

Appellate Tribunal for Electricity
(Appellate Jurisdiction)

IA 82 of 2012
IN
DFR No.1690 OF 2011

Dated:18th April, 2012

**Present : HON'BLE MR. JUSTICE M KARPAGA VINAYAGAM,
CHAIRPERSON
HON'BLE MR. RAKESH NATH, TECHNICAL MEMBER**

In the Matter of:

- 1. M/s. South Indian Sugar Mills
Association (Karnataka)
'Farah Winsford'(1st Floor)
133/6, Infantry Road,
Bangalore**
- 2. Karnataka State Federation of
Co-operative Sugar Factories Ltd.
No.58, 1st Main, Temple Street,
Malleswaram, Bangalore**
- 3. M/s. Nandi Sahakara Sakkare Karkhane
Krishna Nagar
Post: Hosur-587 117
Taluk & Distt: Bijapur
Karnataka**
- 4. Parys Sugar Industries Limtied
Corporate and Registered office
½, 3rd Floor, Venus Building
Kalayanamantapa Road,
Jakkasandra
Koramangala Extension,
Bangalore-560 034**

5. **NSL Sugar Limited**
No.60/1, Residency Road, II Cross
Bangalore-560 025

6. **Gem Sugars Ltd.,**
Hoodi Apartments
120 Cunningham Road,
Bangalore-560 052

...Appellant/Applicant(s)

Versus

1. **The Additional Chief Secretary**
Department of Energy,
Vikas Soudha,
Dr. B.R. Ambedkar Veedhi,
Bangalore-560 001

2. **Karnataka Power Transmission Corporation Ltd.,**
Cauvery Bhavan, Kempegouda road,
Bangalore-560 001

3. **Bangalore Electricity Supply Corporation**
K.R. Circle
Bangalore-560 001

4. **Mangalore Electricity Supply Corporation**
Paradigm Plaza
A.B. Shetty Circle,
Mangalore-575 001

5. **Chamundeswri Electricity Supply Corporation**
No.927, L.J. Avenue,
New Kantharaj Urs Road,
Saraswathipuram,
Mysore-570 009

6. **Hubli Electricity Supply Corporation**
P.B. Road, Navanagar
Hubli-580 029
7. **Gulbarga Electricity Supply Corporation**
Main Road, Opposite Parivar Hotel,
Gulbarga-585 101
8. **The Karnataka Electricity Regulatory Commission**
M.G Road,
Bangalore-560 001
Karnataka State

...Respondent(s)

Counsel for the Appellant/Applicant: Mr. Prabhuling Navadgi
Mr. Rajesh Mahale
Mr. Krutin R Joshi

Counsel for the Respondent(s): -

ORDER

PER HON'BLE MR. JUSTICE M. KARPAGA VINAYAGAM,
CHAIRPERSON

1. The Appellant Applicant M/s. South Indian Sugar Mills Association & Others has filed the Appeal as against the impugned order dated 24.3.2011 passed by the Karnataka State Commission to condone the delay of 185 days.

2. The State Commission passed the impugned order on 24.3.2011. However, the Appellant Applicant filed the Appeal only on 9.11.2011 with long delay.
3. The Registry, on perusal of the Appeal papers found some defects on 29.11.2011 and issued defect notice to the Applicant pointing out the defects and asking the Applicant to cure the defects within 7 days and re-file the appeal. However, after curing the defects, the Applicant has refilled the matter on 27.2.2012. Thus, there was delay in refiling also. Hence, the Applicant filed 2 applications to condone the delay in refiling as well as the delay in the filing the appeal.
4. According to the Applicant in refiling the Appeal there was a delay of 50 days. This Tribunal while considering the said Application in IA No.81 of 2012, though observed that the explanation for the delay of 50 days was not satisfactory, thought it fit to condone the said delay on the payment of cost to a charitable organisation by the order dated 13.3.2012. Then they filed other Application in IA 79 & 80 of 2012 for hearing the application to condone the delay in filing the Appeal on 27.3.2012. Accordingly, this Application IA 82/2012 came up for hearing on 27.3.2012. In this Application notice was issued to the Respondent returnable on 11.4.2012. When the matter was called on 11.4.2012,

the Learned Counsel for the Applicant was absent and therefore it was posted for dismissal on 13.4.2011 i.e. today.

5. Today, the Learned Counsel for the Appellant Applicant is present. He submitted that service on the Respondent has not yet been effected. Since the application was for condonation of the delay in refiling was already ordered, we wanted to find out the reasons given for the condonation of delay of 185 days in filing the Appeal in IA 82 of 2012.
6. According to the Applicant, though the order had been passed on 24.3.2011, the Appellant/Applicant instead of filing an Appeal in this Tribunal sent a representation to the State Government on 24.4.2011 for giving a direction to the Distribution Companies not to recover the amount from the generator. Though the interim direction was initially issued by the State Government, ultimately, the State Government by the order dated 28.7.2011 refused to intervene in the matter and rejected the representation, only then the Appellant took steps to file this Appeal. Accordingly, he filed the Appeal on 9..11.2011 i.e. after a long delay.
7. On going through the Application, it is clear that there is no explanation whatsoever offered in the Application. Even though the impugned order was passed on 24.3.2011, there was no reason as to why the Applicant chose to send

representation to the State Government instead of filing the Appeal before this Tribunal.

8. As indicated above, though the Government initially issued interim direction in favour of the Applicant, ultimately it rejected their prayer on 28.7.2011. Although the said order by the Government was passed on 28.7.2011, they chose to file the Appeal only on 9.11.2011. So the period between 28.7.2011 and 9.11.2011 has not at all been explained.
9. Though we were anxious to find out the valid reasons for the condonation of delay in filing the Appeal, especially when we condoned the delay of 50 days in refiling the Appeal, no valid reason was given by the Applicant.
10. We are not able to satisfy with the conduct of the Applicant who is negligent from the beginning.
11. That apart, the Act, 2003 provides the Appeal has to be disposed of within 180 days by this Tribunal after receipt of the Appeal. This shows that the Legislature has intended that there should be expeditious disposal of the Appeal. We have received the Appeal only on 9.11.2011 along with an application to condone the delay and the same was refiled only on 27.2.2012 again along with another application to condone the delay in refiling.

12. We are not concerned for the delay for refilling as we have already condoned it.
13. But we are unable to find out any valid reason to condone the delay of 185 days in filing the Appeal in the absence of any explanation whatsoever. Moreover, the Appellant Applicant opted to approach the Government by filing a representation which shows that the Applicant initially decided not to file the Appeal and now he changed his mind to approach this Tribunal to file the Appeal.
14. Under those circumstances, we are not inclined to condone the delay of 185 days in the filing of the Appeal.
15. Accordingly, the Application in IA 82 of 2012 is dismissed. Consequently, the Appeal is also rejected.

(Rakesh Nath)

Technical Member

Dated: 18th April, 2012

REPORTABLE/NON-REPORTABLE

(Justice M. Karpaga Vinayagam)

Chairperson