

COURT-II
IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(APPELLATE JURISDICTION)

IA NO. 69 OF 2018 IN
DFR NO. 4103 OF 2017

Dated: 26th February, 2018

Present: Hon'ble Mr. Justice N.K. Patil, Judicial Member
Hon'ble Mr. S.D. Dubey, Technical Member

In the matter of:

West Bengal State Load Despatch Centre ... Appellant(s)

Vs.

Central Electricity Regulatory Commission & Ors... Respondent(s)

Counsel for the Appellant (s) : Ms. Mazag Andrabi

Counsel for the Respondent(s) : Mr. Anand K. Ganesan
Ms. Swapna Seshadri
Mr. Ashwin Ramanathan
Ms. Parichita Chowdhury
Ms. Rhea Luthra for R-2

ORDER

(IA No. 69 of 2018 – Delay in Filing)

1. The learned counsel, Ms. Swapna Seshadri, accepts notice on behalf of the second Respondent.
2. Heard the learned counsel, Ms. Mazag Andrabi, appearing for the Appellant and the learned counsel appearing for the second Respondent. Other Respondents served unrepresented.
3. The learned counsel appearing for the Appellant taken through the statements made in paragraph 4 to 6 of the application and submitted that, there is a delay of 82 days in filing the appeal which has been explained satisfactorily and sufficient cause has been shown. The said reasoning may kindly be accepted as the delay in filing the appeal is bonafide in nature. Therefore, she submitted that, the delay in filing the appeal may kindly be condoned and IA may be allowed and the matter may be heard on merits.
4. Further, she submitted that, the application filed by the second Respondent for open access will be processed in accordance with law and, in-fact, the same has already been forwarded to West Bengal State Electricity Distribution Company Limited (WBSEDCL). Therefore, she submitted that, the instant application may be disposed of.
5. *Per-contra*, learned counsel appearing for the second Respondent, inter-alia, contended and submitted that, the delay in filing the appeal may be condoned subject to the

condition that the second Respondent's application for open access is pending for adjudication before the Appellant and on account of the pendency of the appeal, they are not processing their application along with others allowing open access. Therefore, she submitted that, the delay may be condoned accepting the explanation offered in the application subject to the condition that the application filed by the second Respondent for open access may be processed in accordance with law.

6. The submissions made by the learned counsel appearing for both the parties, as stated above, are placed on record.

7. We have gone through the grounds made out by the Appellant in the application in paragraph nos. 2 to 6 and after considering the submissions made by the learned counsel appearing for both the parties and the grounds made out by the Appellant that the delay in filing the appeal has been explained satisfactorily and sufficient cause has been shown, the same is accepted and the delay in filing the appeal is condoned. IA No. 69 of 2018 is allowed in the interest of justice and equity.

8. It is needless to clarify that the Appellant is directed to process the application filed by the second Respondent for open access and dispose of the matter expeditiously in accordance with law.

9. With these observations, the instant IA, being IA No. 69 of 2018, is disposed of.

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10. The learned counsel appearing for the second Respondent prays for two weeks' time file her reply in this matter.

11. The learned counsel appearing for the second Respondent is permitted to file her reply in this matter by 12.03.2018. Thereafter, rejoinder, if any, may be filed by 26.03.2018 after duly serving copy on the other side.

12. Registry is directed to number the appeal and list the matter for admission on 03.04.2018.

(S.D. Dubey)
Technical Member
pr/vt

(Justice N.K. Patil)
Judicial Member