

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

**ORDER IN APPEAL NO. 126 OF 2018 &
IA NO. 354 OF 2018
ON THE FILE OF THE
APPELLATE TRIBUNAL FOR ELECTRICITY - NEW DELHI**

Dated : 15th January, 2019

**Present: Hon'ble Mr. Justice N.K. Patil, Judicial Member
Hon'ble Mr. Ravindra Kumar Verma, Technical Member**

In the matter of:

**M/s SAS Hydel Projects Pvt. Ltd.,
New 25, Old No. 10, Sir Madhavan Nair Road,
Mahalingapuram, Nungambakkam,
Chennai – 600 034**

.... Appellant(s)

Versus

Madhya Pradesh Electricity Regulatory Commission

Through its Secretary
5th Floor, Metro Plaza
Arera Colony, Bittan Market,
Bhopal – 462 016

.... Respondent(s)

Counsel for the Appellant(s) : Mr. Anand K. Ganesah

Counsel for the Respondent(s) : Mr. S. Venkatesh
Mr. Sandeep Rajpurohit
Mr. Vikas Maini
Mr. Nishtha Kumar
Mr. Somesh Srivastava
Mr. Samarth Kashyap

M/s SAS Hydel Projects Pvt. Ltd., Chennai, the Appellant herein, has filed the instant Appeal, being Appeal No. 126 of 2018, seeking the following reliefs:

- A) Allow the appeal and set aside the order dated 21/06/2017 passed by the State Commission to the extent challenged in the present appeal;
- B) Direct the State Commission to determine the applicable tariff for mini hydel projects in the State of Madhya Pradesh established under SHP 2011 for FY 2018-19 in a time bound manner;
- C) Pass such other Oder(s) and this Hon'ble Tribunal may deem just and proper.

The Appellant has presented this Appeal for considering the following Questions of Law:

- 1) Whether the State Commission is justified in disallowing the extension of COD while the same is governed by the PPA and has been mutually agreed to be extended by the parties?
- 2) Whether the State Commission has followed the principles of natural justice and also the due process of law in passing the impugned order?
- 3) Whether the State Commission is justified in proceeding to decide an issue which was not in dispute and which did not arise for adjudication at all?

- 4) Whether the State Commission is justified in holding that the Respondent No. 2, which is the counter-party to the PPA could not agree for extension of time, but the said issue could be agreed to only by the Government?
- 5) Whether the State Commission erred in applying the HPDA for disallowing the extension of COD?
- 6) Whether the State Commission is justified in not determining the tariff for hydro projects and merely proceeding to extend the previous orders passed?

ORDER

PER HON'BLE MR. JUSTICE N. K. PATIL, JUDICIAL MEMBER

1. We have heard learned counsel, Mr. Anand K. Ganesan, appearing for the Appellant and the learned counsel, Mr. S. Venkatesh, appearing for the Respondent Commission.

2. The learned counsel for the Appellant, at the outset, submitted that, in the light of the Tariff Order dated 21.12.2018 passed in, being No. SMP-18/2018, on the file of the M.P. Electricity Regulatory Commission, Bhopal regarding procurement of power from Small Hydro Power Projects in Madhya Pradesh, the reliefs sought in the instant Appeal does not survive for

consideration. Hence, the same may kindly be disposed of reserving liberty to the Appellant to redress their grievances before appropriate Legal Forum for change of law.

3. ***Per-contra***, the learned counsel, Mr. S. Venkatesh, appearing for the Respondent Commission, inter-alia, contended and fairly submitted that, the submissions made by the learned counsel for the Appellant, as stated supra, may be placed on record and in the light of the Tariff Order dated 21.12.2018 passed in, being No. SMP-18/2018, on the file of the M.P. Electricity Regulatory Commission, Bhopal regarding procurement of power from Small Hydro Power Projects in Madhya Pradesh and for the reasons stated therein, the instant Appeal may be disposed of as having become infructuous. Further, he submitted that, regarding change of law, liberty may be reserved for the Appellant to redress their grievances before the appropriate Legal Forum in accordance with law, if they so advised or need arises.

4. Submissions of the learned counsel appearing for the Appellant and the Respondent Commission, as stated supra, are placed on record.

5. In the light of the Tariff Order dated 21.12.2018 passed in, being No. SMP-18/2018, on the file of the M.P. Electricity Regulatory Commission,

Bhopal regarding procurement of power from Small Hydro Power Projects in Madhya Pradesh, Bhopal and for the reasons stated therein, the instant appeal, being Appeal No. 126 of 2018, filed by the Appellant on the file of the Appellate Tribunal for Electricity, New Delhi stands disposed of reserving liberty to the Appellant to redress their grievances for change of law, if they so advised or need arises in accordance with law.

6. With these observations, the instant appeal, being Appeal No. 126 2018, filed by the Appellant on the file of the Appellate Tribunal for Electricity, New Delhi stands disposed of.

IA NO. 354 OF 2018
(For Stay)

In view of the Appeal No. 126 of 2018 on the file of the Appellate Tribunal for Electricity, New Delhi, being disposed of, the relief sought in IA No. 354 of 2018 does not survive for consideration.

(Ravindra Kumar Verma)
Technical Member

vt/pk

(Justice N.K. Patil)
Judicial Member