

Hydro Scam in Sikkim Himalayas crosses Rs. 50,000 Crores

Quid pro quo benefits to vested interest transfer of projects behind curtain of share transfer of IPPs and sale of equity of IPPs at huge premium while denying the GOS of the same benefits has escalated the Hydropower scam in the tiny Himalayan state.

By Soumik Dutta - Gangtok, June 18, 2012

The Government of Sikkim and the top officers of the Energy and Power Department, Govt. of Sikkim (GOS) have been cheating the State, its own people and the nation since June 2004 by giving away the water resources, a natural bounty, to private developers from outside the state at throw-away terms and prices, to develop hydropower projects and to benefit vested interests.

The GOS had assured the people that by 2007 such projects would be able to generate 3000 MW of electricity (clean and green energy) and be able to give Rs.3000 Crore annual income (revenue) to the State by way of 12% free power from such projects or money equivalent thereof. When, during that period of time, to get Hydro Electric Power Projects, Private Developers were offering up-front premium of nearly Rs.1 Crore per MW, and 30 to 40 % free power to the sponsoring States like in Himachal Pradesh and Uttaranchal , the GOS and its Officers, in exchange of quid pro quo benefits, to benefit such IPPs and vested interests gave away several hydropower projects to private developers (IPPs) without taking any up-front premium to get only 12% free power or money equivalent thereof.

These projects were given away at whims and fancies of the GOS Officers and the concerned Minister to their chosen few developers who had no background of experience or financial strength. Private sector organizations of repute like L&T, Essar Group, Jai Prakash Associates, IL&FS, Punj Llyod etc. were denied to be given any projects. Large public sector organizations, such as NHPC, NTPC and Sutlej Jal Vidyut Nigam Ltd., etc. were denied projects on lame excuses. The main aim was to get maximum underhand, unaccounted easy money and quid pro quo benefits from unknown and small companies at the cost of the State and its people and to cheat the nation, by repeatedly stating that Sikkim is thriving hard to give cheap and renewable energy to the Country.

The projects were thus allotted or rather given away at whims and fancies, even through a private broker, one Mr. T. Nagendra Rao, for quid pro quo personal gains. Mr. Rao was allotted three projects one after the other in violation of all policies, of nearly 100 MW each. As a result, not even one MW of power could be produced from such projects till now, let alone the tall dream of 3000 MW by the Year 2007 as was promised by the GOS. Some of these projects would not even come up and the others, if at all they make it, would not be completed before another 5 - 6 years.

This kind of scam would not have been possible by the State Government and officers of a small state like Sikkim without tacit involvement and support of some ministers and officers of Government of India and statutory authorities.

Unfortunately for Sikkim and its people, all these have been highlighted in the Audit Reports of the Accountant General of Sikkim on a yearly basis, however, since the state is ruled by only one party since 1994 (the ruling Sikkim Democratic Front) and there has not

been any opposition member in the assembly since then, the Accountant General's report goes to the dustbin every year through the Public Accounts Committee (PAC) headed by a SDF MLA, as the persons against whom the points are raised are the same persons who examine, deliberate and finally decide on such points.

The recent news paper reports published at the national level has created shock waves in the peaceful state of Sikkim (one stating/reporting Rs.20000.00 Crore Scam in Sikkim concerning the hydel projects allotted to IPPs and another highlighting/stating that Govt. of Sikkim last month has incorporated a company under Registration of Companies Act, Sikkim, to raise finance to subscribe to its 26% equity in the power projects allotted through joint venture route to the IPPs).

In reality, allotment of projects of 100 MW and higher capacities were also made through a wrong Joint Venture route not in line with the Government of India Guidelines, illegally flouting the GOI Guide Lines and the provisions of the Constitution of India to allot such projects through competitive bidding, though the IPPs had committed to allot 26% Equity to GOS within 180 days of the Agreement and also had further committed to arrange fund for GOS to subscribe to such equity by securitizing GOS's share of free power from these projects and dividend from such 26% equity.

It must be noted that the Energy and Power Department, GOS, had given several justifications in favour of private developers, who committed to give GOS 26% equity, while allotting projects to them as against much stronger and more suitable public sector organizations, such as NHPC, NTPC and Sutlej Jal Vidyut Nigam Ltd, as the public sector organizations were not giving GOS to subscribe to such equity or the 26% equity allotment was only a myth and a hidden agenda, a hidden discriminatory tactic with ulterior motives to oust public sector organizations and other strong interested parties and all concerned, including the GOS, its appointed committee, its officers, statutory authorities etc., conspired and participated in the illegal acts to oust public sector for each of their personal benefits.

IPPs had been allotted projects on joint venture route under the condition that they would execute shareholders agreement with GOS within 180 days of their agreement/MOU and allot 26% equity or else their agreement would be terminated and on that ground they were preferred over public sector organizations.

Significantly for the past 7 years they have neither executed the said shareholders agreement nor issued any equity and now, instead of terminating the agreements and pressing for damages towards depriving GOS their say in the management of the project company and compensation towards losses suffered, the GOS is evolving a plan to relieve these organizations from their obligations and from consequences of their failures by taking over the private developers' obligations to itself to arrange fund/borrow money to subscribe such equity and thereby plunging the state to huge undue risks and to give huge amount of undue benefits to such private developers .

This kind of undue favour by a state government and frittering public money is never heard of. Further such kind of favour would be going against the financial interests of the state and its people to benefit vested interests. There were many other angles which were considered in inscribing the term of such 26% equity contribution and funding for the same to be arranged by the private developers such as, that the private developers would be bound to perform and complete the projects in agreed time period to avoid to bear consequences of burdening itself on this account further.

Further, it is available in the public domain that one of the project owners has off-loaded a part of their equity at 65 times of the face value of their share and such value addition is fully and only attributable to their ownership of the concerned hydropower project they are executing in Sikkim. Had this organization executed the required shareholder agreement

and allotted GOS 26% equity within 180 days of the agreement, GOS as minority shareholder, would have got first preference to dilute and could have decided to off-load parts of its equity at 65 times the face value. In this way the state government is denied of its dues and gains which the private developers tactfully and wrongly embezzled. In this way, these private developers, who have got projects through joint venture routes, are enriching themselves at the cost of the state and its people and GOS.

Since these private developers have not executed shareholders agreement within 180 days of the agreement and have not provided 26% equity holding, the onus lies upon the GOS to terminate these agreements, auction these projects like the one decided in 2G allotment case by the Supreme Court of India or else this matter is so grave it needs probe by special agencies like CBI and CAG jointly and interference of the High Court of Sikkim and the Supreme Court of India.

This was in the case of Jal Power Corporation Limited, a wholly owned subsidiary of Coastal Projects Private Limited, Hyderabad. In the 75:25 debt equity ratios of Coastal Projects, in the JV, the GOS has at the rate of 26% equity Rs.50.40 crores. Likewise, Luxembourg based Greenko Energy Ventures Private Limited controls the shares in the 96 MW Dikchu hydropower project , a JV between GOS and Sneha Kinetic Power Projects Private Limited (ASPV). The GOS is entitled a 26% equity in it. Greenko has raised \$ 46.3 million in allotting its preference shares. In the remand report of Kadapa MP Jagan Reddy, the Central Bureau of Investigation has clearly stated that in Jagan's Sandur Power Company Limited (SPCL), Lanco Group has purchased considerable shares. Lanco is doing the Teesta Stage VI project in Sikkim. Singapore based River Valley Hydro Venture owns 75% stake in Secunderabad based Amrit Jal Ventures, worth Rs 300 crores.

Amrit Jal has floated three SPV's: Gati Infrastructure, Gati Infrastructure Bhasmey and Gati Infrastructure Sada Mangder for three projects in Sikkim. According to an Economic Times report dated February 19, 2009, the owners of Amrit Jal Ventures were not clearly known. In TUL, Mauritius based Varuna Investments Private Limited holds 100% preference shares of Singapore based Asian Genco co-owned by TV Vijay Kumar. Asian Genco, it may be added here, owns 50.9% equity of TUL, leaving 49.1% equity for the consortium partners of Athena Power Projects Limited (APPL) and the GOS which is supposed to hold 26% equity in the JV. Likewise such third party transfers and equity sale are observed in the Tashiding project too.

Thus it now appears that the scam is not only of Rs.20000 Crores, but of over Rs. 50000 Crores. The calculation of losses inflicted/suffered by GOS and the people of Sikkim is as mentioned below.

Though, list of projects and their status, provided in March 2009 by GOS consisted of 30 projects, we are keeping out of the above petition NHPC's Rangit Stage III which is in operation since 1999 and 2 more projects allotted to NHPC and Rolep, Ralong and Chakung Chu which are under arbitration, so, only 24 projects are left. Out of these about 10 projects are scrapped or left by the developers and Tashiding is under another petition. Out of the remaining, 2 projects - Dikchu and Teesta II - are illegally transferred to third parties.

Keeping these in mind, the following projects are taken to calculate the loss suffered by the state and its people, which is as under:

Chujachen	99 MW	
Teesta III	1200 MW	in J.V.
Jorethang Loop	96 MW	

Panan	300 MW	in J.V.
Teesta VI	440 MW	in J.V.
Rangit II	66 MW	
Rangit IV	120 MW	in J.V.
Rongni Chu	96 MW	
Teesta II	300 MW	in J.V.
Dikchu	99 MW	in J.V.
TOTAL	2816 MW	

Calculation of Loss:

A. Loss of Premium @ 50 Lacs per MW = Rs.1408.00 Crores

B. Loss of Money equivalent of free power @ 12%. In Writ Petition No. 40 of 2005 Teesta Urja, for 1200 MW, had informed that the state would earn Rs.32 lacs per day. So this amount for 2816 MW would become Rs.75 lacs per day. Average delay period, if the project would be executed, would be at least 6 years, then the committed dates i.e. 6 x 300 = 1800 days. Rs. 75.00 lacs x 1800 = 1350.00 Crores.

C. Loss towards not getting equity (only towards exchangeable value of equity). Total project size in J.V. route 2420 MW minus 600 MW (for non-starter 300 MW Panan and 300 MW Teesta II) = 1820 MW. Completion cost of these 1820 MW projects, lets say, is @ Rs.6.00 Crores per MW. Thus, total completion cost of projects of 1820 MW would be say, 10920.00 Crores.

With debt-equity ratio of 70:30, equity would be Rs.3276.00 Crores and GOS's 26% share equity would be Rs.851.00 Crores. As equity is off-loaded @ 65 times of face value in one of the projects, let this be the basis. So, the market value of Rs.851.00 crore equity would be Rs.851.00 Crores x 65 = Rs.55315 Crores.

Total Loss to Sikkim and its people would at least be = Loss under A + B + C

i. e. Rs.55315 + 1350 + 1408 = Rs.58073 Crores.

Note: In the above loss calculation, loss of interest amount is not taken, had GOS decided to sell off its equity early, loss of interest on the premium amount from the time of allotment of the projects till today and free power is considered to be only 12%, though some of these developers have committed to other states to provide them even 30/40% free power after 16th year of operation; the loss calculated does not include the amount of loss suffered for not provided with rights to participate in the management and decision making process of the J.V.s, assured as a pre-condition in allotment of these projects. Premium which ought to have been received for projects already scrapped have not been taken into account.