

**COURT-II**

**Before the Appellate Tribunal for Electricity  
(Appellate Jurisdiction)**

**Appeal No. 301 of 2015 & IAs-484 of 2015, 485 of 2015**

**Dated** : **7<sup>th</sup> April, 2016**

**Present** : **Hon'ble Mr. Justice Surendra Kumar, Judicial Member  
Hon'ble Mr. T. Munikrishnaiah, Technical Member**

**In the matter of:**

**Tata Power Delhi Distribution Ltd.**

**Versus**

**Delhi Electricity Regulatory Commission**

**....Appellant(s)**

**.... Respondent(s)**

Counsel for the Appellant (s) : Mr. Sanjay Sen, Sr. ADV  
Mr. Sakya Singha Chaudhary  
Mr. Avijeet Lala  
Mr. Anand K. Srivastava  
Ms. Molshree Bhatnagar  
Ms. Nayantara Pande,  
Ms. Ritu Gupta  
Mr. Anurag Bansal for TPDDL

Counsel for the Respondent (s) : Mr. Pradeep Misra  
Mr. Manoj K. Sharma for R-1/DERC  
Mr. Saurabh Gandhi for URD  
Dr. M;K. Agarwal for URD

Mr. A.K. Dutta, Mr. Rajan Gpta  
Mr. V.K. Malhotra, Mr. B.B. Tewari  
Mr. Ajay Budhraj (Pulwari Block, RWA)  
Mr. Dalip Chandra (Maharana Pratap Bagh, RWA)  
Mr. Damodar Kushyal  
(Malik Pur, Jan Kalyan Prasishad, RWA)  
Mr. J.C. Gosain (Dr. Kukherjee Nagar, RWA)  
Mr. M.C. Sharma, Indira Vihar, Delhi  
Mr. Balbir Singh (S. Vikas Colony, RWA)  
Mr. S.L. Mendiratta, President, Mukherjee Nagar

**ORDER**

The number of persons in the name of consumers of Delhi have today appeared in response to the Public Notice. These consumers stated that this Tribunal had passed some orders in some other matter by which 1000 copies of Paper Book were ordered to be kept

Contd..2

ready. The purpose of Public Notice is only to apprise the public that some tariff matter is to be heard before the Appellate Tribunal in the appeal and if anyone from the public wants to share or participate in the hearing, then, he is welcome.

No consumer can be given any concessions just on the ground of being a socialite. The Tribunals or Courts are not meant for political forums or for the means of social justice. Courts are concerned with the legal aspects and not otherwise. Any kind of leadership cannot be allowed on behalf of the consumers. All the consumers, who are present today in response to Public Notice, are directed to keep discipline during the hearing.

Keeping in view of the genuine demands of the consumers, we deem it proper to direct Mr. Sanjay Sen, the learned Senior Counsel appearing for the Appellant to supply 5 copies of the Appeal Paper Books to the consumers. The consumers who are present today in large numbers are directed to select any 5 persons who are to be given the said copies. The said copies be kept in the Registry from where the Registrar, APTEL can give the said material to only 5 consumers in this Appeal. We cannot postpone the hearing of any tariff appeal just on the ground that the number of consumers appearing in court in response to the Public Notice be given individual time for filing responses. We give liberty to all the consumers to make their submissions during the hearing.

Mr. A.K.Dutta appears to be a problem creating person and he has been appearing in many matters. The tribunal will take notice of Mr. A.K.Dutta in future. All the consumers are further directed to file their responses within 3 weeks positively from today and rejoinder submission, if any, within 2 weeks thereafter.

IA No. 485 of 2015 in this Appeal being Appeal No.301 of 2015 has been filed by the Appellant for seeking stay on many parts of the Impugned Order. We have heard Mr. Sanjay Sen, learned Senior Counsel of the Advocate, appearing for the appellant and Mr. Pradeep Misra appearing for DERC. Mr. Sanjay Sen, has mainly attacked the Impugned Order on two following grounds:

Contd...3

- (i) That swapping of cheaper power of TPDDL, appellant herein, with costly power of BYPL has been ordered by the State Commission by the Impugned order passed by the learned Delhi Commission.
- (ii) On the point, that receipt of more than Rs.4,000/- in cash from the consumers by the Appellant which is Distribution Licensee has not been allowed by the Impugned Order of the State Commission and the State Commission has insisted upon collecting dues through Bank modes only, not in cash.

On our query to Mr. Pradeep Misra, learned counsel for DERC as to whether the Delhi Commission can pass such directions. He submits that the State Commission has passed the said directions in the Impugned Order on the Directions of the Government of Delhi. The State Commission is bound by the advice or directions of the State Government if it relates to the policy matters as provided under Section 108 of Electricity Act, 2003. After hearing both the parties, limited to the points raised by Mr. Sanjay Sen on the stay of Impugned Order, we deem it proper and just to stay the operation of the Impugned Order only on the aspect it relates to swapping of cheaper power by the Appellant with costly power of BYPL.

In this view, the direction for the swapping of the said power in the impugned order is hereby stayed till the next date. So far as the collection of more than Rs.4,000/- in cash is concerned, this point will be considered at the time of judgement in the appeal.

All the respondents are required to file their counter affidavit/reply to the appeal memo within three weeks from today and rejoinder submissions, if any, within 2 weeks thereafter.

Post this appeal for hearing on **1<sup>st</sup> June, 2016.**

**(T. Munikrishnaiah)**  
**Technical Member**

**(Justice Surendra Kumar)**  
**Judicial Member**

*kt/jp*