



2026 INSC 954

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (C) NO. 10538/2026

**M/S. AMALGAM STEELS AND POWER LTD.
AND ANR.**

...PETITIONER(S)

VERSUS

ENERGY WATCHDOG AND ORS.

...RESPONDENT(S)

ORDER

1. This Special Leave Petition is filed against the interim order dated 05.02.2026 passed by the High Court¹ by which an interlocutory application filed by petitioner no.1 raising an objection to the maintainability of the Public Interest Litigation (PIL) filed by respondent no.1 was rejected and the same was held to be maintainable.

2. The facts giving rise to the present Special Leave Petition, briefly stated, are that petitioner no.1 entered into an agreement with Jharkhand Bijli Vitran Nigam Ltd. (JBVNL) for supply of surplus power from the captive power plant of petitioner no.1 to petitioner no.2 on 17.05.2012 (CPP Agreement), which was renewed in the years 2017 and 2023.

3. Respondent no. 1, 'Energy Watchdog' made a complaint on 15.04.2024 to the Additional Chief Secretary, Department of Energy, State of Jharkhand. In the complaint, it was alleged that petitioner no.2 is using

¹ High Court of Jharkhand at Ranchi in W.P. (PIL) No. 3347 of 2025.

the power generated from the Captive Power Generation Unit set up by petitioner no.1 without holding a valid 'captive user' status in accordance with Rule 3 of the Electricity Rules, 2005 (the Rules). Respondent no.1, therefore, sought action against petitioner no.1 under Section 135 of the Electricity Act, 2003 (the Act). According to respondent no.1, on the basis of the aforesaid complaint, on 28.06.2024, the Government of Jharkhand and JBVNL initiated a fact-finding inquiry against the petitioners.

4. Respondent no.1 filed a PIL seeking a declaration that supply of electricity by petitioner no.1 to petitioner no.2 in the absence of any Open Access Approval and without satisfying the statutory conditions of captive status under the Act and the Rules, is illegal and unauthorised. Respondent no.1 in the said PIL sought a direction to the authorities of the State Government to conduct a detailed investigation into unauthorised power supply between the petitioners and further sought a direction to the authorities to recover the loss caused to the state utility due to illegal sale of electricity.

5. On 26.08.2025, JBVNL issued show cause notices to the petitioners on the allegations that they have breached the terms and conditions of the CPP Agreement and have supplied power without consent of JBVNL and have violated the right of first refusal of JBVNL. On 26.08.2025, the JBVNL issued a demand notice to the petitioners seeking payment of cross subsidy surcharge to the tune of Rs.176.74 crores as against petitioner

no.1 and a sum of Rs.108.17 crores *qua* petitioner no.2.

6. Petitioner no.1 filed an interlocutory application raising a preliminary objection to the maintainability of the PIL. The High Court, by an interim order dated 05.02.2026, inter alia held that the affidavit of JBVNL discloses that, prima facie, there is some substance in the allegation made in the petition and the averments made therein are sufficient to reject the objection to the maintainability of the PIL. The High Court, while deciding the interlocutory application, and while noting that even though respondent no.1 is not privy to the contract between JBVNL and petitioner no.1, in the peculiar facts of the case, directed that the interest of justice would be better served if respondent no.1 is also heard along with the petitioners in the proceedings pending pursuant to the show cause notice issued by JBVNL. In the aforesaid factual background, this Special Leave Petition arises for our consideration.

7. Dr. A.M. Singhvi, learned Senior Counsel for the petitioners submits that respondent no.1 is a stranger having no right and not having suffered any legal injury. He, therefore, argues that respondent no.1 cannot be treated as a person aggrieved and thus, has no *locus* to maintain the Writ Petition. It is urged that the Act is a comprehensive and self-contained statutory framework governing regulation, adjudication and compliance within the electricity sector. It is contended that the High Court could not have judicially expanded the statutory framework, by introducing a tripartite

process not contemplated by the Act, by permitting respondent no. 1 to participate in the proceedings initiated by JBVNL. It is submitted that after completion of the proceedings, respondent no. 1, if aggrieved, can take recourse to such remedy as may be available to it in law. In support of the aforesaid submissions, reliance has been placed on the decisions of this Court².

8. On the other hand, Mr. Prashant Bhushan, learned counsel for respondent no.1 submitted that the petitioners did not pay cross subsidy surcharge and on the basis of six complaints made by respondent no.1, an inquiry was initiated against the petitioners. It is pointed out that the demand against the petitioners had been raised under Jharkhand Open Access Rules and no interference is called for with the impugned order in this Special Leave Petition.

9. We have considered the rival submissions made on both sides and have perused the record. In *PTC India Ltd. v. Central Electricity Regulatory Commission*³, a Constitution Bench of this Court has held that the Electricity Act is an exhaustive code for all matters concerning electricity. In *Southern Power Distribution Company of Andhra Pradesh Ltd. & Anr. v. Green Infra Wind Solutions Ltd. & Ors.*,⁴ reiterating the same position, this

² *Ayaubkhan Noorkhan Pathan v. State of Maharashtra and Others*, (2013) 4 SCC 465; *D.N. Jeevaraj v. Chief Secretary, Government of Karnataka and Others*, (2016) 2 SCC 653 and *Kunga Nima Lepcha & Ors. v. State of Sikkim & Ors*, (2010) 4 SCC 513.

³ (2010) 4 SCC 603.

⁴ 2026 SCC OnLine SC 479.

Court held that after the unbundling of electricity and the constitution of the Central and State Regulatory Commissions, there is no unallocated regulatory residue left outside the regulatory bodies. Section 79 of the Act delineates the functions of the Central Commission. Section 79(3) provides that the Central Commission shall ensure transparency while exercising its powers and discharging its functions. Section 86 of the Act deals with the functions of the State Commission. Section 86(1)(f) mandates that the State Commission shall adjudicate upon the disputes between the licensees and the generating companies and refer any dispute for arbitration. Section 86(3) of the Act mandates the Commission to ensure transparency while exercising its powers and discharging its functions. Section 94 deals with the powers of the Appropriate Commission. Section 94(3) empowers the Commission to authorise any person, as it deems fit, to represent the interests of the consumers in the proceedings before it. It is necessary for the High Court to consider the regulatory regime contemplated under the Act before passing the final order.

10. The present Special Leave Petition arises out of an interim order passed by the High Court pending disposal of the Writ Petition under Article 226 of the Constitution. We are called upon to examine the legality and validity of the interim direction enabling respondent no.1 to participate in the proceedings initiated by JBVNL. In fact, the High Court by the order impugned before us, directed for the Writ Petition to be heard further, but

before the High Court could take up the matter, the present Special Leave Petition came to be filed and this Court by its order dated 23.03.2026, issued notice and directed the parties to maintain *status quo*.

11. Having considered the matter in detail, we are of the opinion that facts presented before the High Court by respondent no. 1 Energy Watchdog seem to have given an impression to the High Court that all is not well in the inquiry which is to be conducted by JBVNL against respondent nos. 1 and 2. The High Court has in detail referred to the circumstances in which action was not taken against the petitioners despite a long-standing complaint by respondent nos. 1 and 2 at the right time.

12. We are conscious of the fact that proceedings have been initiated by JBVNL against the petitioners for violation of the CPP Agreement, and respondent no. 1 is not privy to the aforesaid agreement. However, in the peculiar facts and circumstances of the case, High Court came to the conclusion that it is necessary to bring full facts to the notice of JBVNL through a party other than the petitioners so that an appropriate decision could be reached. The High Court has found it compelling to adopt an interim measure in the peculiar facts of the case which in our opinion cannot be termed as perverse, warranting any interference at this stage under Article 136 of the Constitution of India.

13. We are sure that JBVNL will take its own decision on the basis of material to be placed before Energy Watchdog after due deliberation and caution and shall not convert the direction for oral hearing to that of a Court or Tribunal but a means to collect information to enable it to initiate necessary action.

14. While we decline to interfere with the interim order passed by the High Court, we make it clear that we have not expressed any opinion on merits of the matter. At the time of final hearing, the High Court will consider all aspects of the matter, including the scope and ambit of third-party intervention in proceedings arising under the Electricity Act.

15. With the aforesaid clarification, the Special Leave Petition is disposed of.

16. Pending application(s), if any, shall stand disposed of.

.....J.
[PAMIDIGHANTAM SRI NARASIMHA]

.....J.
[ALOK ARADHE]

**NEW DELHI;
SEPTEMBER 3, 2026**