL that in terms of Clause 4.5(i) of the ACC, it had only made a 'proposal' and the said clause could not be construed to mean

that SJVNL had committed to supply power at 400/440 V. The Arbitral Tribunal had examined the aforesaid contention and had found the same

without any merit.

41. The Arbitral Tribunal had also reasoned that if Clause 4.5(i) of the ACC was considered as a proposal, the tenderers were required to base their

tenders on the said basis. The relevant extract of the impugned award is set out below:

'The Respondent have contended that Under clause 4.5(i) of the ACC the Respondent only 'proposed' to supply power at 400/440 volts

sourced from the HPSEB. Rather under clause 4.5(i) of the ACC it is not stated that the Respondent assured to supply power. In the aforesaid clause

the word used is 'proposed' which clearly indicates lack of obligation.

The contention of the Respondent is not correct in view of clause 4.5(i) and (ii) of ACC. Even if for the sake of arguments it is taken that the under

clause 4.5(i) of ACC it was only a proposal in the tender documents to supply powers at 440/400 volts, even then once the proposal is accepted it

becomes a "contract". If the tender document stipulates proposal to supply power at 440/400 volts, the tenderers must have based their rates

according to this proposal. Obviously, the Respondents are harping now on the word "proposal" to defend their failure to fulfill their contractual

obligation to supply power at 440/400 volts. No provision in the contract could be shown by the Respondent which stipulated that the power shall be

supplied at 11 kVA or 22kVA. The Arbitral Tribunal, therefore, holds that it was obligatory on the part of the Respondent to supply power to the

Claimant at 440 Volts as per contract conditions."

42. This Court finds no infirmity with the aforesaid view. Plainly, the contention that the impugned award runs contrary to the terms of the Agreement

is unmerited and accordingly, rejected.

43. The Arbitral Tribunal had also examined SJVNL's contention that it had provided mobilisation advance for purchase of equipment without

charging any interest and therefore, JHC could not claim any amount for equipment to step down or step up the Voltage of the power supplied. The

said contention was rejected as the Arbitral Tribunal found that the JHC was provided with mobilisation advance in terms of the Agreement.

However, the additional advance was not interest free. SJVNL had advanced the additional advance on interest at the rate of 16% per annum and,

JHC's assertion to that effect was not denied by SJVNL.

44. JHC had also pointed out that in terms of the Information and Instructions for Bidders (IIFB), the bidders were required to submit the total

requirement of power load at each site in the prescribed performa. And, in terms of Clause 4.5(i) of the ACC, construction power was required to be

provided at various sites. It was also specified that each point of supply would be treated as a separate connection. Although, JHC had indicated that

power would be required at six separate locations along with their respective specific requirements; however, JHC's power requirements were

clubbed and power was supplied to only two locations. It is also relevant to note that after submitting the bid, JHC had sought supply of power at eight

locations. In the circumstances, JHC had established that it had incurred additional cost for stepping down the power supply and for distribution of

electricity. In the circumstances, the decision of the Arbitral Tribunal to award JHC's claim for compensation on account of non-supply of power

as per contractual terms warrants no interference in these proceedings.

45. The Arbitral Tribunal had also considered SJVNL's contention that JHC had not incurred any additional cost on equipment and had found in favour of JHC. The scope of examination under Section 34 of the A&C Act is limited and, it does not entail re-evaluation and re-appreciation of evidence. Suffice it is to state that there was ample material on record to substantiate JHC's claim that it had incurred additional costs as awarded.

46. In the written submissions filed on behalf of SJVNL, it is also contended that the impugned award is vitiated as the claims made by JHC were barred by limitation. The said contention is also unmerited. The Arbitral Tribunal had found that the process of construction, maintenance and consumption of power was a continuous one and the claim in this regard was quantified by JHC on 16.03.1997 before the Engineer In-charge in terms of the contract conditions. The Engineer In-charge had rejected the claim on 05.04.2000. Prior to that, JHC had revised its claim twice, that is on 18.11.1998 and 01.06.1999. The Agreement was signed on 24.06.1993 and the schedule date of completion of the Pressure Shafts was stipulated as 31.03.1998 and for power compliance as 30.09.1998. JHC had made claims during the term of the Contract even prior to the stipulated date of completion. Concededly, the period of limitation would stop running once JHC had made its claim before the Engineer In-charge, in accordance with the terms of the Agreement.

47. SJVNL had contended before the Arbitral Tribunal that disputes had arisen once JHC had accepted the power supply. The said contention was rejected and, in view of this Court, rightly so. JHC had to lay supply lines to install transformers and other equipment. The Arbitral Tribunal had found that the process commenced in the month of February 1994 and, JHC continued to incur cost for operation and maintenance throughout the period of the contract.

48. In view of the above, the petition is unmerited and accordingly, dismissed. The pending application is also disposed of.