

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

**ORDER IN APPEAL NO.30 OF 2018 &**  
**IA NOS.149 & 150 OF 2018 ON THE FILE OF THE APPELLATE**  
**TRIBUNAL FOR ELECTRICITY, NEW DELHI**

**Dated: 10<sup>th</sup> May, 2018**

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

**In the matter of:**

**Cogeneration Association of India**  
C/o MSFCSF Limited (Sakhar Sangh),  
First Floor, Sakhar Sankul,  
Shivajinagar,  
Pune - 411005.

..... Appellant(s)

***Versus***

**1. Maharashtra Electricity Regulatory Commission,**  
World Trade Centre,  
Centre No,1, 13<sup>th</sup> Floor,  
Cuffe Parade,  
Mumbai – 400 005.

**2. Maharashtra State Electricity Distribution Co.Ltd.(MSEDCL)**  
5th Floor, Prakashghad,  
Bandra (E),  
Mumbai – 400 051.

..... Respondent(s)

Counsel for the Appellant(s) : Mr. Abhishek Raj,  
for Mr. Vishal Gupta

Counsel for the Respondent(s) : -

**The Appellant has sought the following reliefs in Appeal No. 30 of 2018:**

- (a) Allow the appeal and set aside the impugned order dated 11.01.2018 passed by the State Commission in Case No.183 of 2017.
- (b) Pass any other or further order/s as this Hon'ble Tribunal may deem fit and proper in facts and circumstances of the present case.

**The Appellant has presented in this Appeal for consideration under the following Questions of Law:**

- i. Whether the State Commission failed to appreciate that Section 63 of the Electricity Act, 2003 mandates that competitive bidding has to be conducted in accordance with the guidelines issued by the Central Government and as there are no specific guidelines for cogeneration power, the competitive bidding sought to be conducted by MSEDCL cannot be allowed?
- ii. Whether the State Commission failed to appreciate that ceiling cap of Rs.4 per unit has no rational basis especially when the State Commission has itself determined preferential tariff at Rs.6.33 Per Unit for the year 2017-18?
- iii. Whether the State Commission failed to consider that the deviations proposed by MSEDCL have no rational and therefore, allowing the same are contrary to the objective of the Electricity Act, 2003 which provides for promotion of Cogeneration and renewable Energy sources ?

- iv. Whether the State Commission erred to hold that the procurement of power by MSEDCL from the bagasse based co-generation projects through competitive bidding process would count towards the fulfilment of its non-solar RPO for the respective period?

## **ORDER**

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

1. The Appellant questioning the legality, validity and correctness of the Impugned Order dated 11.01.2018 passed in Case No. 183 of 2017 on the file of Maharashtra Electricity Regulatory Commission, Mumbai presented the instant Appeal.
2. The learned counsel, Shri Abhishek Raj for Shri Vishal Gupta, appearing for the Appellant submitted that, the instant Appeal filed by the Appellant may kindly be dismissed as withdrawn reserving liberty to the Appellant to redress their grievance before the appropriate legal forum and all the contentions urged in the instant Appeal may kindly be left open.
3. The submissions made by the learned counsel appearing for the Appellant, as stated supra, placed on record.
4. The instant appeal filed by the Appellant is dismissed as withdrawn reserving liberty to the Appellant to redress their grievance before an appropriate legal forum, if he so advised or if the need arises.
5. All the contentions of the Appellant are left open.

**ORDER ON IA NOS.149 & 150 OF 2018**

6. The Appeal filed by the Appellant is dismissed as withdrawn and therefore the reliefs sought in IA Nos. 149 of 2018 and 150 of 2018 filed by the Appellant do not survive for consideration and hence stand disposed of as the same having become infructuous.

7. Order accordingly.

**(S.D. Dubey)**  
**Technical Member**

**(Justice N. K. Patil)**  
**Judicial Member**

*bn/pr*