

COURT-I

**Before the Appellate Tribunal for Electricity
(Appellate Jurisdiction)**

**IA NOs. 326 & 327 OF 2016 IN
APPEAL NO. 121 OF 2016**

Dated: 3rd June, 2016

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

In the matter of:-

Torrent Power Ltd.

...Appellant(s)

Versus

Gujarat Electricity Regulatory Commission & Anr.

...Respondent(s)

Counsel for the Appellant(s)

:

Mr. Ramji Srinivasan, Sr. Adv.
Ms. Deepa Chawan
Mr. H.S. Jaggi

Counsel for the Respondent(s)

:

Mr. Buddy A. Ranganadhan
Mr. Hemant Singh a/w
Mr. S.R. Pandey (Rep.) for R.1

Ms. Poorva Saigal

Mr. Shubham Arya for Govt. Of Gujarat

ORDER

IA NO. 326 OF 2016

On 16.05.2016, we had passed the following order:

“The appellant has challenged Orders, dated 22.04.2016 and 30.04.2016, passed by the Gujarat State Electricity Regulatory Commission (State Commission) on the Review Petition filed by Respondent No.2.

The appellant's main contention is that review petition itself was not maintainable and therefore interim order directing that

Regulatory Charge shall not be recovered could not have been passed by the State Commission. The appellant has also, inter alia, contended that the State Commission has granted the interim order of stay without considering the relevant facts and legal principles. The impugned orders are assailed also on the grounds that they are non speaking and that they contain no reasons.

We have heard Mr. Ramji Srinivasan, learned senior counsel for the appellant; Mr. Sanjay Sen, learned senior counsel appearing for the State Commission and Mr. M.G. Ramachandran, learned counsel appearing for the Government of Gujarat. We are informed by Mr. Sanjay Sen that the Government of Gujarat has filed a separate review petition seeking review of the same orders and seeking investigation. We are also informed that there are connected petitions also.

Though Mr. Ramji Srinivasan, learned senior counsel for the appellant has strenuously contended that the State Commission has fallen in grave error in directing that the Regulatory Charge shall not be recovered, since the impugned orders are interim orders and the State Commission has fixed the hearing on 18.05.2016, we are not inclined to interfere with them at this stage. We, however, expect the State Commission to dispose of the petitions on 18.05.2016 finally and pass speaking order within ten days thereafter. We make it clear that we have not expressed any opinion on the contentions raised by the parties.

The appeal is disposed of in the afore-stated terms at the stage of admission.”

The above order makes it clear that we had directed the State Commission to dispose of the petitions on 18.05.2016 finally and pass speaking order within 10 days thereafter. We must state here that we were persuaded to set the said time limit at that stage because a statement was made by learned counsel for the State Commission that final order would be passed within ten days after 18.05.2016.

The present application is filed by Respondent No.1 with the following prayer:

- a. "Allow the instant application preferred by the Respondent Commission and modify the order dated 16.05.2016 passed by this Hon'ble Tribunal in Appeal No. 121 of 2016 to the extent that two weeks time is granted to the Respondent Commission to pass an order on the maintainability of the review petition;***
- b. Allow the instant application preferred by the Respondent Commission and modify the order dated 16.05.2016 passed by this Ho'ble Tribunal in Appeal No. 121 of 2016 to the extent that further at least two months time is granted to the Respondent Commission to pass an order on merits deciding the pending petitions thereafter; and***
- c. Pass such further or other order as this Tribunal may deem fit and proper in the interest of justice."***

Before passing any order, we must express our extreme displeasure about the manner in which this application is made belatedly. The Application ought to have been filed well in advance within the time limit granted by us. Since the matter is pending before the State Commission, we do not want to say anything more on this aspect.

In the circumstances of the case and in the interest of justice, we deem it appropriate to grant the prayer (a) made in this application. The State Commission shall decide the issue regarding maintainability of the petition within two weeks i.e., on or before 17.06.2016. So far as prayer clause (b) is concerned, Respondent No.1 has asked for two months time to pass the order on merits. We are not inclined to grant two months time. It will be, however, open to the State Commission to pass appropriate orders within four weeks from today i.e., on or before 01.07.2016. This order is, of course, without prejudice to the rights of the Appellant to challenge the order to be passed on maintainability if the need arises. The State Commission shall pass appropriate orders on the basis of the documents available before it till date. We also make it clear that we are not expressing any opinion as to whether the petition is maintainable or not. The State Commission shall take its own decision and pass order independently and in accordance with law. We, further, make it clear that no further extension will be granted.

Accordingly, the application is disposed of.

IA NO. 327 OF 2016

In view of the order passed in I.A. No. 326 of 2016, no order is necessary on this application. Accordingly, this application is disposed of.

(I.J. Kapoor)
Technical Member
ts/dk

(Justice Ranjana P. Desai)
Chairperson