

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

**IA No.278 of 2013 in
Appeal no. 200 of 2013**

Dated: 16th January, 2014

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

In the matter of:

**M/s. Suryachakra Power Corporation Ltd.Appellant(s)
Suryachakra House
Plot No. 304-L-III, Road No.78
Film Nagar, Jubilee Hills
Hyderabad – 500 096**

Versus

- 1. The Electricity Department,Respondent(s)
Andaman & Nicobar Administration
Port Blair**
- 2. The Chief Secretary
Andaman & Nicobar Administration
Secretariat, Port Blair Port
Andaman & Nicobar Island**

Counsel for the Appellant (s):

**Mr. M.G. Ramachandran
Mr. Rohit Rao N.**

Counsel for the Respondents (s):

**Mr. Rakesh Khanna, ASG
Ms. Ruchi Sindhvani for R-1 & 2
Mr. Varun Pathak
Mr. J. Sridharan,
Mr. Anish Garg and
Mr. A. Garg (Rep.) for JERC**

ORDER

The Appellant, a generating company in Andaman and Nicobar Island, has filed this Application no. 278 of 2013 in Appeal no. 200 of 2013. In this IA, the Appellant has prayed for an interim order for directing Electricity Department of Andaman and Nicobar, the Respondent no.1 herein, to implement the directions issued by the Joint Electricity Regulatory Commission in the impugned order dated 3.7.2013 in petition no. 89 of 2012 regarding payment to the Appellant against energy supplied to the Respondent no.1, pending disposal of the above Appeal.

2. The Appellant has stated that due to non payment of dues by the Respondent no.1, they were not able to pay the creditors and they were not able to arrange funds for overhaul of one of the DG set which is under shut down awaiting overhauling.

3. The Joint Commission in its submissions has also stated that the financial situation of the Appellant is precarious and due to which only 3 out of 4 DG sets are working and with the possibility that the working DG sets may also shut down and the same shall have adverse impact on the consumers of Andaman and Nicobar. It has been further submitted that the Appellant has severe cash flow issues which need to be remedied immediately to prevent the total shut down of DG sets of the Appellant to prevent any inconvenience to consumers. Further the petition for winding up of the Appellant Company for non-payment of dues to the subsidiary of State Bank of India is pending before the High Court of Andhra Pradesh. The Joint Commission has also submitted that the interest of consumers should be protected through the implementation of the impugned order.

4. The Appellant has also submitted a supplementary claim as per the Joint Commission's order as under:-

Sl. No.	Description of the claim	Principal amount (Rs.)	Interest payment (Rs.)
1	For differential amount arising to of Project cost of Rs.78.29 crores	13,21,16,657	39,96,83,633
2	Deemed generation Charges as per JERC Order	4,31,94,817	16, 67,64,711
3	HSD density for the period-4/2003 to 3/2007	2,68,44,561	7,32,71,608
Total Claim		20,21,56,035	63,97,19,952
Or say (Rs. Crs.)		20.216	63.972
Total claim (Rs. Crs)		84.188	

5. On the other hand Respondent no.1 and 2 have pointed out that they have been making payment provisionally corresponding to projected cost of Rs. 77.595 as per CEA recommendations which is much higher than the actual cost. Even though the Respondents have

released more than Rs. 45 crores towards O&M expenditure in the monthly tariff to the Appellant, the Appellant has not been maintaining its plant and has not carried out the overhauling of its DG set as per the OEM recommendations. They have also filed a cross Appeal No. 268 of 2013 in the matter challenging the impugned order of Joint Commission.

6. We have heard Learned Counsel for the parties.
7. As an interim arrangement, we direct the Electricity Department, Andaman and Nicobar Administration to make payment to the extent of 50% of the principal amount only due to the Appellant as per the impugned order of the Joint Commission in five equal monthly instalments subject to the Appellant furnishing bank guarantee for each monthly payment valid for a period of one year. The first instalment of the payment will be made within one month of this order subject to the Appellant

furnishing the bank guarantee for equivalent amount. This interim order is also subject to the Appellant taking up overhauling of the DG set which is presently under shut down with a view to ensure availability of full capacity of the plant for supply to the consumers. The amount paid against this interim order will be subject to adjustment as per the judgment of this Tribunal in the main Appeal. The Appellant is also directed to file Affidavit indicating the action taken for overhauling of the DG set including time period for completion of the overhauling, within one month of this order.

9. Thus, IA No. 278 of 2013 is disposed of accordingly.
10. Post the main Appeal for hearing on **29.01.2014.**

(Rakesh Nath)
Technical Member

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REPORTABLE/NON-REPORTABLE

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(Justice M. Karpaga Vinayagam)
Chairperson