

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
AT NEW DELHI**

(APPELLATE JURISDICTION)

EXECUTION PETITION NO.5 OF 2015

IN

APPEAL NO.65 OF 2013

Dated: 22nd December, 2015

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

In the matter of:-

**LANCO AMARKANTAK POWER)
LIMITED,)
Lanco House, Plot No.397, Phase III,)
Udyog Vihar, Gurgaon - 122 016)
Through its Authorized Signatory)
(Mr. Anil Sharma).) ... **Petitioner****

AND

1. **HARYANA ELECTRICITY)
REGULATORY COMMISSION,)
Bays No.33-36, Sector - 4,)
Panchkula 134 112, Haryana)
(through its Secretary).)**
2. **M/S. HARYANA POWER)
GENERATION CORPORATION)
LIMITED,)
Urja Bhawan, C-7, Sector - 6,)
HPGCL, Panchkula 134 009,)
Haryana (through its Managing)
Director.))**

- 2a. **M/S. HARYANA POWER)**
PURCHASE CENTRE)
(On behalf of M/s. HARYANA)
POWER GENERATION)
CORPORATION LTD.), 2nd Floor,)
Shakti Bhawan, Sector - 6,)
Panchkula 134 109, Haryana)
(through its Chief Engineer).)
3. **PTC INDIA LIMITED)**
2nd Floor, NBCC Tower, 15,)
Bhikaji Cama Place, New Delhi -)
110 066 (Through its Chairman)
and Managing Director).)
4. **CHHATTISGARH STATE)**
POWER TRADING CO. LTD.)
Vidyut SEVA Bhavan,)
Danganiya, Raipur - 492 013,)
Chhattisgarh, (Through its)
Managing Director).)
5. **WESTERN REGIONAL LOAD)**
DISPATCH CENTER,)
F-3, MIDC Area, Marol, Andheri)
(East), Mumbai - 400 093)
(through its General Manager).)
6. **CENTRAL ELECTRICITY)**
REGULATORY COMMISSION)
3rd & 4th Floor, Chanderlok)
Building, 36, Janpath, New)
Delhi - 110 001. (Through its)
Secretary).)
- ... **Respondents**

- Counsel for the Petitioner(s) : Mr. Krishnan Venugopal,
Sr. Adv.
Mr. Akhil Sibal
Mr. Deepak Khurana
Mr. Vikas Mishra
Ms. Aditi Sharma
Mr. Udai V.S. Rathore,
- Counsel for the Respondent(s) : Mr. M.G. Ramachandran
Mr. Avinash Menon
Ms. Ranjitha Ramachandran
Ms. Poorva Saigal for **R-2**

Mr. Amit Kapur
Mr. Vishrov Mukherjee
Ms. Nishtha Kumar for **R-3**

Ms. Suparna Srivastava for **R-4**

J U D G M E N T

PER HON'BLE (SMT.) JUSTICE RANJANA P. DESAI - CHAIRPERSON

1. The Petitioner is Lanco Amarkantak Power Limited (“**LANCO**”). LANCO by way of this execution petition under Section 120(3) of the Electricity Act, 2003 (“**Electricity Act**”) seeks appropriate orders/directions for execution and implementation of Order dated 3/1/2014 passed by this Tribunal in Appeal No.65 of 2013. In this petition, LANCO has made it clear that this execution petition is being filed without

prejudice to their rights and contentions before the Supreme Court in Civil Appeal No.10329 of 2011 and before this Tribunal in Appeal No.117 of 2015.

2. Respondent No.1 is the Haryana Electricity Regulatory Commission (“**HERC** or **the State Commission**”). Respondent No.2 is M/s. Haryana Power Generation Corporation Limited (“**HPGCL**”). Respondent No.2(a) is M/s. Haryana Power Purchase Centre (“**HPPC**”). Respondent No.2(a) is the coordinating agency for the power purchasers by the distribution licensees in the State of Haryana. Respondent No.3 is the PTC India Limited (“**PTC India**”). Respondent No.4 is the Chhattisgarh State Power Trading Company Limited (“**CSPTCL**”). Respondent No.5 is the Western Regional Load Dispatch Center (“**WRLDC**”) and Respondent No.6 is the Central Electricity Regulatory Commission (“**the Central Commission**”).

3. It is necessary to give the broad factual background of the matter as narrated by LANCO.

On 19/10/2005, a Power Purchase Agreement (“**PPA**”) was executed between LANCO and PTC India for sale of 273 MW (net power output) from the 300 MW Unit 2 Thermal Power Project situated at Pathadi, Korba, Chhattisgarh for a period of 25 years from the Commercial Operation Date (“**COD**”) of the Project. On 21/9/2006, PTC India executed a Power Sale Agreement (“**PSA**”) with HPGCL for the sale of the 273 MW power purchased from LANCO under the PPA to HPGCL for a period of 25 years from the COD. In terms of the PPA, LANCO entered into an Implementation Agreement dated 1/8/2009 with the Government of Chhattisgarh (“**GoCG**”). In terms of the said Implementation Agreement, LANCO was to provide 35% of the net power generated by the project as home state share to the CSPTCL.

4. In view of the subsequent change in the Government of India’s policy regarding distribution of coal and rise in the coal price, LANCO communicated to PTC India that at capped tariff rate of Rs.2.32/kWh, the PPA was impossible to perform.

5. On 13/5/2010, PTC India filed proceedings before the HERC that the PSA was impossible to perform in view of the changed circumstances including Force Majeure events, National Coal Distribution Policy and Implementation Agreement with Chhattisgarh Government and requested the HERC to revise the tariff under the PSA. On 22/7/2010, HPGCL filed its reply and sought an outright dismissal of the petition filed by PTC India. On the same day, HPGCL also filed a separate petition before the HERC, *inter alia*, seeking a direction qua LANCO and PTC India to comply with their purported contractual obligations in favour of HPGCL and restraining LANCO from selling the contracted capacity under the PSA to any third party including and not limited to the State of Chhattisgarh. Pending the final orders by the HERC, LANCO, in view of continued failure of PTC India to fulfill conditions precedent contained in the PPA, terminated the PPA vide letter dated 11/1/2011. The HERC vide its order dated 2/2/2011 dismissed the petition filed by PTC India and allowed the petition filed by HPGCL and proceeded to exercise

jurisdiction in respect of such PPA to restrain LANCO from revising its price with PTC India for sale of power and further restrained LANCO from selling the contracted power to a third party.

6. Aggrieved by the directions contained in the said order dated 2/2/2011 passed by the HERC, on 7/2/2011, LANCO filed Appeal No.15 of 2011 before this Tribunal. CSPTCL also filed Appeal No.52 of 2011 against the said order dated 2/2/2011 before this Tribunal.

7. On 13/3/2011, HPGCL filed a petition being Case No.HERC/PRO 6/2011 under Section 86(1)(b) and Section 86(1)(f) of the Electricity Act challenging the termination of the PPA by LANCO vide its letter dated 11/1/2011 before the HERC. These proceedings were subsequently stayed by the Supreme Court vide its order dated 16/12/2011.

8. By an interim order dated 23/3/2011, this Tribunal granted a conditional stay of the order dated 2/2/2011. The relevant portion reads thus:

“11. Thus, we are inclined to grant interim stay of impugned order to the extent indicated above. Accordingly, the Petitioner is permitted to supply 35% of power to Chhattisgarh Government Company and is directed to supply the balance power to the PTC (R-3) so that PTC (R-3) can discharge its obligation to the Power Generation Corporation (R-2) in pursuance of the PSA entered into between them.”

However, this Tribunal did not fix any price/tariff for the supply of power despite noting that the PPA between LANCO and PTC India stood terminated.

9. By order dated 4/11/2011, this Tribunal dismissed Appeal No.15 of 2011 and allowed Appeal No.52 of 2011 by remanding the matter to HERC to grant an opportunity of being heard to CSPTCL. By the said order, this Tribunal continued the interim order dated 23/3/2011 till the final order that will be passed by HERC.

10. On 24/11/2011, aggrieved by the said order dated 4/11/2011, LANCO filed Civil Appeal No.10329 of 2011 under Section 125 of the Electricity Act before the Supreme Court. LANCO also filed a substantive interim application being I.A. No.3 of 2011 in the civil appeal seeking stay of order dated 4/11/2011. The Supreme Court by its interim order dated 16/12/2011 passed in I.A. No.3 of 2011 directed LANCO to continue the supply of electricity as per the interim order dated 23/3/2011 passed by this Tribunal and further directed that without prejudice to the rights and contentions of the parties and pending further orders, HERC will fix/approve the tariff for sale and purchase of power for the disputed period between LANCO and PTC India. Pursuant to the said liberty granted by the Supreme Court, on 11/1/2012, LANCO filed an application before the HERC being Case No.HERC/PRO-1 of 2012 to fix/approve the tariff for the period in question i.e. for the power supplied from 7/5/2011 to 31/12/2011 and for the power proposed to be supplied during the balance period of the year 2011-12 i.e. 1/1/2012 to 31/3/2012 and for the year

2012-13. By order dated 17/10/2012 passed in Case No.HERC/PRO-1 of 2012, the HERC, inter alia, held that capped tariff in the terminated PPA shall prevail over the tariff determined by it. On 27/11/2012, LANCO filed I.A. No.7 of 2012 in pending Civil Appeal No.10329 of 2011 before the Supreme Court for quashing of the said order dated 17/10/2012. The said I.A. No.7 of 2012 was disposed of by the Supreme Court by its order dated 19/2/2013 with liberty to LANCO to file a statutory appeal before this Tribunal against HERC order dated 17/10/2012. Pursuant thereto, on 4/3/2013, LANCO preferred Appeal No.65 of 2013 before this Tribunal challenging order dated 17/10/2012.

11. By judgment and order dated 3/1/2014, this Tribunal allowed the said appeal and set aside order dated 17/10/2012 passed by the HERC. This Tribunal directed the HERC to re-determine the tariff for Unit-II of LANCO within two months from the date of communication of the judgment. Accordingly, on 14/1/2014, LANCO filed Case No.HERC/PRO-05 of 2014 along with its submissions and documents before the HERC

for interim tariff determination. On 4/2/2014, LANCO also filed an application under Regulation 33 of the HERC Tariff Regulations, 2008 (“**2008 Regulations**”) seeking relaxation / variation of applicability of Regulation 16(iv)(C) of the 2008 Regulations in the process of re-determination of interim tariff of Unit-II. On 20/2/2014, HPPC filed its objections to the same. On 3/3/2014, LANCO filed its rejoinder to the objections of HPPC. By its order dated 25/3/2014, the HERC directed that the data in relation to project cost of Unit – II of LANCO, segregation / allocation of common service cost, sale of infirm power, and realization of linkage coal need to be verified by an independent chartered accountant identified by the HERC. Accordingly, Ernst & Young LLP (“**E&Y**”) was identified as the independent chartered accountant, which was mutually acceptable to LANCO and HPPC.

12. From time to time, the HERC directed LANCO to furnish information and documents to E&Y for carrying out study and investigation. Accordingly, LANCO from time to time furnished the information and documents to the HERC and to E&Y.

After detailed study and analysis of documents and information furnished by LANCO and based on its audited accounts, E&Y submitted its report before the HERC vide email dated 8/7/2014.

13. On 22/7/2014, during the hearing, the HERC adopted the draft report dated 8/7/2014 of E&Y. Thereafter, on 4/8/2014, as per the direction given by HERC in its order dated 28/7/2014, E&Y submitted its addendum to the report dated 8/7/2014. Pursuant to the directions given by the HERC by its order dated 28/8/2014, a site visit comprising the representatives of the LANCO, HPPC, officers of the HERC along with representative of E&Y was carried out on 16/8/2014 and 17/8/2014. Thereafter, on 20/8/2014, E&Y submitted its report of the site visit. On 23/1/2015, the HERC determined the tariff of Rs.2.88/Kwh for FY 2011-12 and Rs.2.92/kWh for the FY 2012-13.

14. Being aggrieved by the said order dated 23/1/2015, HPPC filed Appeal No.107 of 2015 before this Tribunal, which

is pending for adjudication. On 30/3/2015, LANCO also filed Appeal No.117 of 2015 seeking enhancement of tariff. PTC India, however, has not filed any appeal against the said order dated 23/1/2015.

15. According to LANCO, pursuant to order dated 3/1/2014 passed by this Tribunal and consequential order dated 23/1/2015 passed by the HERC, they are entitled to and PTC India is liable to pay an amount of Rs.99 crores approximately towards differential tariff (i.e. tariff determined by the HERC and Rs.2.32/kWh paid by PTC India for supply of power commencing from 7/5/2011 to 23/3/2013). According to LANCO, PTC India has neither challenged order dated 3/1/2014 passed by this Tribunal nor order dated 23/1/2015 passed by the HERC and, therefore, is bound by the said orders. HPPC has challenged order dated 3/1/2014 passed by this Tribunal before the Supreme Court in Civil Appeal No.3800 of 2014 and order dated 23/1/2015 passed by the HERC before this Tribunal. However, there is no stay of

operation of the said orders dated 3/1/2014 and 23/1/2015 in any of the above appeals.

16. According to LANCO, vide its letter dated 16/4/2015 LANCO called upon PTC India to pay the outstanding amount of Rs.99.30 crores in terms of order dated 3/1/2014 passed by this Tribunal and order dated 23/1/2015 passed by the HERC. However, neither the said amount has been paid by PTC India nor has LANCO received any response to the said letter.

17. In view of the above facts and circumstances, on 9/9/2015, the present execution petition has been filed by LANCO praying *inter alia* for execution of order dated 3/1/2014 by directing HPGCL, HPPC and PTC India to forthwith pay the amount of Rs.99.30 crores to LANCO along with interest at 18% per annum from the date on which the said amount became due and further pay tariff as determined by HERC for the power to be supplied by LANCO.

18. We have heard Mr. Krishnan Venugopal, learned senior counsel appearing for LANCO. Written submissions have been filed by LANCO. Gist of the submissions is as under:

- (a) The Petitioner is only seeking execution of order dated 3/1/2014 passed by this Tribunal whereby the State Commission has been directed to determine the tariff for the power already supplied. Such a direction is necessarily a direction to pay the determined tariff. It is inherent in the act of tariff determination that it is for sale of power and has to be followed by payment of tariff. This interpretation does not mean going behind the order or decree. Even if it is assumed without admitting that the order is ambiguous, the executing court can purposively interpret the order so as to ensure its implementation. Order dated 3/1/2014 does not merely declare that the tariff cannot be capped at Rs.2.32/Kwh, it also gives the basis of redetermination of tariff and directs redetermination of tariff. Order dated 3/1/2014

was passed with a view to arriving at a just and viable tariff so that LANCO could sustain the operation of its unit. It would be absurd therefore to say that the determined tariff was never intended to be paid. In fact, PTC India supported the Petitioner in this Tribunal and this is reflected in order dated 3/1/2014. PTC India has not filed appeal against the order dated 3/1/2014 or against State Commission's order dated 23/1/15. Reliance is placed on **Bhavan Vaju & Ors Vs. Solanki Manuji Khodaji Mansang & Ors.**¹, **Chacko Geevarghese v. State of Kerala & Ors.**², **Saltanat Begum v. Syed Mohd. Saadat Ali Khan**³ and **State of Tripura v. Sri Tarun Chandra Dey & Ors.**⁴

- (b) The argument that the State Commission vide Order dated 23/1/2015 has determined the tariff on the basis of normative (not actual) performance of the Petitioner's generating station on annual basis and the determination

¹ (1973) 2 SCC 40

² AIR 1982 Ker. 333

³ AIR (38) 1951 All 817

⁴ AIR 2004 Gau. 169

of actual tariff, based on actual performance to be paid for generation and sale of electricity has not been done by the State Commission was raised before the State Commission. The State Commission has considered the said contention. It is not open to the HPCL and PTC India to raise those points again. Demand of Rs.99.30 crores made by the Petitioner towards differential tariff for the power already supplied to PTC India and HPPCL is as per the tariff determined by the State Commission and no further exercise is required to be carried out by the State Commission either under the regulations or otherwise to quantify the said demand.

- (c) The argument that in its application before the Supreme Court in IA No.7 of 2012, the Petitioner had made a specific prayer for payment of certain amounts and having chosen not to include the same in Appeal No.65 of 2013, the Petitioner has relinquished its claim has no substance. The Petitioner had not prayed for payment of any tariff determined by the State Commission but had

prayed for quashing of the order which had wrongly determined the tariff and had prayed for differential tariff billed as per CERC Regulations 2009 and not based on tariff determined by the State Commission. The present petition seeks execution of an order which directed redetermination of tariff which inherently contains a direction to pay the tariff so determined. The prayer made before the Supreme Court for payment for amount being billed had nothing to do with tariff determination.

- (d) The Petitioner has pleaded the financial hardship that it is facing on account of non-compliance and non-implementation of order dated 3/1/2014 by PTC India and HPPCL by refusing to pay the tariff so determined. The amount claimed is nothing but the cost which was incurred for the power generated and supplied by the Petitioner. Neither PTC India nor HPPCL has denied the averments made by the Petitioner. In fact, in order dated 3/1/2014, statement of PTC India is recorded that it has

no cavil if, to safeguard the viability of LANCO's project, LANCO's appeal is allowed.

- (e) The judgments on which reliance is placed by HPPCL and PTC India are clearly distinguishable and not applicable to the facts of the present case.
- (f) The power supplied by the Petitioner has been consumed by distribution companies of Haryana through PTC India. The Petitioner is claiming its legitimate entitlement. Public utilities must act in fair manner. Hence, the present execution petition be granted.

19. We have heard Mr. Ramachandran, learned counsel appearing for Respondent No.2 and Respondent No.2(a). Written submissions have been filed on behalf of Respondents No.2 and 2(a). Gist of the submissions is as under:

- (a) This Tribunal in exercise of powers under Section 120(3) of the Electricity Act can execute only its order. It will not execute the orders of the State Commission. Fundamental issue in the present case to consider is whether the execution is sought of the order passed by this Tribunal or of the order passed by the State Commission.
- (b) In order dated 3/1/2014 there was no determination of tariff. The executable part of order dated 3/1/2014 passed by this Tribunal only contains a remand order and direction to re-determine the tariff. Order dated 3/1/2014 stands implemented. There is no need to give any further order in execution of order dated 3/1/2014.
- (c) The amount claimed by the Petitioner is in pursuance to order dated 23/1/2015 passed by the State Commission. LANCO is therefore seeking execution of order dated

23/1/2015 passed by the State Commission and not order dated 3/1/2014 passed by this Tribunal.

- (d) The claim of LANCO that the direction to re-determine also includes a direction to pay the amount re-determined is erroneous. On re-determination of the tariff by the State Commission, there is a separate cause of action and a separate avenue for the parties to challenge or implement.
- (e) Without prejudice to the above, it is submitted that amount payable by the Haryana Utilities to LANCO is yet to be computed by the Haryana State Commission. What has been re-determined are the fixed charges on the basis of Annual Revenue Requirements and normative availability and normative parameters. The proportionate reduction in the fixed charges on account of Lower Plant Availability as compared to the normative availability is yet to be decided.

(f) Order dated 23/01/2015 passed by the State Commission determined the Annual Revenue Requirement and tariff on the basis of assumed performance by LANCO's Generating Station on annual basis. The determination of actual tariff to be paid for the generation and sale of electricity is, however, subject to the State Commission's Tariff Regulations in regard to recovery of annual capacity charges and other applicable charges based on the annual availability. The Annual Capacity Charges applicable for 2011-12 and 2012-13 on the above basis, after adjusting for infirm power and shared assets needs to be considered for the purpose of the Capacity Charges. Such Capacity Charges need to be adjusted in a proportionate manner for Plant Load Factor ("**PLF**") as per Regulation 11 of the 2008 Regulations. Regulation 16(2) of the 2008 Regulations provides as under:

"16. Capacity (Fixed) Charges: (1) The capacity charges shall be computed on the following

basis and their recovery shall be related to target availability.

....

(2) Full capacity charges shall be recoverable at target availability specified under regulation 11. Recovery of capacity (fixed) charges below the level of target availability shall be on pro-rata basis. At zero availability, no capacity charges shall be payable.

In other words, if the PLF achieved is say 40% as against 80% Target Availability, the above Annual Capacity Charges will be adjusted by half. In such a case, the Petitioner will not be entitled to per unit tariff based on Annual Capacity Charges for 80% PLF. Order dated 23/01/2015 has not carried out this computation at present. The State Commission has considered the gross generation of LANCO's Generating Unit No.2 at normative PLF only. The computation carried out does not provide or mention the actual power scheduled to the Haryana Utilities. In its absence, LANCO cannot be heard to argue that the pro-rata adjustment based on actual target availability has been carried out by the State

Commission vide its Order dated 23/1/2015. The calculations submitted by LANCO by way of its submissions can also not be considered as these have to in-effect still be carried out by the State Commission by way of separate proceedings and therefore in the circumstances LANCO is not entitled to claim tariff merely on per unit basis.

- (g) The claim for execution of the same by LANCO in the present case is contrary to the well accepted legal principles as per the authorities mentioned hereunder. A mere declaratory order cannot be used in the execution to get more reliefs. In this connection, reliance is placed on the judgments of the Supreme Court in **Vedic Girls Senior Secondary School v. Rajwani⁵, Rameshwar Das Gupta v. State of U.P. & Anr.⁶, State of Madhya Pradesh v. Mangilal Sharma⁷, Venkataraja & Ors.**

⁵ (2007) 5 SCC 97

⁶ (1996) 5 SCC 728

⁷ (1998) 2 SCC 510 para 6

v. Vidyane Doureradjaperumal (D) Thr. L.Rs. & Ors.⁸

and the judgment of this Tribunal in **Adani Power Ltd.**

v. Gujarat Urja Vikas Nigam Ltd.⁹

- (h) Decisions on which reliance is placed by Respondent No.2 are not applicable to the facts of the present case.
- (i) It is well settled principle of law that every quasi judicial authority / Tribunal discharging quasi judicial / adjudicatory functions has all ancillary powers to effectively implement and execute its orders. Reliance is placed in this behalf on the judgments of the Supreme Court in **Union of India & Ors. v. Paras Laminates (P) Ltd.**¹⁰, **Grindlays Bank Ltd. v. Central Government Industrial Tribunal & Ors.**¹¹, **State of Karnataka v. Vishwabharathi House building Co-**

⁸ 2013 (5) SCALE 511

⁹ Execution Petition No.1 of 2014 dated 12/3/2015

¹⁰ (1990) 4 SCC 453

¹¹ 1980 (Supp.) SCC 420

op. Society & Ors.¹² and **Savitri w/o. Govind Singh Rawat v. Govind Singh Rawat**¹³.

- (j) The submission of LANCO that the State Commission cannot be considered as a Tribunal is meritless. In this connection, reliance is placed on the judgment of the Supreme Court in **Tamil Nadu Generation & Distribution Corporation Ltd. v. PPN Power Generation Company Pvt. Ltd.**¹⁴
- (k) Order dated 23/1/2015 determining the Annual Revenue Requirements cannot be said to be a part of order dated 3/1/2014 passed by this Tribunal for this Tribunal to execute the same.
- (l) Order dated 23/1/2015 is appealable. Both LANCO and the Haryana Utilities have filed appeals. If this Tribunal is to execute order dated 23/1/2015 as a final decree in

¹² (2003) 2 SCC 412

¹³ (1985) 4 SCC 337

¹⁴ (2014) 11 SCC 53

pursuance of order dated 3/1/2014 passed by this Tribunal the appeal becomes infructuous. In other words, this Tribunal will be prejudging the appeal and holding that what has been determined by the State Commission in order dated 23/1/2015 is in accordance with order dated 3/1/2014 passed by this Tribunal.

- (m) HPPCL has also filed a second appeal against Order dated 3/1/2014 before the Supreme Court and the same is pending adjudication.

- (n) LANCO did not seek any direction from this Tribunal for payment in Appeal No.65 of 2013. LANCO should have approached the State Commission for consequential orders to be passed in pursuance of the order dated 23/1/2015 for determination of the fixed charges payable by the Haryana Utilities to LANCO. The Haryana Utilities are entitled to raise objections to the claim of LANCO in regard to the amount of Rs.99.30 crores. They are

entitled to raise objection that no interest is payable for the period prior to the determination of the tariff and determination of the fixed charges payable.

- (o) In the circumstances, the present petition be dismissed.

20. We have heard Mr. Amit Kapoor, learned counsel for PTC India. Written submissions have also been filed on behalf of PTC India. Gist of the written submissions is as under:

- (a) Under Section 120(3) of the Electricity Act, this Tribunal can execute only its order. The judgment dated 3/1/2014 has already been complied with.
- (b) The executing Court cannot go beyond the order or decree under execution.
- (c) There is neither any order / judgment in which the amount allegedly due to LANCO has been computed nor has any direction for payment of any amount been made.

- (d) The only direction in the judgment under execution was for the State Commission to re-determine the tariff following the principles set out in the judgment. The re-determination process has been concluded by way of order dated 23/01/2015 which is under challenge in Appeal No.117 of 2015 filed by LANCO and Appeal No. 107 of 2015 filed by Respondent No.2(a).
- (e) Under the guise of judgment dated 03/01/2014, LANCO is seeking execution of State Commission's Order dated 23/01/2015. The State Commission's Order is not an executable decree, inasmuch as it is only a tariff determination order.
- (f) There is difference between tariff determination and quantification of payments due. The tariff is determined based on normative values of parameters as per the regulations, whereas the actual payment due to the generator will depend on the actual parameters of

generation. While the former confers a right on the party to claim tariff, the latter would require computation of the amounts due, based on actuals. Till the time LANCO does not provide proof of the capacity made available to the buyer & actual capacity generated, the appropriate Capacity Charges cannot be calculated. Such an exercise has to necessarily be undertaken before the State Commission and not before the first appellate court i.e. this Tribunal.

- (g) Insofar as the judgment dated 03/01/2014 is concerned, since there was no specific prayer for payment of any amount, this Tribunal has not passed any direction for the same.
- (h) The present case is squarely covered by the Judgment of this Tribunal in **Adani Power Limited**.
- (i) In view of the foregoing, even if the prayer in the present petition for execution of the judgment dated 03/01/2014

is granted, this Tribunal can only pass an order within the four corners of the said judgment. Execution of a decree/order has to be done in terms of the pleadings and prayers sought, and the findings in the decree under execution.

- (j) Any order by this Tribunal for payment of amounts pursuant to the State Commission's Order dated 23/01/2015 would be violative of Regulation 11 and 16 of the 2008 Regulations, inasmuch as there has been no computation on the basis of actuals.
- (k) It is submitted that the scope of the executing court is limited to enforcement of the decree under execution. In the absence of any direction for payment of money, the executing court cannot grant such relief. On the scope of execution proceedings, reliance is placed on the judgments of the Supreme Court in **Rameshwar Dass Gupta, TCI Finance Ltd. v. Calcutta Medical Centre**

Ltd.¹⁵, Central Inland Water Transport Corporation Ltd. v. The Workmen¹⁶ and State of Punjab v. Krishan Dayal Sharma¹⁷.

- (l) Contention of LANCO that the State Commission does not have the power of execution is incorrect. The State Commission is a 'Court' and consequently has the power to execute its own orders. In support this, reliance is placed on the judgments of the Supreme Court in **Tamil Nadu Generation & Distribution Corporation Ltd.**
- (m) It is well settled that a statutory Tribunal which has been conferred with the power to adjudicate a dispute and pass necessary order has also the power to implement its order. In support of this, reliance is placed on **Vishwabharathi House Building Co-operative Society** and **Savitri w/o. Govind Singh Rawat** and judgment of

¹⁵ (2005) 8 SCC 41

¹⁶ (1974) 4 SCC 696

¹⁷ (2011) 11 SCC 212

the Full Bench of the Gauhati High Court in **Arabinda Das v. State of Assam**¹⁸.

- (n) LANCO made a specific prayer for payment of certain amounts as well as for continued payments of dues in I.A. No.7 of 2012 before the Supreme Court. However, it chose not to include the same in Appeal No.65 of 2013. LANCO having deliberately relinquished a claim, cannot seek the same indirectly by way of this execution petition.
- (o) Various orders of this Tribunal and the Supreme Court show that there is no order from any forum computing the amount claimed by LANCO. There is no direction from any forum to make any payments to LANCO. Hence, the execution petition is not maintainable. Stand taken by PTC India which is noted in the judgment of which execution is sought pertains to the interim arrangement. PTC India had no cavil as regards the

¹⁸ AIR 1981 Gau 18 (FB)

tariff determination since no claim was made in Appeal No.65 of 2011 against PTC India for payment. That does not preclude PTC India from challenging the maintainability of the execution petition for the amounts allegedly due to LANCO. In the circumstances, aforesaid, the execution petition deserves to be dismissed.

21. Since we are dealing with an execution petition, it is necessary for us to have a look at Section 120(3) and (4) of the Electricity Act which give this Tribunal power to execute orders. It reads thus:

“120. *Procedure and powers of Appellate Tribunal. –*

(1) *xxx xxx xxx*

(2) *xxx xxx xxx*

(3) *An order made by the Appellate Tribunal under this Act shall be executable by the Appellate Tribunal as a decree of civil court and, for the purpose, the Appellate Tribunal shall have all the powers of a civil court.*

(4) Notwithstanding anything contained in sub-section (3), the Appellate Tribunal may transmit any order made by it to a civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by that court.”

22. It is clear from a bare reading of Section 120(3) of the Electricity Act that this Tribunal can execute an order made by it as a decree of civil court, and for this purpose, it shall have all powers of a civil court. Sub-section (4) of Section 120 permits this Tribunal to transmit any order made by it to a civil court having local jurisdiction. Such civil court is then required to execute the order as if it were a decree made by that court. Thus, this Tribunal can execute only an order made by it. Against the backdrop of this legal position, it is necessary to revisit certain facts. On 12/1/2012, LANCO filed a petition before the State Commission for determination of tariff for the period from 7/5/2011 to 31/12/2011 and also for the power proposed to be supplied for the balance period in the Financial Year 2011-12 and also during the Financial Year 2012-13. On 17/10/2012, the State Commission determined the tariff and *inter alia* held that the capped tariff of Rs.2.32

per unit as per the terms of the PPA and PSA would apply. LANCO filed I.A. No.7 of 2012 in its pending Civil Appeal No.10329 of 2011 in the Supreme Court challenging Order dated 17/10/2012 passed by the State Commission. On 19/2/2013, the Supreme Court directed LANCO to avail of the remedy of statutory appeal under Section 111 of the Electricity Act before this Tribunal. Pursuant to this order, LANCO filed Appeal No.65 of 2013 before this Tribunal challenging order dated 17/10/2012. LANCO made the following prayers in Appeal No.65 of 2013.

- “a) Allow the present Appeals and set aside the Impugned Order dated 17.10.2012 passed by the Respondent No. 1 (HERC) in case no. HERC/PRO-I of 2012;*
- b) Allow the Tariff Petition dated 12.01.2012 filed by the Appellant before the Respondent No.1 (HERC);*
- c) Pass such other or further orders as the Hon’ble Tribunal may deem fit and proper in the facts and circumstances of the case.”*

23. Appeal No.65 of 2013 was disposed of by this Tribunal on 3/1/2014. Operative part of order dated 3/1/2014 reads as under:

“72. Summary of our findings:

- (i) The tariff determined by the State Commission as per the levelled capped tariff of Rs.2.32/Kwh is not in consonance with the Remand order of the Hon’ble Supreme Court dated 16.11.2011. As such the tariff determination is wrong and is set aside.*

- (ii) The interim tariff to be determined by the State Commission as per the order of the Hon’ble Supreme Court dated 16.11.2011 has to be in accordance with the State Commission’s own tariff Regulations of 2008. However, where no specific operational or financial norms have been specified in the State Commission’s Tariff Regulations, the provisions of Central Commission’s Regulations of 2009 would be considered for such parameters.*

- (iii) The State Commission has to re-determine the interim tariff as per the directions given in this judgment, pending disposal of the Appeal before the Hon’ble Supreme Court.*

73. In view of our above findings, the impugned order is set aside. The Appeal is allowed.

74. Accordingly, the State Commission is directed to re-determine the tariff within two months from the date of communication of this judgment in the light of the directions and finding given by this Tribunal in

this judgment by way of interim arrangement dehors the PPA, pending disposal of the Appeal in Hon'ble Supreme Court. However, there is no order as to costs. The Registry is directed to send the copy of this judgment forthwith to the State Commission of Haryana."

24. Pursuant to this order, by order dated 23/1/2015, the State Commission determined the tariff. Operative part of the said order reads thus:

"Target Availability/Plant Load Factor:

The Target Availability/Plant Load Factor, for the purpose of tariff determination in the present case, has been considered at 80% in line with regulation 11(2)(a) of the HERC Regulations, 2008

.....

In view of the above, the tariff worked out by the Commission at generator's bus for the disputed period beginning 7th May, 2011, for supply of power from LAPL Unit – 2 to Haryana based on the norms approved in this Order is as under (till further Order is passed in the matter by the Hon'ble Supreme Court).

<i>Tariff</i>	<i>Tariff (Rs./ kWh)</i>
<i>7th May, 2011 to 31st March, 2012.</i>	<i>2.8875</i>
<i>FY 2012-13</i>	<i>2.9218</i>

25. In the present petition, LANCO has prayed for execution of order and decree dated 3/1/2014. Prayers made in the present petition are as under:

“15. Relief sought for: The Petitioner prays this Hon’ble Tribunal may be pleased to:-

- (a) Allow the present petition, execute the Order dated 03.01.2014 by directing Respondent No. 2 (HPGCL), Respondent No. 2a [HPPC] and Respondent No. 3 (PTC) to forthwith pay the amount of Rs99.30 crores to the Petitioner along with interest at 18% from the date on which the said amount became due and further pay tariff as determined by HERC for the power to be supplied by the Petitioner;*
- (b) Pass an Order for attachment and sale of properties/assets including attachment of bank accounts, of the Respondent Nos.2, 2(a) and 3 under Section 120(3) of the Act read with the applicable provisions of the Code of Civil Procedure, 1908 and further pass an Order directing the Officers of the said Respondents to make disclosures of the assets of the said Respondent under the applicable provisions of Code of Civil Procedure, 1908;*
- (c) Pass such other and further Order(s) as this Hon’ble Tribunal may deem fit in the facts and circumstances of the present case.”*

26. It is clear therefore that pursuant to the order passed by the Supreme Court, LANCO filed Appeal No.65 of 2013

challenging order dated 17/10/2012 passed by the State Commission in this Tribunal. This Tribunal by order dated 3/1/2014 directed the State Commission to re-determine the interim tariff pending disposal of the appeal before the Supreme Court. Pursuant to this order by order dated 23/1/2015, the State Commission re-determined the interim tariff. LANCO wants this Tribunal to execute its order dated 3/1/2014.

27. By its order dated 3/1/2014, this Tribunal has merely given a direction to the State Commission to determine the interim tariff and by order dated 23/1/2015, the State Commission has accordingly determined the interim tariff. Therefore, order dated 3/1/2014 stands implemented. No direction can now be given to execute the said order. It is not possible for this Tribunal in this execution petition to give a direction to execute the order of the State Commission dated 23/1/2015 passed pursuant to its order dated 3/1/2014. This is because these two orders are distinct orders and can be challenged separately. In fact, appeal challenging order

dated 3/1/2014 filed by HPPCL is pending before the Supreme Court and appeals challenging order dated 23/1/2015 filed by LANCO and HPPCL are pending before this Tribunal. There is no provision under which this Tribunal can treat order dated 23/1/2015 as a part of order dated 3/1/2014.

28. Counsel for LANCO submitted that though order dated 3/1/2014 merely directs re-determination of tariff, this Tribunal while considering prayer for its execution can purposively interpret it and grant relief to LANCO. This Tribunal must find out the true effect of order dated 3/1/2014 and for that purpose take the proceedings and pleadings that led upto order dated 3/1/2014 into consideration. In this connection, our attention is drawn by counsel for LANCO to the judgment of the Supreme Court in **Bhavan Vaja**, judgment of the Kerala High Court in **Chacko Geevarghese**, judgment of the Gauhati High Court in **Sri Tarun Chandra Dey** and judgment of the Allahabad High Court in **Saltanat Begum**. We shall briefly refer to those cases.

29. In **Bhavan Vaju**, the Supreme Court was dealing with an execution appeal. The respondents-creditors had claimed possession of properties identified as Item Nos.3, 4, 5, 6 and 10 in the Darkhast. This claim was positively rejected by the trial court. The case of the appellant-debtors was that the Respondents cannot seek execution of the decree qua those properties. Despite the fact that the pleadings and the earlier judgments of the Board as well as the appellate court were placed before it, the executing court did not consider those documents. The appellate court committed the same mistake. In the body of the judgment, the appellate court did not refer to the above items. This created ambiguity in the judgment. When the matter was taken up in revision to the High Court, the High Court declined to go into the question of the construction of the decree on the ground that a wrong construction of the decree, merely raises a question of law and it involves no question of jurisdiction to bring the case within Section 115 of the Civil Procedure Code. It is in this context

that the Supreme Court observed that though an executing court cannot go behind the decree under execution that does not mean that it has no duty to find out the true effect of that decree. The Supreme Court further observed that for construing a decree, it can and in appropriate cases, it ought to take into consideration, the pleadings as well as the proceedings leading up to the decree and that is the plain duty of the executing court. Such are not the facts here. There is no ambiguity in order dated 3/1/2014 passed by this Tribunal which merely directs determination of the tariff and the said order has been implemented by the State Commission by re-determining the tariff. This case is, therefore, not applicable to the present case. In **Sri Tarun Chandra Dey**, the Gauhati High Court has reiterated that when there is ambiguity in the decree, it is competent for the executing court to go behind the decree and look into the pleadings and the judgments so as to have assistance from them in order to have the ambiguity dispelled but not otherwise. This judgment also does not help LANCO.

30. In **Chacko Geevarghese**, the petitioner therein had entered into an agreement with the Government for execution of an irrigation project. Dispute which arose in the course of execution of the work had been referred to the Chief Engineer. The Chief Engineer made an award under the Arbitration Act, 1940. A judgment and decree in terms of the award was passed. The petitioner made an application for execution of the award. The issue before the Kerala High Court was limited to ascertaining as to whether execution can be sought of an award for the retention money as directed in the arbitral award. There was no dispute regarding the fact that retention amount was due nor was there any question or challenge raised on the actual amount due. The amount of retention money due was also certain and ascertainable from the decree. It was in those circumstances that the Kerala High Court observed that merely for the reason that the actual figure is not given in the decree, a decree does not become inexecutable. The Kerala High Court held that the execution proceeding for realisation of the retention amount was maintainable. No parallel can be drawn from this judgment.

As we have already noted, order dated 3/1/2014 merely directs the State Commission to re-determine the tariff and order dated 23/1/2015 has determined tariff pursuant thereto. In fact, here there is no quantification of the amount. Respondent Nos.2, 2(a) and PTC India have stated that mere determination of tariff is not enough. Actual payment due to the generator will depend on the actual parameters of generation and the required exercise is not done as yet which statement is denied by LANCO.

31. **Saltanat Begum** is not applicable to the facts of the case because there the Allahabad High Court was dealing with the question whether the decree passed as a result of the compromise is executable or not. This case turns on its own facts. The compromise specifically stated that the respondents “propose to make payable” to the appellants Rs.6450 per month as per list attached and that the applicants shall be entitled to receive regularly the said sum of maintenance allowance every month. By the decree of the appellate court, the appeal was allowed to the extent mentioned in the

compromise attached thereto. The Allahabad High Court observed that this clearly means that the terms of the compromise assumed the force of an order of the appellate court. It was further observed that the combined effect of the order of the court and the terms of the compromise was that there was an order to the judgment debtor to pay monthly allowance and it was clearly not contemplated that for the recovery of the maintenance allowance a separate suit should be filed every time. The Allahabad High Court was concerned with a compromise arrived at in a maintenance case. Facts of this case are not at all comparable with the facts of the present case where there is complete clarity in order dated 3/1/2014 of which execution is sought. If the order was ambiguous, the question of trying to understand it by giving it purposive interpretation would have arisen. Such a question does not arise here.

32. In this connection, we must refer to the judgment of this Tribunal in ***Adani Power Limited***. In that case, Adani Power

Limited had filed a petition before the State Commission seeking declaration and direction that they were under no obligation to supply contracted capacity from their power project to the Respondent prior to the Schedule Commercial Operation Date (“SCOD”) and that Adani Power was free to sell power outside the Power Purchase Agreement to any third party prior to the SCOD. The State Commission allowed the petition and decided that Adani Power was under no obligation to supply the contracted capacity to the Respondent prior to SCOD which is 02/02/2012. The Respondent GUVNL filed an appeal before this Tribunal being Appeal No.185 of 2011 and the Tribunal by judgment dated 04/10/2012 upheld the decision of the State Commission. According to Adani Power, during the pendency of the petition before the State Commission, Adani Power and the Respondent reached an understanding that in the intervening period Adani Power may sell power in open market to third party and pay to the Respondent excess realization from such third party sale above the tariff receivable under the PPA. In case the dispute is decided in favour of Adani Power the excess realization paid

to the Respondent along with interest will be paid back by the Respondent to Adani Power. Execution petition was filed by Adani Power under Section 120(3) of the Electricity Act read with Part II and order XXI of Code of Civil Procedure 1908 seeking execution of the judgment and decree dated 04/10/2012 passed by this Tribunal. In the said execution petition, Adani Power sought direction for a refund of Rs. 371.50 crores along with interest as per their computation according to the above understanding. While dismissing the execution petition, this Tribunal observed that neither in the State Commission's order impugned before this Tribunal nor in the judgment of this Tribunal dated 04/10/2012, any decision on the monetary claim of Adani Power was made. The monetary claim of Adani Power was disputed both on the admissibility of the claim as well as on the quantum claimed by the Respondent. This Tribunal observed that it was not in a position to pass any order in this execution petition as no finding has been made by this Tribunal regarding monetary claim of Adani Power in the judgment dated 04/10/2012.

33. In our opinion, Respondent Nos.2 and 2(a) can draw support from this judgment. Order dated 3/1/2014 of which execution is sought does not quantify the amount and direct its payment. It only gives a direction to the State Commission to re-determine the tariff, which has been done.

34. It is the case of LANCO that an amount of Rs.99.30 crores was due from the Respondents to it, which is seriously disputed by the Respondents. It is contended, *inter alia*, that there is difference between tariff determination and quantification of payments due. The tariff is determined based on normative values of parameters as per the regulations, whereas the actual payment due to the generator will depend on the actual parameters of generation. While the former confers a right on the party to claim tariff, the latter would require computation of the amounts due, based on actuals. Till the time LANCO does not provide proof of the capacity made available to the buyer and actual capacity generated, the appropriate Capacity Charges cannot be calculated. Such an exercise has to be necessarily undertaken before the State

Commission and not before the first appellate court i.e. this Tribunal. This submission is countered by LANCO by drawing out attention to certain paragraphs of Order dated 23/1/2015. It is submitted that all these contentions were considered by the State Commission and the interim tariff was determined. Since we are unable to grant prayer made by LANCO, because order dated 3/1/2014 stands implemented, we do not want to express any opinion on this aspect. The State Commission can decide this issue independently in case LANCO approaches the State Commission.

35. It is contended by LANCO that the State Commission cannot execute its orders. On the other hand, it is contended by HPPCL and PTC India that State Commission can execute its orders. In this connection, our attention is drawn to the judgment of the Supreme Court in **Tamil Nadu Generation & Distribution Corporation Ltd.** where the Supreme Court has held that the State Commission in deciding a lis, between the appellant and the respondent discharges judicial functions and exercises judicial power. The Supreme Court has further

observed that it exercises judicial functions of far-reaching effect. We may quote the relevant paragraph, which reads thus:

“59. In view of the aforesaid categorical statement of law, we would accept the submission of Mr Nariman that the tribunal such as the State Commission in deciding a lis, between the appellant and the respondent discharges judicial functions and exercises judicial power to the State. It exercises judicial functions of far-reaching effect. Therefore, in our opinion, Mr Nariman is correct in his submission that it must have essential trapping of the court. This can only be achieved by the presence of one or more judicial members in the State Commission which is called upon to decide complicated contractual or civil issues which would normally have been decided by a civil court. Not only the decisions of the State Commission have far-reaching consequences, they are final and binding between the parties, subject, of course, to judicial review.”

36. It is also submitted by the counsel for Respondent Nos.2, 2(a) and 3 that it is well settled that the cardinal principle of interpretation of statute is that courts or tribunals must be held to possess power to execute their own order. In this connection, reliance is placed on **Vishwabharathi House Building Co-op. Society.** Our attention is also drawn to the

judgments of the Supreme Court in **Paras Laminates (P) Ltd., Grindlays Bank Ltd.** and **Savitri w/o. Govind Singh Rawat** where the Supreme Court has taken a similar view.

37. Since we have expressed our inability to direct execution of order dated 3/1/2014 passed by this Tribunal inasmuch as it only directs the State Commission to re-determine tariff and the tariff has been accordingly determined, we do not want to express any opinion on the State Commission's powers and leave it entirely to the State Commission to express its opinion on this issue in case, LANCO approaches the State Commission.

38. We are informed that because LANCO has not been paid for the power supplied by it, LANCO is facing financial hardship and in fact had to shut down its unit. The prejudice caused to LANCO has been narrated by it as under:

“1. The grievance or prejudice caused to the Petitioner

1.1.1. *The Petitioner submits that even after determination of tariff by HERC pursuant to the Order dated 03.01.2014 of this Hon'ble Tribunal, the Petitioner is unable to resume operation of its Unit-II. As a result of the above, the Unit of the Petitioner is lying idle for more than two years now and is going completely waste. The project is majorly financed by the Banks/Financial Institutions. The non-operation of the project is affecting the livelihood of the employees and the nearby local people associated with the project. The Petitioner is not in a position to meet its debt service obligations to its lenders with unpaid annual repayments of about Rs.100 crore as well as annual interest payments of more than Rs.100 crore and the project is likely to be declared as Non-Performing Asset by the lenders. As per the statement of accounts of Unit-II of the Petitioner, the accumulated losses since the date of commencement of sale of power (07.05.2011) up to 30.06.2015 is Rs. 646.93 crores which means more than double the net worth of the Petitioner has already been eroded. The Petitioner is thus in a severe financial distress situation.*

1.1.2. *It is submitted that the order dated 23.01.2015 passed by the HERC re-determining the tariff for Unit II of the Petitioner was a consequential order passed for implementation of this Hon'ble Tribunal's directions contained in the Order dated 03.01.2014. Accordingly, it is imperative that the consequential directions are implemented by the parties in order to ensure implementation of the Order dated 03.01.2014 of this Hon'ble Tribunal. In view*

of the above stated conduct of PTC/HPPC of not paying the outstanding dues of the Petitioner determined pursuant to the Order dated 03.01.2014 of this Hon'ble Tribunal, it is clear that neither the PTC nor HPPC is inclined to implement the Order dated 03.01.2014 passed by this Hon'ble tribunal and therefore they are required to be directed so by issuance of appropriate directions. Therefore, appropriate directions be issued to PTC/HPPC to direct PTC/HPPC to pay tariff as determined by HERC vide Order dated 23.01.2015 for future supply of power pursuant to directions issued by this Hon'ble Tribunal. Further, PTC/HPPC are required to be directed to pay the differential outstanding amount of Rs 99.30 Crores to the Petitioner for the power already supplied from 07.05.2011 to 21.03.2013, immediately so that the Petitioner can meet its emergent working capital requirements to re-start the stranded 300 MW Unit and supply power to the Beneficiaries.”

39. There appears to be no denial of the hardship caused to LANCO by the Respondents. We are aware that appeals carried from orders dated 3/1/2014 and 23/1/2015 are pending. We do not, therefore, want to pass any comments on the merits of the case. LANCO has stated that Respondent Nos.2, 2(a) and 3 are Public Utilities and, hence, they are expected to be fair in their conduct. There can be no

disagreement on this proposition. All issues will be decided in pending proceedings. We must, however, note that PTC India has neither challenged order dated 3/1/2014 nor challenged order dated 23/1/2015. In fact, order dated 3/1/2014 notes that PTC India did not dispute LANCO's contention with regard to the unviability of the project and, in fact, a statement was made that it had no cavil if this Tribunal allows the appeal to safeguard the viability of the project. The relevant paragraph reads thus:

“The Respondent No.3 herein has no cavil if this Hon’ble Appellate Tribunal, in the light of justice and to safeguard the viability of the Project, deems fit to allow the present Appeal.”

40. PTC India has, however, taken a totally different stand now and it is contended that the stand taken by PTC India, which is noted by this Tribunal in paragraph 71 of the judgment quoted hereinabove pertains to the interim arrangement and the PTC India had no cavil as regards the tariff determination since no claim was made in Appeal No.65 of 2011 against PTC India for payment. On such a major

issue, a Public Utility like PTC India ought to have been careful while making statements.

41. In the view that we have taken, we are unable to give any relief to LANCO. The petition is dismissed. However, LANCO will be at liberty to adopt such proceedings as it may be advised to redress its grievance before the State Commission. If LANCO files any proceeding, the State Commission shall decide it in accordance with law.

42. Pronounced in the Open Court on this 22nd day of December, 2015.

T. Munikrishnaiah
[Technical Member]

Justice Ranjana P. Desai
[Chairperson]

✓ **REPORTABLE/NON-REPORTABLE**