

COURT - I

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)**

DFR NO. 721 OF 2017

DFR NO. 737 OF 2017

**OP NO. 01 OF 2017 & IA NO. 235 OF 2017 & IA NO. 236 OF 2017
OP NO. 02 OF 2017 & IA NO. 241 OF 2017 & IA NO. 242 OF 2017**

Dated: 17th April, 2017

**Present: Hon'ble Mrs. Justice Ranjana P. Desai, Chairperson
Hon'ble Mr. T. Munikrishnaiah, Technical Member
Hon'ble Mr. I.J. Kapoor, Technical Member**

DFR NO. 721 OF 2017

In the matter of :

BSES Rajdhani Power Ltd.

...Appellant(s)

Vs.

Delhi Electricity Regulatory Commission & Ors.

...Respondent(s)

Counsel for the Appellant(s) : Mr. Buddy A.Ranganadhan
Mr. Hasan Murtaza
Ms. Malvika Prasad

Counsel for the Respondent (s) : Mr. Pradeep Misra
Mr. Daleep Dhyani for R-1

Mr. Anand K. Shrivastava
Mr. Abhishek Kumar for R-2

DFR NO. 737 OF 2017

In the matter of :

BSES Yamuna Power Ltd.

...Appellant(s)

Vs.

Delhi Electricity Regulatory Commission & Anr.

...Respondent(s)

Counsel for the Appellant(s) : Mr. Buddy A.Ranganadhan
Mr. Hasan Murtaza
Ms. Malvika Prasad

Counsel for the Respondent (s) : Mr. Pradeep Misra
Mr. Daleep Dhyani for R-1

Mr. Anand K. Shrivastava
Mr. Abhishek Kumar for R-2

OP NO. 01 OF 2017 & IA NO. 235 OF 2017 & IA NO. 236 OF 2017

In the matter of :

BSES Yamuna Power Ltd. **...Appellant(s)**
Delhi Electricity Regulatory Commission & Anr. **...Respondent(s)**
Vs.

Counsel for the Appellant(s) : Mr. Buddy A.Ranganadhan
 Mr. Hasan Murtaza
 Ms. Malvika Prasad

Counsel for the Respondent (s) : Mr. Pradeep Misra
 Mr. Daleep Dhyani for R-1

 Mr. Anand K. Shrivastava
 Mr. Abhishek Kumar for R-2

OP NO. 02 OF 2017 & IA NO. 241 OF 2017 & IA NO. 242 OF 2017

In the matter of :

BSES Rajdhani Power Ltd. **...Appellant(s)**
Delhi Electricity Regulatory Commission & Ors. **...Respondent(s)**
Vs.

Counsel for the Appellant(s) : Mr. Buddy A.Ranganadhan
 Mr. Hasan Murtaza
 Ms. Malvika Prasad

Counsel for the Respondent (s) : Mr. Pradeep Misra
 Mr. Daleep Dhyani for R-1

 Mr. Anand K. Shrivastava
 Mr. Abhishek Kumar for R-2

ORDER

(OP No. 01/2017 & OP No. 02/2017)

On instructions from his clients, Mr. Buddy A. Ranganadhan makes a statement that the Petitioner wishes to withdraw O.P. Nos. 01/2017 and 02/2017 since the Petitioner has filed appeals challenging the letters/orders dated 12.01.2017. Counsel submits that the said letters are in fact orders inasmuch as the said letters contain contentions of the parties, give findings on the contentions and the said letters issue directions.

In view of the above, the original petitions, being OP Nos. 01/2017 & 02/2017 are allowed to be withdrawn and are disposed of as such.

DFR No. 721/17 & DFR No. 737/2017

In these appeals, the Appellant has challenged letters/orders dated 12.01.2017 issued by the Delhi Electricity Regulatory Commission (**“State Commission”**).

Mr. Pradeep Misra, learned counsel for Respondent No.1 strenuously contended that these Appeals are not maintainable inasmuch as the challenge is only to the letters issued by the State Commission and they cannot be described as orders. Learned Counsel submitted that the letters are, in fact, issued in furtherance of the order dated 23.12.2015 and, therefore, the appeals are not maintainable.

Mr. Anand Shrivastava, learned counsel for Respondent No. 2 submitted that the appeals are not maintainable. He submitted that the letters are not issued by the State Commission. They are issued by the State Commission’s officers. Hence, they cannot be called orders. This submission deserves to be rejected. The letters are sent on behalf of the State Commission obviously on the instructions of the State Commission. In the facts of this case, therefore, they are in the nature of orders issued by the State Commission.

Mr. Buddy A. Ranganadhan, learned counsel for the appellant submitted that the letters note the contentions of the parties, give findings on the contentions and issue directions and therefore they are in fact orders, which can be appealed before this Tribunal under Section 111 of the Electricity Act, 2003.

Having heard learned counsel for the appellant and having read carefully the order dated 23.02.2015 passed by this Tribunal, order dated 23.12.2015 passed by the State Commission and letters/orders dated 12.01.2017 issued by the State Commission, we are of the opinion that in the peculiar facts and circumstance of the case and without making it a precedent, the letters/orders dated 12.01.2017 should be treated as orders and, hence, the appeals are maintainable. The appeals are admitted. The Registry is directed to number the appeals.

Mr. Pradeep Misra takes notice on behalf of Respondent No.1. Mr. Anand Kumar Srivastava takes notice on behalf of Respondent No. 2. Issue notice to other respondents. Dasti, in addition of court notice, is permitted.

List these matters on **18.04.2017 at 2:30 p.m.**

(I. J. Kapoor)
Technical Member

(T. Munikrishnaiah)
Technical Member

(Justice Ranjana P. Desai)
Chairperson

ss/vt