

MATTER UPDATE

HSA Advocates successfully advised and represented Uttar Pradesh Power Corporation Ltd. (UPPCL) in an Appeal filed by Simbhaoli Power Private Ltd. (Simbhaoli) before APTEL

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In a significant judgment pronounced on March 16, 2026 (in Appeal No. 128 of 2021), the APTEL upheld the order of the Uttar Pradesh Commission (UPERC) and dismissed the generator's appeal by reaffirming that the Force Majeure clause cannot be invoked merely because contractual performance has become commercially or financially onerous. The Hon'ble APTEL also held that Force Majeure clauses are applicable without any restrictions, but at the same time, a party cannot hide its own negligence and malafide intention behind this clause, so where the non-performance is caused by usual and natural consequences and not by uncertain consequences which are beyond the control of the parties, the Force Majeure clause cannot be enforced in those cases.

The Appeal pertained to the generator's claim seeking a reduction in contracted capacity of the project under the Power Purchase Agreement on account of alleged Force Majeure conditions arising from increased fuel costs, non-availability of bagasse, and operational inefficiencies.

This judgment reiterates the sanctity of PPAs and clarifies that the concept of 'Force Majeure' and 'Doctrine of Frustration' must be construed narrowly. The courts cannot generally absolve performance of the contract either because it had become onerous or due to an unforeseen turn of events.

Our team was led by **Hemant Sahai** (Managing Partner) and supported by **Nitish Gupta** (Partner), **Nipun Sharma** (Associate Partner), and **Varnika Tyagi** (Associate).