

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

IA NO. 442 OF 2017

IN

DFR NO. 1593 OF 2017 & IA NO. 725 OF 2017

Dated: 22nd November, 2017.

**Present: Hon'ble Mrs. Justice Ranjana P. Desai, Chairperson
Hon'ble Mr. S.D. Dubey, Technical Member**

In the matter of:

Punjab State Power Corporation Limited ... Appellant(s)

Vs.

Patran Transmission Co. Ltd. & Ors. Respondent(s)

Counsel for the Appellant(s) : Mr. Manu Seshadri
Mr. Aditya Singh

Counsel for the Respondent(s): Mr. Ramji Srinivasan, Sr. Adv.
Ms. Poonam Verma
Ms. Nishtha Kumar
Mr. Sohil Yadav
Mr. Tushar Bhardwaj
Ms. Radhika Seth for R.1

Ms. Ranjana Roy Gawai
Mr. Mangesh Krishna for R-20

Mr. M.G. Ramachandran
Ms. Poorva Saigal
Mr. Shubham Arya for R-28

ORDER

1. In this appeal, the Appellant has challenged Order dated 04.01.2017 passed by the Central Electricity Regulatory Commission in Petition No.155/MP/2016. There is 81 days' delay in filing the appeal. Hence, in this application, the Appellant has prayed that the delay may be condoned.

2. In the application, it is stated that the impugned Order dated 04.01.2017 was downloaded by the Appellant on 05.01.2017. It is further averred that since elections were going on in the State of Punjab in the months of February and March, the Appellant being a State Corporation, had to depute its officers on election duty. It is further averred that pursuant to the declaration of results of the elections on 11.03.2017, the top management officials of the Appellant Corporation had changed and, therefore, it took time to get the final confirmation and signatures required to file the present appeal, but as soon as due verification and finalization was done, the present appeal came to be filed. It is further stated that the delay caused in filing this appeal is *bona fide* and not deliberate. It

is further pleaded that grave prejudice and irreparable harm would be caused to the Appellant if the delay is not condoned.

3. Mr. Manu Seshadri, learned counsel for the Appellant has reiterated the above submissions. Counsel submitted that there is no deliberate inaction or lethargy on the part of the Appellant. Counsel submitted that the issues involved in this appeal are of great importance and, hence, in the interest of justice, delay may be condoned.

4. Mr. Ramji Srinivasan, learned senior advocate appearing for Respondent No.1 has strenuously opposed the condonation of delay. Counsel has drawn our attention to the reply filed by Respondent No.1. Counsel submitted that the Appellant had filed the appeal in this Tribunal in April, 2017. Thereafter, when the Registry pointed out that there are some discrepancies in the dates, the Appellant converted the month "April" mentioned on the appeal memo into "May". Counsel submitted that the vakalatnama of Ms. Ahluwalia is dated 12.05.2017. It is not understood how she has signed on the appeal memo on 10.05.2017. Counsel submitted that affidavit of Mr. Suresh Kumar Kansal dated 10.05.2017 is stated to be attested by the Notary Public. However, the Notary

Public has not put the date on which the attestation was done. Thus, the Appellant's conduct displays negligence. Counsel submitted that the explanation offered by the Appellant is not acceptable. It is extremely vague. The Appellant has stated that due to elections held in the months of February and March, the officers of the Appellant were unable to render assistance in the process of filing the appeal. It is stated that after the declaration of result i.e. 11.03.2017, the top management officials of the Appellant changed and, hence, the delay was caused. Counsel submitted that the appeal ought to have been filed by 20.02.2017. The alleged change in the officers is much after 20.02.2017 and even after the change of officers i.e. on 11.03.2017, the Appellant has taken time till 12.05.2017 to file the appeal. Counsel submitted that the Appellant has not made out sufficient cause and, hence, the application be dismissed.

5. We shall first deal with the corrections made on the appeal memo and the instant application. We have carefully perused the Register-(DFR 2017 Vol-I) maintained by the Registry. The relevant entry shows that the Appellant had filed the appeal in this Tribunal on 12.05.2017. It appears that there was discrepancy in the date

mentioned on the appeal memo and the condonation of delay application and the date mentioned on affidavits in support filed by Mr. Suresh Kumar Kansal, Deputy Chief Engineer of the Appellant. Instead of month May the month was wrongly mentioned as April. The Registry, therefore, issued 'Defects Notice' to the Appellant on 23.05.2017. The Representative of the Appellant therefore visited the Registry. On scrutiny of the papers it was found that the month was wrongly mentioned as April and it was purely an inadvertent error. This is clear from the fact that the demand draft submitted by the Appellant for payment of court fee is dated 10.05.2017. Therefore, the appeal memo and the court fee were ready on 10.05.2017. When the inadvertent error was noticed, the Representative of the Appellant was allowed to change the month from April to May. The Registry's record and endorsement on appeal memo make it clear that the appeal was filed on 12.05.2017. We are inclined to agree with Mr. Manu Seshadri, learned counsel for the Appellant that though the appeal was ready for filing earlier, it took some time to get confirmation and signatures required to file the appeal. The record shows that the Vakalatnama was signed only on 12.05.2017. We do not find any *mala fides* in the conduct of Ms. Sahiba Ahluwalia. She appears to have signed on the appeal

memo on 10.05.2017 in anticipation of the Vakalatnama, which was signed on 12.05.2017. Since the Vakalatnama was signed on 12.05.2017, the appeal could have been filed on 12.05.2017 or thereafter. It is true that the notary has not put the date below his signature on the affidavit of Mr. Suresh Kumar Kansal annexed to the instant application. But that appears to be also inadvertence on the part of the Notary. Pertinently on the affidavit of Mr. Suresh Kumar Kansal annexed to the appeal memo, the date below the notary's signature is mentioned as 10.05.2017. Having considered all these circumstances in the right perspective, we are of the opinion that the Appellant is not guilty of any sharp practice. The Registry of this Tribunal rightly allowed pure inadvertent error to be corrected.

6. So far as the explanation offered by the Appellant for delay is concerned, it appears that the elections held in the State of Punjab in February and March kept the officers busy with election duty. After the result, the top officers were changed and, hence, necessary steps could not be taken in time. Though the Appellant has not indicated the movement of file, we cannot be oblivious of the fact that during elections, officers are drawn from various

Government departments for election duty. In the circumstances of the case, it is not possible for us to hold that the 81 days' delay in filing this appeal is deliberate or that there is negligence or lackadaisical approach on the part of the Appellant. Besides considering the nature of the issues involved in this case, we are of the opinion that the delay in filing the appeal deserves to be condoned after saddling the Appellant with costs of Rs.20,000/- (Rupees twenty thousand only) to be paid to "**National Defence Fund, PAN No.AAAGN0009F, Collection A/c No.11084239799 with State Bank of India, Institutional Division, 4th Floor, Parliament Street, New Delhi**" within two weeks from today. Order accordingly.

7. On proof of payment of costs, the Registry shall number the appeal and place it for admission on **13/12/2017**.

8. Interim Application is disposed of in the aforestated terms.

9. Pronounced in the Open Court on this **22nd day of November, 2017**.

(S.D. Dubey)
Technical Member

(Justice Ranjana P. Desai)
Chairperson