

COURT-II
IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(ORIGINAL JURISDICTION)

ORDER IN ORIGINAL PETITION NO. 02 OF 2018 & IA NO. 543 OF 2018
ON THE FILE OF THE APPELLATE TRIBUNAL OF ELECTRICITY,
NEW DELHI

Dated: **31th July, 2018**

Present: **Hon'ble Mr. Justice N. K. Patil, Judicial Member**
Hon'ble Mr. S. D. Dubey, Technical Member

IN THE MATTER OF:

Sai Wardha Power Generation Limited

(Previously Sai Wardha Power Limited)

8-2-293/82/A/431/A

Road No. 22, Jubilee Hills

Hyderabad -500 033

.... **Petitioner**

VERSUS

1. Maharashtra Electricity Regulatory Commission

Through its Secretary,

World Trade Centre, Centre No.1, 13th Floor

Cuffe Parade, Colaba

Mumbai – 400 005

2. Maharashtra State Electricity Distribution Company Ltd

Through its Managing Director,

PRAKASHGAD

Plot No. G-9, Bandra East

Mumbai – 400 051

.... **Respondents**

Counsel for the Petitioner(s) : **Mr. Anand K. Ganesan**
Mr. Ashwin Ramanathan

Counsel for the Respondent(s): **Mr. Buddy A. Ranganadhan for R-1**

Mr. Ashish Singh
Mr. Amit Bute for R-2

The Petitioner has sought the following reliefs in Original Petition No. 02 of 2018:

- (a) Direct the State Commission to take p the petition filed by the Petitioner on 04.04.2018 along with the urgent interim application of the Petitioner at the earliest feasible date for passing order;
- (b) Call for the records of Petition including the applications filed by the Petitioner on 18.04.2018 in the said petition;
- (c) Pass orders that open access granted by Respondent No.2 from April, 2018 onwards be treated as open access granted under section 9 of EA 2003;
- (d) Pass an interim order restraining MSEDCL from levying cross-subsidy surcharge and any other charges exempt for captive consumption in the monthly bills from April, 2018 onwards for the supply by the Petitioner to its consumers;
- (e) Direct MSEDCL to grant of open access against the MTOA applications made by the Petitioner on 26.12.2017 immediately;
- (f) Pass an ex-parte ad-interim order in terms of prayer (c) and (d) above and confirm the same after notice to the Respondents;
- (g) Pass such other further orders as the Hon'ble Tribunal may deem just in the facts of the present case.

ORDER

PER HON'BLE MR. JUSTICE N. K. PATIL, JUDICIAL MEMBER

1. We have heard the learned counsel, Mr. Anand K. Ganesan, appearing for the Petitioner, the learned counsel, Mr. Buddy A Ranganadhan, appearing for the

first Respondent and the learned counsel, Mr. Ashish Singh, appearing for the second Respondent for quite some time.

2. During the course of the submissions, the learned counsel appearing for the Petitioner submitted that, the first Respondent, Maharashtra Electricity Regulatory Commission, is now functioning and the matter has come up for consideration. Therefore, he submitted that the prayer sought in the instant petition does not survive for consideration. Further, he submitted that, the Interim Order dated 08.05.2018 granted by this Tribunal may kindly be continued till the interim application filed by the Petitioner before the first Respondent/State Commission is considered and disposed of by the first Respondent/State Commission in the interest of justice and equity.

3. *Per-contra*, the learned counsel appearing for the Respondent Nos. 1 and 2 submitted that, in fact, the first Respondent is functioning in a full-fledged manner and the matter has come up for consideration before the first Respondent/State Commission. Therefore, the petition filed by the Petitioner may be disposed of as having become infructuous.

4. Submissions made by the learned counsel appearing for the Petitioner and the learned counsel appearing for the Respondent Nos. 1 & 2, as stated supra, are placed on record.

5. In the light of the submissions made by the learned counsel appearing for the Petitioner and the learned counsel appearing for the Respondent Nos. 1 & 2,

the instant petition, being O.P. No. 02 of 2018 on the file of the Appellate Tribunal for Electricity, New Delhi stands disposed of as has become infructuous reserving liberty to the Petitioner to redress their grievance before the first Respondent/State Commission, if they so advised or the need arises. In the meanwhile, the interim order dated 08.05.2018 granted by this Tribunal is extended till the interim application filed by the Petitioner before the first Respondent is considered and disposed of.

6. All contentions of both the parties are left open.

7. With these observations, the instant Petition, being OP No. 02 of 2018, on the file of the Appellate Tribunal for Electricity, New Delhi, stands disposed of.

8. In view of the petition, being O.P. No. 02 of 2018 on the file of the Appellant Tribunal for Electricity, New Delhi being disposed of, consequently relief sought in the IA, being IA No. 543 of 2018, does not survive for consideration and stands disposed.

Order accordingly.

(S.D. Dubey)
Technical Member

vt/js

(Justice N.K. Patil)
Judicial Member