

Before the Appellate Tribunal for Electricity
(Appellate Jurisdiction)

IA no. 81 of 2014 in Appeal no. 266 of 2013 and IA no. 82 of
2014 in Appeal no. 265 of 2013

Dated : 11th March, 2014

Present: Hon'ble Mr. Justice M. Karpaga Vinayagam, Chairperson
Hon'ble Mr. Rakesh Nath, Technical Member

In the matter of:

IA no. 81 of 2014 in Appeal no. 266

**BSES Rajdhani Power Limited,
BSES Bhawan,
Nehru Place,
New Delhi-110 019**

....Appellant

Versus

**Delhi Electricity Regulatory Commission,
Viniyamak Bhavan, C- Block, Shivalik,
Malviya Nagar,
NEW DELHI-110 017**

**.... Respondent/
Applicant**

IA no. 82 in Appeal no. 265 of 2013

**BSES Yamuna Power Limited,
502, Nilgiri Apartments,
9. Barakhamba Road,
NEW DELHI-110 001**

....Appellant

Versus

**Delhi Electricity Regulatory Commission,
Viniyamak Bhavan, C- Block, Shivalik,
Malviya Nagar,
NEW DELHI-110 017**

**.... Respondent/
Applicant**

Counsel for the Appellant (s): **Mr. J.J. Bhatt, Sr. Adv.
Mr. Sanjay Sen, Sr. Adv.
Mr. Hasan Murtaza
Mr. Arijit Maitra
Mr. Aditya Panda**

Counsel for the Respondent(s)/ : **Mr. Pradeep Misra,
Applicants Mr. Shashanik Pandit,
Mr. Manoj Kr. Sharma
Mr. B.B. Tiwari
Mr. Saurabh Gandhi
Mr. Jitender Tyagi (Reps.)**

ORDER

RAKESH NATH, TECHNICAL MEMBER

IA no. 81 of 2014 and IA no. 82 of 2014 have been filed by the Delhi Electricity Regulatory Commission in Appeal no. 266 and Appeal no. 265 of 2013 respectively filed by the Distribution Licensees (Appellants) against the tariff order of the Delhi Commission for the FY 2013-14 to modify the order dated 5.2.2014 passed by this Tribunal in the Appeals.

2. During the hearing of IA no. 364 and IA no. 365 of 2013 seeking for interim orders during the pendency of the above Appeals, the Distribution Licensees, the Appellants submitted before this Tribunal that a notice dated 4.2.2014 has been issued by the Delhi Commission directing them to appear before the Commission on 6.2.2014 and make submissions with regard to Government's letter dated 3.2.2014. The Distribution Licensees had submitted that they apprehended that even during the pendency of IAs 364 and 365 of 2013, Delhi Commission may pass some orders which may be prejudicial to their interests and therefore, they prayed suitable directions to Delhi Commission not to proceed with the said proceedings and to pass the final order in the matter relating to suspension of their licence. In view of the submissions of the Distribution Licensees, this Tribunal directed the Appellants to appear before the Delhi Commission on 6.2.2014 and make their submissions with regard to the letter of

Government and further directed Delhi Commission to continue to proceed with the matter by hearing the parties but not to pass the final order in the above proceedings without leave of the Tribunal during the pendency of IAs 364 and 365 of 2013.

3. The Learned Counsel for the Delhi Commission has now submitted in the Application in IA Nos. 81 and 82 of 2014 seeking for modification of the above order that the notice dated 4.2.2014 to the Distribution Licensees was relating to the matter in Petition no. 67 and 68 of 2012 which was remanded to the Delhi Commission by this Tribunal by order dated 6.9.2012 in Appeal nos. 23 and 24 of 2012 regarding liquidation to current dues of power suppliers and transmission utilities. The Delhi Commission along with the above notice dated 4.2.2014 also enclosed a copy of letter dated 3.2.2014 received from Delhi Government for their comments. According to the Learned Counsel for the Delhi Commission IA nos. 364 and 365 of

2013 in the present Appeals are altogether in a different case in which the Distribution Licensees have challenged the tariff order dated 31.7.2013 for FY 2013-14 and therefore, the Commission may be allowed to pass final order after hearing the parties.

4. Learned Senior Counsel for the Distribution Licensees in the reply submitted that the question raised in IA nos. 364 and 365 of 2013 in the above Appeals are linked to the IA no. 81 of 2014 and IA no. 82 of 2014 filed by the Delhi Commission and they apprehend that during the pendency of the above IAs the Delhi Commission may pass some orders which may be prejudicial to the interests of the Appellants and therefore permission to the Delhi Commission may not be granted to dispose of the said matter.
5. As pointed out by the Learned Counsel for the Delhi Commission, we find that the notice dated 4.2.2014 given

by the Delhi Commission was in relation to the proceedings in Petition nos. 67 and 68 of 2012 in a matter which was remanded back by this Tribunal by order dated 6.9.2012 in Appeal no. 23 and 24 of 2012. These proceedings are independent of the proceedings in the present Appeal no. 265 and Appeal no. 266 of 2013 which have been filed against the tariff order dated 31.7.2013 which has been subsequently passed. Hence, we feel that we should not restrain the Delhi Commission to exercise the powers assigned to them under the Electricity Act, 2003. We are also simultaneously disposing of IA no. 364 of 2013 and IA no. 365 of 2013 filed by the Distribution Licensees in view of the concern expressed by the Distribution Licensees, through separate order.

6. In view of above, we recall our order dated 5.2.2014 and allow the Delhi Electricity Regulatory Commission to proceed and pass order as per law in the matter which was

remanded back by this Tribunal by order dated 6.9.2012 in Appeal no. 23 & 24 of 2012.

7. Accordingly the IA no. 81 of 2014 and IA no. 82 of 2014 are disposed of.

8. Post the matter for hearing the main Appeal no. 265 of 2013 and 266 of 2013 on 17th April, 2014. In the meantime, the pleading be completed.

(Rakesh Nath)
Technical Member

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REPORTABLE/NON-REPORTABLE
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(Justice M. Karpaga Vinayagam)
Chairperson