

ACARA INSIGHTS

Right to open access for captive generating plants is only subject to conditions provided under the provisions of Electricity Act

June 16, 2026

Dear Reader,

The Division Bench of the High Court of Judicature at Allahabad, in the judgment dated May 15, 2026, in *M/S Hindalco Industries Ltd. v. Purvanchal Vidyut Vitaran Nigam Ltd. & Ors.; WRIT (C) 18672/2026*, has allowed a writ petition seeking setting aside of two conditions namely (a) declaration that there is no pending litigation and (b) nothing is outstanding as payable, imposed by Purvanchal Vidyut Vitaran Nigam Ltd. (PuVVNL) on Hindalco Industries Ltd. (Hindalco) for grant of open access to its captive generating plant. The Hon'ble High Court allowed the writ petition holding that the said conditions are extraneous to the parent statute and the statute does not empower a transmission company or a distribution company to impose such conditions for providing open access to captive generating plants.

Facts:

Hindalco submitted an application for registration and grant of Short Term Open Access (STOA) on 25.09.2025 for supply of electricity from its Captive Generating Plant at Renusagar to its Aluminium Plant at Renukoot.

Instead of processing the application in terms of the Uttar Pradesh Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2019 (OA Regulations) as amended, PuVVNL, *vide* letter dated 06.10.2025 conditioned the grant of STOA upon Hindalco furnishing an undertaking that no dues are outstanding and no litigation is pending between the parties — conditions which are wholly alien to the statutory and regulatory framework.

Hindalco approached the High Court challenging the conditions imposed by PuVVNL for grant of STOA *inter alia* on the grounds that (i) imposition of such a pre-condition lacks statutory basis; (ii) Open Access is a statutory mandate under the Electricity Act and a captive power plant has a right to Open Access; and (iii) the amounts due in the pending litigation has been expressly stayed by the Hon'ble Supreme Court.

Findings:

There is no mandate under Section 9 or Section 42 or any provision in the Electricity Act, empowering the transmission company to impose such conditions for providing open access.

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“There is no mandate under section 9 or any provision in the Act, empowering the transmission company to impose such conditions for providing open access.”

Division Bench of the Allahabad
High Court

Relief:

The High Court quashed the conditions imposed by PuVVNL and directed Uttar Pradesh State Load Dispatch Centre Ltd. to consider the application filed by Hindalco seeking permission of Short Term Open Access in terms of OA Regulations. PuVVNL has been directed to comply with the directions issued by the High Court within three weeks.

Conclusion:

The judgment underlines that conditions which are not contemplated under the parent statute or the Rules/Regulations framed thereunder are impermissible in law, as such extraneous conditions operate as fetters on rights expressly conferred by the statute and cannot be permitted to override, dilute, or restrict the statutory entitlement.

Yours sincerely,

Acara Law LLP.