

INTERNATIONAL THE NEWS

RPPs not transparent, Nepra tells SC

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ISLAMABAD: The National Electric Power Regulatory Authority (Nepra) admitted before the Supreme Court on Wednesday that Rental Power Projects (RPPs) were not transparent and it was thus up to the court to either cancel them or issue guidelines on how to make them transparent.

A two-member bench comprising Chief Justice Iftikhar Mohammad Chaudhry and Justice Khilji Arif Hussain was hearing a suo motu case along with two identical petitions filed by Federal Housing Minister Faisal Saleh Hayat and PML-N MNA Khawaja Muhammad Asif against the alleged corruption in rental power projects.

Appearing on notice, Nepra's counsel Najmul Hassan Kazmi contended that the Water and Power Ministry did not implement his client's orders that it take action against those responsible for the RPPs fraud. Kazmi said according to Nepra records, not a single power project had a commissioning date.

The chief justice noted that it was now proved beyond doubt that the projects were not transparent and said criminal cases should be registered against those responsible for non-transparency and irregularities.

The chief justice asked, "Why has our conscience gone to sleep?" He said Pakistan's neighbouring countries had attained new heights, adding that Korea followed Pakistan's five-year plan to reach a level of development worthy of emulation. "This is what should be called development," he observed. "Unfortunately, in our country no one is ready to present himself for accountability."

"It seems as if everyone is here just to pass time," Justice Khilji Arif Hussain remarked. "People are keeping their briefcases close to them and as soon as their 'work' here is over, they will leave the country. But we have to live here."

Nepra's counsel told the court that a rental power company, by the name of Walters Power International, had used the same machinery for the Guddu and Naudero-II rental power plants but took separate mobilisation advances of Rs1.25 billion each for both projects.

To a court query, he said Rs1.25 billion were paid in advance to Walters for the Guddu rental power project, whereas the machinery brought for the Guddu rental power project was shifted to Naudero-II power project and a separate mobilisation advance was also taken then. He said less tariff was determined for the machinery installed at Guddu but when it was shifted to Naudero, the tariff was increased.

The chief justice noted that all this was done deliberately. The Nepra's counsel submitted that the whole process involving the RPPs was non-transparent. He said money was taken on interest and paid to the rental power companies but Nepra managed to get the interest waived. He said the projects that had to be completed in 180 days still did not exist on the ground despite the passage of over two years.

To a court query, he said Nepra had objected to all this but no heed was paid to its objections. He said except the Gulf Power Company, no other company had completed its work according to the agreement.

"When Nepra smelled that RPPs were going to fail, it asked the ministry to stop work on the projects. Even in June and July, not more than 100MW electricity could be generated from these projects," Kazmi told the court.

The chief justice noted that this was a "huge fraud" and warranted punitive action. In response to a court query about what action was taken against those responsible for this fraud, Nepra's counsel stated that his client had asked the Water and Power Ministry to take action but its orders were not implemented.

Kazmi added that the rules of the Public Procurement Regulatory Authority (PPRA) were violated in the whole affair, adding that Nepra did not have the authority to cancel the agreements. He said if Nepra had the power to cancel the agreements and if it had indeed cancelled these agreements, the government would have had to pay huge penalties. He said if Nepra's suggestions and orders had been accepted at the initial stage of RPPs, the matter might not be before the apex court today.

"Criminal negligence has been committed in the whole matter but no action has been taken against those responsible," the chief justice noted. "Judges are portrayed as cruel because they decide cases on merit and in the best interest of the country. Judges speak for rule of law and independence of judiciary but their orders are neither accepted not acted upon," the CJ lamented.

"What will future generations think when they read about what has been happening in this country?" the CJ asked. "I hope that the time will come when Pakistan will be considered and treated as the country it deserves to be."

Senior counsel Anwar Kamal, who is assisting the court as amicus curiae (friend of the court), submitted that the Energy Ordinance 2002 and the Companies and NAB ordinances were violated in awarding of RPPs. He said according to the NAB Ordinance, the advertisement of every project costing over Rs50 million must be put up on the website of PPRA, which was not done in the case of RPPs.

Kamal said non-payment of fuel in the head of IPPs led to power shortage in the country but instead of paying the fuel dues of IPPs, the RPPs were started in order to open the floodgates of corruption. Meanwhile, the court adjourned further hearing for today (Thursday).