

COURT-II
Before the Appellate Tribunal for Electricity
(Appellate Jurisdiction)

C.P. 1 of 2016 & IA-59 of 2016

Dated : **4th February, 2016**

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

In the matter of:

D.P. Chirania & Anr. Petitioner
Versus
Rajasthan Electricity Regulatory Commission & Ors. Respondent(s)

Counsel for the Appellant (s) : Mr. D.P. Chirania
Mr. B.M. Sanadhya

Counsel for the Respondent (s) : None

ORDER

The Contempt Petition, being CP No. 1 of 2016, filed by Mr. D.P. Chirania, Chairman, Rajasthan State Electricity Board (RSEB) retired Abhiyanta Evam Adhikari, Jan Kalyan Trust, Jaipur and one Mr. B.M. Sanadhya, Director, Samta Power, a NGO, has today been presented before us without any endorsement of the Registry, APTEL for the first time. This contempt petition is dated 6.1.2016, and we are not aware at this stage when this contempt petition was filed before the Registry of this Appellate Tribunal. Registry is directed to report in this matter clearly specifying the date when this contempt petition was filed before the Registry and the reason for listing it today.

We have heard Mr. D.P. Chirania in person on this contempt petition. The first page of the contempt petition mentions as “**Memorandum of Contempt Appeal**”. We have gone through the various prayers made in the said petition. On our query, Mr. D.P. Chirania clarified that his only aim and intention is to get the implementation of the judgment, dated 18.5.2015, in Appeal No. 16 of 2014 passed by this Appellate Tribunal, wherein this Appellate Tribunal in paragraph 15 of the said judgment has observed as under:

“15. In view of the above discussions and considering the nature of the prayers made by the Appellant in the Appeal Memorandum, we direct the State Commission not to accept any future ARR petition or retail tariff revision petition from the Discoms without complete data and audited accounts. We further direct the State Commission to take action against the Discoms for non-compliance of the aforesaid directives of the State Commission considering the provisions of Section 24 of the Electricity Act, 2003 or other relevant

provisions of law and regulations as the State Commission deems fit and proper. With these directions, the instant appeal being Appeal No. 16 of 2014 is accordingly disposed-of without any order as to costs.”

Many prayers in this contempt petition are beyond our scope as the Appellate Tribunal has been established for the limited purposes and not enjoying the power of High Court and Hon'ble Supreme Court like constituting a Special Investigation Team (SIT) or instructing the State Commission to introduce a system of holding of periodical open court for reviewing the compliance of the Commissions' orders and directives or to instruct the State Commission to exercise its power available under Section 24, 128, 129, 142, 148 and 149 of the Electricity Act, 2003 liberally, without showing leniency, in case of default by the licensees. Further prayer is that Special Investigation Team (SIT) to be constituted by this Appellate Tribunal may monitor the compliance of the directions of this Appellate Tribunal by the State Commission till these systems get stabilized.

Mr. D.P. Chirania is more concerned with our direction to the State Commission not to accept any future ARR or retail tariff petition from the Discoms without complete data. The main submission of Mr. Chirania in support of this contempt petition is that the Rajasthan Commission has accepted the true-up ARR for FY 2013-14 and ARR and retail tariff revision for FY 2015-16 filed by the Distribution Licensees of the State of Rajasthan for hearing without complete data. The main prayer of Mr. D.P. Chirania by virtue of separate application, being IA No. 59 of 2016 is to stay the further process on the true-up ARR and retail tariff revision petitions pending before the Rajasthan Commission till revised petitions are filed with complete data.

On our query, Mr. D.P. Chirania candidly admits that these petitions are at the preliminary stage before the State Commission where hearing has not commenced and is to commence. The main apprehension of Mr. Chirania is that the State Commission without compliance of this Appellate Tribunal's aforementioned direction in the aforesaid judgment, dated 18.5.2015, will decide the said petitions without complete data having been filed by the State Discoms. We have deeply considered the concerns of Mr. Chirania. We hope, that the State Commission will comply with the directions given in our judgment, dated 18.5.2015, in Appeal No. 16 of 2014, in the matter of D P Chirania vs. RERC & Ors. in letter and spirit. At this moment, we do not find any sufficient reason to believe that the State Commission would not comply with the aforesaid directions of this Appellate Tribunal. After all, the State Commission, being a quasi-judicial authority, is supposed to obey the law or the directions or orders issued by the Appellate Courts without trying to flout the said directions.

Since, the allegation of the petitioner is that the State Commission has accepted the true-up ARR for FY 2013-14 and ARR and retail tariff revision for FY 2015-16 filed by three Distribution Licensees of Rajasthan with incomplete data, we deem it proper to issue notice to the Rajasthan Electricity Regulatory Commission to file counter affidavit/reply within two weeks from today to explain under what circumstances the said petitions have been accepted by the State Commission without complete data.

After going through the contents of the said petition, we deem it proper to treat it as execution petition requiring the petitioners to annex court fee of Rs. 5000/- out of which they have already paid Rs. 3000/-. Hence, to treat it as execution petition, the petitioners are directed to make up the deficiency of Rs. 2000/- towards court fee within two days from today and also issue notice to the State Commission on the said application, being IA No. 59 of 2016.

At this stage, we accept the oral request of Mr. D.P. Chirania that he want to implead all the three Distribution Licensees of Rajasthan who are required to file the said petitions with complete data before the Commission. He is free to move the impleadment application within one week from today.

Registry is directed to number the execution petition and post the matter for hearing on **18th February, 2016.**

Dusti service is permitted.

(T. Munikrishnaiah)
Technical Member

(Justice Surendra Kumar)
Judicial Member

vt/vg