

With so many troubled PPPs, this is long overdue

The Central Electricity Regulatory Commission has already directed that a panel be set up to renegotiate tariffs for two ultra-mega power projects (UMPP) in trouble, and a third looks like it is on its way. Several developers of road projects who had walked out of NHAI highways due to the lack of environmental clearances or NHAI's inability to get them land, similarly, are looking at easier terms on which they can come back to develop the projects. In still other cases, according to estimates, over R1,00,000 crore is stuck in payment disputes with government-owned project authorities. And, more than this, there are a large number of projects which are in deep trouble due to exuberant bidding during the go-go days of 2008 and 2009 when it looked like a 10% GDP growth was India's right and money was always going to be available for free.

Which is why the Prime Minister's Office (PMO) has asked the Planning Commission to come up with a draft Bill on dispute resolution in such public contracts. Theoretically, the PPP projects who don't get their money or who have some other dispute—like the cost escalation due to the government not being able to get the necessary environmental clearances on time—can go to court or go in for arbitration. But given their project authorities are the ones they are going to court against, that may not be the wisest thing to do. Indeed, given what happened in the Vodafone case, even a Supreme Court verdict may not be enough to save a company.

The PMO doesn't have the last group of projects in mind—the ones that have got into trouble due to their irrational exuberance—but it is important to have a set of principles whereby ministries/regulatory bodies can take a decision on renegotiating of projects. After all, banks do such restructuring of loans all the time, but not too many point fingers at the banks for doing this. The alternative is to let the projects die a natural death if the promoters can't live up to what they have promised, but this will hold up a project and that has an implicit cost. Moreover, what happens if the project promoters allege the government was also responsible for some part of the problem? In the case of the telecom bids in 1994, while promoters were unable to pay the licence fees they had committed to in public auctions, they had filed a large number of cases against the government for failing to honour its commitments. In such cases, the alternative is decades of court battles. NTP 1999 was nothing but a negotiated settlement and it benefited everyone. Having a set of principles for such negotiated settlements is an idea that is long overdue and these can then be applied by either line departments, ministries or regulatory

bodies.