

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
AT NEW DELHI
(APPELLATE JURISDICTION)**

I.A. NOS. 710, 708 & 709 OF 2016

**IN
DFR No. 3024 OF 2016**

Dated: 04th July,2017.

**Present: Hon'ble Mrs. Justice Ranjana P. Desai, Chairperson
Hon'ble Mr. I.J. Kapoor, Technical Member**

In the matter of:-

**JHARKHAND BIJLI VITRAN)
NIGAM LTD.)
Through its Managing Director,)
Engineer's Building, H.E.C.)
Township, P.O. & P.S. Dhurwa,)
District Ranchi – 834004,)
Jharkhand)**

**...Applicant/
Appellant**

AND

**1. JHARKHAND STATE)
ELECTRICITY REGULATORY)
COMMISSION,)
Through its Secretary, 2nd Floor,)
Rajendra Jawan Bhawan cum)
Sainik Bazar, Mahatma Gandhi)
Marg (Main Road), P.O. P.S. –)
Hindpiri, Ranchi – 834001)
Jharkhand)**

**2. M/S INLAND POWER LTD.)
C/218, Road No.2, Ashok Nagar,)
P.O.-Ashok Nagar, P.A.-Argora,)
Dist. Ranchi – 834002 having its)
registered office at P 221/2,)
Strand Bank Road, Kolkata –)
700001)**

... Respondents

Counsel for the Applicant(s)/
Appellant(s) :Mr. Ramesh P. Bhatt, Sr. Adv.
Mr. Himanshu Shekhar
Mr. Mohit Kumar Shah
Mr. Aabhas Parimal
Mr. Jamnesh Kumar

Counsel for the Respondent(s): Mr. Farrukh Rasheed for R.1

Mr. Anand K. Ganesan
Ms. Swapna Seshadri
Mr. Sandeep Rajpurohit for R.2

ORDER

1. This appeal challenges the order dated 27/05/2014 passed by the Jharkhand State Electricity Regulatory Commission (“**the State Commission**”). There is 70 days’ delay in refiling this appeal and there is 781 days’ delay in filing this appeal. Hence, these applications have been filed praying that the delay may be condoned.

2. So far as 70 days’ delay in refiling is concerned, having perused the explanation offered by the Appellant we find it to be acceptable and hence we condone the said delay. Hence, IA No.710 of 2016 is disposed of.

3. Mr. Bhatt learned senior counsel appearing for the Appellant submitted that though delay of 781 days in filing the appeal is substantial, the Appellant has offered acceptable explanation for it. Counsel submitted that the officials of the Appellant were under a *bonafide* impression that they had already filed appeal against the tariff order dated 27/05/2014, however the appeal was preferred against the subsequent order of the State Commission dated 29/07/2015. Moreover, negotiations were going on with Respondent No.2 and a special committee had been constituted for the said purpose. Respondent No.2 had never opposed the negotiations. However, for the first time Respondent No.2 declined to go ahead with negotiations. Therefore, the decision to file the appeal was taken. Counsel submitted that though the decision to file the appeal was taken at the level of MD on 01/02/2016, instead of filing appeal against order dated 27/05/2014, appeal was filed against order dated 29/07/2015, where the delay was condoned, and the matter was pending admission. Counsel submitted that the delay is not intentional and was caused because of misunderstanding

amongst the officers. Counsel submitted that the Appellant is a Government company and therefore in public interest delay may be condoned. Counsel submitted that on account of the impugned tariff order the Appellant is forced to buy power at higher rate though power at cheaper rate is available. If this situation continues it will have adverse impact on the Appellant and ultimately on the consumers and therefore delay may be condoned.

4. Mr. Anand Ganesan learned counsel strenuously opposed the condonation of delay. Counsel submitted that the Appellant began to unilaterally pay a lower tariff. Therefore, Respondent No.2 filed a petition before the State Commission for adjudication of disputes and seeking a direction for payment of tariff in terms of the tariff order. The State Commission by its order dated 29/07/2015 directed the Appellant to pay the tariff as per the State Commission's determination. The State Commission also imposed a cost of Rs.50,000/- on the Appellant. Counsel pointed out that the Appellant filed a review petition before the State Commission

in which it sought only the waiver of the cost of Rs.50,000/-. Thereafter the Appellant challenged order dated 29/07/2015 in Appeal No.296 of 2016. There was delay in that appeal also. Only after objection was taken by the 2nd Respondent that the original tariff order was not challenged that the Appellant filed the present appeal on 31/08/2016. Counsel submitted that no explanation is offered for such an enormous delay and hence the application be dismissed.

5. Mr. Farrukh Rasheed learned counsel for the State Commission submitted that the Appellant has failed to make out sufficient cause. In its explanation the Appellant has only indicated how the files moved from one desk to another. The appeal is clearly on afterthought and therefore the application deserves to be dismissed. In support of his submissions Counsel relied on **Post Master General and Ors v. Living Media Ltd.**¹

¹ 2012-3-SCC 563

6. The instant appeal is filed against Provisional Multi Year Tariff orders dated 27/05/2014. The enormous delay of 781 days in filing the appeal has been explained by the Appellant in the rejoinder affidavit of its Asstt.Liaison Officer Shri Alda. Paragraph 11 thereof contains the sequence of events. It reads thus:

“11. That it is submitted that for the ease and convenience of this Hon’ble Tribunal, a sequence of events right from the date of passing of the impugned order dated 27.05.2014 till the filing of the instant appeal is being furnished in brief hereinbelow :-

27.05.2014 : The impugned order was passed by respondent no.1 in Case (Tariff) No.07/2013 on 27.05.2014, but a copy of the same was not sent by the Ld. Commission to the Appellant.

26.08.2014 : The appellant came to know about the impugned Order when the same was acted upon by the respondent no.2 and it submitted a bill which was processed in the file & placed before EE(C) vide note dt. 26.08.2014.

26.08.2014 : The file was placed before the Chief Engineer (C&R), JUVNL on 26.08.2014, who endorsed the same to CMD by his detailed note stating therein that the rate per unit on which the bill has been raised by the

respondent no.2 is higher than the average rate of power procurement.

27.08.2014 : The CMD discussed the matter and the file was endorsed to the CE (C&R), who endorsed the same to the AEE, who vide his note dated 27.08.2014 endorsed the file to the EEE/ESE, giving details about the agreement executed with the respondent no.2. The file was then endorsed to the CE(C&R), who vide his detailed note dated 27.08.2014 placed the file before the CMD stating about the PPA.

28.08.2014 : The file was then endorsed by the CMD to the ESE for explaining the position, who had put up a detailed note dt. 28.08.2014 before the CE (C&R) stating that the tariff of power supply of the respondent no.2 given by the JSERC is costly and so the respondent no.2 may be called for mutual discussion for reducing the tariff to make it more feasible.

*29.08.2014/
03.09.2014 : The file was endorsed to CMD by detailed note dated 29.08.2014 suggesting for negotiation of rates with the respondent no.2, to which CMD, by his note dt. 03.09.2014 had directed for negotiation with the respondent no.2.*

16.09.2014 : The file was put up before ESE/EEE, who had stated in the note sheet dated 16.09.2014 that the respondent no.2 was requested vide

letter dated 03.09.2014 to supply entire power of 1x63MW generating station @Rs.3.71 per unit but respondent no.2 by its letter dated 08.09.2014 had stated that since the tariff order dated 27.05.2014 has not been challenged, it is entitled to receive power at the rate fixed by the JSERC and the revision in tariff has to be with consent of the JSERC as well as the tariff determined is competitive.

17.09.2014/
18.09.2014

: The file was then endorsed to the CE(C&R) on 16.09.2014 who by his note dated 17.09.2014 had endorsed the file to the CMD stating that the respondent no.2 is agreeable to supply the power at the rate of Rs.3.71 per unit by way of interim measure and the management may have relook into the matter, which was approved by the CMD and thereafter an office order dated 18.09.2014 was issued approving the rate of respondent no.2 at the rate of Rs.3.71 per unit on provisional basis.

25.09.2014

: The Appellant had written a letter dated 25.09.2014 to the respondent no.2 for negotiation of rate of purchase of power, which was replied by respondent no.2 by a detailed letter dated 01.10.2014, stating therein that it is accepting payment at the rate of Rs.3.71 per unit under protest.

- 20.10.2014/
22.10.2014 : A detailed note was prepared dated 20.10.2014 by the EEE recording therein the contentions of the respondent no. 2. The note was then placed before the CE (C&R), who opined for constitution of a committee for discussion with the respondent no. 2 and the file was then endorsed to the MD/CMD vide note dated 22.10.2014.
- 22.10.2014 to
10.12.2014 : A committee was constituted vide office order dated 10.12.2014 after several deliberations in between the periods 22.10.2014 to 10.12.2014 as also after vetting the said proposal by the senior law advisor. The constitution of the committee, for holding negotiations with the respondent no. 2 was approved by the MD on 24.12.2014.
- 27.12.2014 : The respondent no. 2 filed a petition before the Ld. JSERC bearing case no. 26 of 2014 dated 27.12.2014 inter alia praying therein to direct the Appellant to make payment @4.36 per unit and comply with multi year tariff dated 27.05.2014. The JSERC had issued notice on 31.12.2014 fixing the next date as 23.01.2015. The Senior Standing Counsel and the Standing Counsel were intimated and requested to appear in the matter.
- 19.03.2015 : The matter was processed in the file and put up before the

concerned authorities and a draft reply to the aforesaid petition filed by the respondent no. 2 before the ld. JSERC was prepared which was put in the file for approval on 19.03.2015.

27.04.2015/
28.04.2015/
04.05.2015

: The matter was again put up in the file regarding approval of admittance of bills of the respondent no. 2 for net unit exported from the plant after COD on 27.04.2015. The file was then endorsed to the CE(C&R), who by his note dated 28.04.2015 placed the file before the MD, who by his note dated 04.05.2015 directed for issuance of separate bill to the respondent no. 2 at the rate specified in the tariff.

07.07.2015/
08.07.2015

: The draft reply prepared by counsel for the Appellant to the aforesaid petition of the respondent no. 2 was placed in the file for approval and the same was approved 07.07.2015 whereafter the same was filed 08.07.2015.

29.07.2015

: JSERC passed final order dated 29.07.2015 in case no. 26 of 2014.

03.08.2015

: The copy of the impugned order dated 29.07.2015 was obtained by the Standing Counsel, JBVNL at Ranchi and by email dated 03.08.2015, the appellant was informed about the impugned order

dated 29.07.2015, opining therein to challenge the said order before the Hon'ble APTEL.

- 11.08.2015 : The said letter of Standing Counsel was processed in the concerned file and the concerned official by his note dated 11.08.2015 endorsed the file to the ESE (C&R) who by his detailed note dated 11.08.2015 endorsed the file to the Chief Engineer (C&R) with a proposal to challenge the said order dated 29.07.2015 before this Hon'ble Tribunal.*
- 12.08.2015 : The CE (C&R) by his note dated 12.08.2015 endorsed the file to the MD for granting approval for filing of the appeal before Ld. APTEL against the order dt. 29.07.2015. The Managing Director had approved the proposal for filing appeal before this Hon'ble Tribunal on 13.08.2015 and directed to follow the matter on regular basis.*
- 18.08.2015 : The file was endorsed to the CE (C&R), who endorsed the same on 18.08.2015 to ESE (Comm.). The ESE (Comm.) by his note dated 18.08.2015 endorsed the file to the CE(C&R) with a request that letter be written to their AOR at Supreme Court of India to file appeal. The Chief Engineer (C&R) approved it and then a letter was written to the AOR.*
- 21.08.2015 : The AOR at Delhi by his letter dt. 21.08.2015 requested to arrange*

court fee for a sum of Rs.1.10 lakh or DD for a sum of Rs.1,05,000/- and Rs.5,000/- in cash to cover the extra court fees, if required.

24.08.2015 : The aforesaid request of the Advocate at Delhi for arranging the court fee was processed in the file and the AEE by a note dated 24.08.2015 endorsed the file to the EEE who in turn endorsed the file to the ESE(C&R). The ESE by his note dated 24.08.2015 endorsed the file to the CE (C&R) for preparation of the demand draft.

01.09.2015 : The CE(C&R) then endorsed file to the MD (JBVNL), who by his note dated 01.09.2015 directed the officials to discuss the matter with regard to the order of JSERC and subsequently the ESE(C&R) was directed to put up a detailed note and the file was endorsed to the ESE(C&R) in the first week of September, 2015, who endorsed the same to the AEE in the second week of September, 2015.

*28.09.2015/
30.09.2015 : The AEE by his note dated 28.09.2015 prepared the case history and sought decision with regard to compliance of the order of the Ld. JSERC, extension of period of PPA and construction of transmission network. The file was then endorsed to the ESE, who by his note dated 30.09.2015 endorsed the file to the CE(C&R).*

- 05.10.2015 : The file was endorsed by CE (C&R) to MD (JBVNL), opining to form a Committee of officers to take the requisite decision, which was approved by the MD on 05.10.2015.
- 01.10.2015 : Standing Counsel opined to file a review application against the impugned order dated 29.07.2015 before the JSERC by his letter dated 01.10.2015 which was processed in the file and the AEE by his note dated 06.10.2015 placed the file before the ESE who endorsed the file to the CE(C&R) who in turn sought the approval of the MD.
- 06.10.2015 : The MD granted approval for filing review petition on 06.10.2015.
- 16.10.2015 : The file was put up on 16.10.2015 for amendment in the order dt. 05.10.2015 to the extent of reconstitution of the Committee inasmuch as some of the members had been transferred and one of the terms of reference of the said Committee was financial implication of tariff of IPL.
- 18.12.2015 : Committee's reconstitution was also recommended by the CE (C&R) and the file was placed before the MD who enquired as to what was the outcome of the previous meeting, to which noting was made to the effect that no meeting was held, hence, the committee was reconstituted and

approval was granted by the MD on 18.12.2015.

*20.11.2015/
05.10.2015*

: The question with regard to the order dt. 29.07.2015 appears to have cropped up again on account of letter of the IPL dated 20.11.2015 whereafter the ESE by his note dated 24.12.2015 had sought approval for taking legal opinion from the Senior Standing Counsel-cum-Advisor, JBVNL at Ranchi and file was placed before the CE whereafter the file was sent to the Senior Standing Counsel for opinion on 30.12.2015, after the approval of the Managing Director with regard to the impugned order dated 29.07.2015 as well.

15.01.2016

: The Senior Standing Counsel gave his opinion on 15.01.2016 that though earlier a communication was made for filing of appeal against the judgment of the learned Commission but a review petition has been filed.

*19.01.2016/
20.01.2016/
27.01.2016*

: The aforesaid opinion was received in the Board on 19.01.2016 whereafter it was endorsed to the ESE on 20.01.2016 and then to the AEE on 21.01.2016 who made a brief synopsis of the opinion of the Senior Standing Counsel and marked the file to the ESE on 27.01.2016.

01.02.2016

: ESE by his note dated 01.02.2016 endorsed the file to the

CE(C&R) with the proposal of filing an appeal against the impugned order dated 29.07.2015, after discovering that the Appeal has yet not been filed despite decision having been taken and approved by the MD long back.

01.02.2016 : CE(C&R) endorsed the file to the MD for according approval to filing of the appeal and for making draft of the requisite court fees as well as for sending the file to the Senior Standing Counsel for preparing the appeal. The file was placed before MD on 01.2.2016 whereafter the approval was granted by MD & then the entire matter was sent to the Sr. Standing Counsel on 01.02.2016 for filing of the appeal.

10.02.2016 : Upon receipt of the file by the counsel at Delhi, immediate steps were taken to draft and prepare the paper books of the appeal whereupon the appeal against the order dated 29.07.2015 was filed on 10.02.2016.

*28.01.2016,
11.02.2016,
15.02.2016,
18.03.2016 : The respondent no. 2 by its letter dated 28.1.2016, 11.02.2016 and 15.02.2016 requested for release of differential payments against the energy bills, which was put up in the file vide note dated 18.03.2016 of the EEE (C) and the matter was placed before the EEE,*

who placed the matter before the CE (C&R) vide note dated 18.03.2016 and the CE placed the file by his note dated 18.03.2016, on a presumption that the order of ld. JSERC has been challenged before this Hon'ble Tribunal though the subsequent order dated 29.07.2016 of the ld. JSERC had been challenged and suggested that payment be made at the rate of Rs. 3.71 per unit till the final outcome of the appeal and the said proposal was approved by the MD on 22.03.2016.

07.04.2016 : The aforesaid decision was then forwarded to the financial controller on 30.03.2016 and approval was granted for payment of Rs. 51,73,446/- to the respondent no. 2 vide order dated 07.04.2016.

28.04.2016/
28.04.2016 : Respondent no. 2 had again written letter dt. 28.4.16 with regard to settlement of security with the bill and the same was routed in the file by note dated 10.05.2016.

03.06.2016/
17.06.2016/
27.06.2016 : The respondent no. 2 had written a letter dated 03.06.2016 & 17.6.2016 regarding implementation of order of JSERC dt. 29.07.2015, which was routed in the file by EEE by a detailed note dated 27.06.2016, explaining the actual position as also referring to case no. 5 of 2016 filed by respondent no. 2 before JSERC for

compliance of order dt. 29.07.2015 and the order dated 14.06.2016 passed thereon by the ld. JSERC and suggesting for taking a legal opinion from the senior law advisor.

30.06.2016 : A detailed note was then placed by CE (C&R) dated 30.06.2016 before the MD, apprising him that the ld. Senior standing counsel has been intimated to look into the matter personally and get a stay order to avoid any coersive action by the ld. JSERC. The matter was discussed in the chamber of the MD, thereafter in the presence of the senior standing counsel, after letter dated 29.06.2016 was sent to him.

05.07.2016 : The Senior standing counsel took stock of the matter and by his opinion dated 05.07.2016 addressed to the MD/CE (C&R) had directed the officers concerned to discuss the matter of inland power with him.

22.07.2016 : The respondent no. 2 declined negotiation and by its letter dated 22.07.2016 informed the Appellant about the rate fixed by the ld. JSERC.

*27.07.2016/
02.08.2016 : The matter was then placed before MD by a note dt. 27.07.2016, who had made a note in the file on 02.08.2016 to discuss the matter.*

22.08.2016

29.08.2016 : *Sr. Standing Counsel had a discussion with the officials concerned with the instant matter and it appears that he had opined for filing appeal against the tariff order dated 27.05.2014. Accordingly the ld. Senior Standing counsel, JBVNL by his letter dated 22.08.2016 request the CE (C&R) to be present at Hon'ble APTEL on 29.08.2016 at the time of filing the tariff appeal in the matter of the respondent no. 2.*

24.08.2016 : *The approval for filing the appeal as well as for the court fee of Rs. 1,05,000/- and miscellaneous advance was given by the MD, JBVNL on 24.08.2016 whereafter the necessary draft was prepared.*

31.08.2016 : *The instant appeal has then been filed without any further delay on 31.08.2016 after preparation of the entire petition and paperbooks."*

7. From this explanation crucial dates and events can be segregated. It is the Appellant's case that it came to know about the impugned order dated 27/05/2014 on 26/08/2014 when a bill was received by it. It appears that it was felt that the bill raised by Respondent No.2 is higher than the average rate of power procurement. Thereafter file kept moving from desk to desk. Some letters were exchanged between the

Appellant and Respondent No.2. A committee was constituted for holding negotiations. Negotiations did not materialize. On 27/12/2014 Respondent No.2 filed a petition before the State Commission for direction to the Appellant to pay tariff as per impugned order dated 25/07/2014 at Rs.4.36 per unit. On 29/07/2015 the State Commission passed final order and disposed of the said petition. The State Commission directed the Appellant to make payment of the pending bill at the rate of Rs.4.36 per unit. Cost of Rs.50,000/- was imposed on the Appellant. The copy of order dated 29/07/2015 was obtained by the Appellant on 03/08/2015. It appears that the Appellant's Standing Counsel opined that an appeal should be filed against the order dated 29/07/2015. Again there was movement of file from one desk to another. However, on 01/10/2015 the Standing Counsel opined that a review petition should be filed. Accordingly, a review petition was filed. When the question of implementation of order dated 29/07/2015 cropped up file was again circulated to various desks. On 15/01/2016 the Senior Standing Counsel opined that appeal should be filed against the said order. Appeal

against order dated 29/07/2015 was ultimately filed on 10/02/2016. There was delay of 150 days in filing that appeal which was condoned by this Tribunal. The said appeal was dismissed on 23/12/2016.

8. It is contended that the higher officers were under the impression that the tariff order dated 27/05/2014 was challenged before this Tribunal when in fact the appeal was filed against the subsequent order dated 29/07/2016. When bills were received from Respondent No.2 again the file was circulated to various officers. On 29/08/2016 the Senior Standing Counsel opined that appeal should be filed against tariff order dated 27/05/2014 and ultimately on 31/08/2016 the present appeal was filed. As per the Appellant delay is of 781 days. As per Respondent No.2 delay is of 880 days.

9. We must mention here that in the earlier round this Tribunal had condoned 150 days delay in filing the appeal despite objection from Respondent No.2 by observing that the Appellant being a Government company some latitude needs

to be shown. This Tribunal had quoted extract from the Supreme Court's judgment in **Pundalik Jalaram Patil v. Executive Engineer, Jalgaon Medium Project & Anr²** where **Post Master General** was referred to and it was held that that judgment must be read in the context of its facts. It is submitted that similar latitude be shown in this case because the delay has occurred on account of genuine misunderstanding amongst officers.

10. It is not possible to accept this submission. In the earlier case delay was of 150 days. We did not find such remissness in that case as we find in this case and therefore after saddling the Appellant with cost we condoned the delay. In every matter routinely the Government cannot be given a special treatment while condoning delay. There could be a few cases where there is a genuine mistake or existence of some other special circumstances where delay may have to be condoned in public interest. In cases where there is extreme negligence or lackadaisical approach or remissness, delay cannot be condoned. Government Companies must set their house in

² (2008) 17 SCC 448

order. If enormous delay of 781/880 days is condoned, where the explanation offered only discloses movement of file from one desk to another, contradictory advice given by the counsel and lack of application of mind to the seriousness of the matter by the officers, that would set a bad precedent.

11. It is necessary to have a look at the observations of the Supreme Court in **Post Master General & Ors. v. Living Media Ltd.**³. The Supreme Court has held as under:

“27. It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us.

28. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bona fides, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody, including the Government.

³ (2012) 3 SCC 563

29. *In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few.*

30. *Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed on the ground of delay.”*

12. Government Companies are expected to be prompt and alert for very often public interest is likely to suffer if delay in filing their proceedings is not condoned. In this case, the file just kept on moving from one desk to another. We are informed that even the review application was restricted to cost of Rs.50,000/-. There was total lack of communication between the officers and standing counsel of the Appellant. We are, therefore, unable to take a lenient view and condone the delay. The Appellant has not made out sufficient cause, hence, the application will have to be dismissed.

13. We are informed that the Appellant is in financial strain. It has to buy power at higher rate though it is available at lower rate. If that is so, the Appellant will be entitled to adopt appropriate proceedings before the State Commission if such a remedy is available to it in law. If such a remedy is adopted, the State Commission shall deal with the proceedings independently and in accordance with law without being influenced by the observations made by us in this order.

14. In view of the above IA No.708 of 2016 is dismissed.

15. In view of the dismissal of IA No.708 of 2016, the DFR No.3024 of 2016 stands dismissed. Needless to say that IA No.709 of 2016 does not survive and is disposed of as such.

16. Pronounced in the Open Court on this **04th day of July, 2017.**

I.J. Kapoor
[Technical Member]

Justice Ranjana P. Desai
[Chairperson]

✓ **REPORTABLE/~~NON-REPORTABLE~~**