

COURT-II

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

Appeal No. 301 of 2015 & IA Nos. 484 of 2015 and 485 of 2015

Dated: 16th March, 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. ... Appellant(s)
Versus
Delhi Electricity Regulatory Commission ... Respondent(s)**

Counsel for the Appellant(s) : Mr. Sanjay Sen, Sr. Advocate
Mr. Sakya Singha Chaudhuri
Mr. Anand K. Shrivastava,
Ms. MolshreeBhatnagar, Ms.Nayantara
Pande and Mr. Anurag Bansal

Counsel for the Respondent(s) : Mr. Pradeep Misra and Mr. Shashank
Pandit for R.1

Mr. Saurabh Gandhi-URD
Mr. V.K. Malhotra- Stake holder
Mr. Rajan Gupta- Stake holder
Mr. A. K. Dutta and Mr. Jitendra Tyagi

ORDER

Mr. Pradeep Misra, learned counsel for the respondent/Commission prays for and is granted two weeks time to reply to the main appeal. Mr. Sanjay Sen, learned Senior Advocate, for the appellant insists that the stay application should be considered. We think it proper since the appeal involves as many as 75 issues. The respondent, Commission, at least should be given sufficient time to enable it to file reply to the main appeal. Mr. Sanjay Sen, learned Senior Advocate for the appellant may also file rejoinder in the meantime.

2) Mr. Sanjay Sen, learned Sr. Advocate has been partly heard on IA No. 485 of 2015 in Appeal No.301 of 2015 on mainly two points:

- 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 and

- ii) On the point that receipt of more than Rs.4,000/- in cash from the consumers by the appellant has not been allowed and insisted upon collecting cash through Bank modes.
- 3) Mr. Pradeep Misra, learned counsel for the Delhi Commission has apprised us that the swapping of the said power has been ordered by Delhi Commission as per direction of the Government of Delhi. On our query to the fact whether any Commission is bound by the direction of the State Government, Mr. Pradeep Misra submits that the State Commission is bound by the advice or direction of the State Government, if it relates to the policy matter.
- 4) Mr. Sanjay Sen, learned Sr. Advocate on the point of recovery in cash, above Rs.4,000/-, submits that some special Court of the rank of Additional District Judge in the matter of electricity like theft case has ordered to receive in cash, an amount of more than Rs.4,000/-. Mr. Sanjay Sen clearly admits that four points have been raised in the Interim Application but he is pressing only on the above two points and the rest will be argued in the appeal finally. This IA be listed for remaining hearing on the next date.
- 5) At this stage it has been brought to our notice that the Impugned order is a tariff order and public notice should be issued. It was incumbent on the learned counsel for the appellant to point out that instant appeal is an appeal against the tariff order but any how the same escaped attention.
- 6) Today we hereby direct public notice be issued as Impugned Order is a tariff order for which the appellant is directed to take steps within three days from today.

Post the matter for hearing on **07th April, 2016.**

(T. Munikrishnaiah)
Technical Member

(Justice Surendra Kumar)
Judicial Member

sh/kt