

Appellate Tribunal for Electricity
(Appellate Jurisdiction)

Review Petition No.5 of 2015 in
Appeal No. 216 of 2014

Dated: 12th March, 2015

Present: Hon'ble Mrs. Justice Ranjana P. Desai, Chairperson
Hon'ble Mr. Rakesh Nath, Technical Member

In the matter of:

**Municipal Corporation of Greater Mumbai,
through the General Manager,
Brihanmumbai Electric Supply and
Transport Undertaking (of the Municipal
Corporation of Greater Mumbai) {i.e. BEST}**

**.... Review Petitioner/
Appellant**

Versus

1. Tata Power Company Limited {i.e. TPC}

**2. Maharashtra Electricity Regulatory
Commission { i.e. MERC}**

.... Respondents

Counsel for the Review Petitioner:

**Mr. Harinder Toor
Ms. Tanu Priya
Mr. Rajendra Dubai**

Counsel for the Respondents:

**Sh. C. S. Vaidyanathan, Sr. Adv.
Ms. Poonam Verma for R-1
Mr. Akshat Jain for Tata Power
Mr. Parag Tripathi, Sr. Adv.
Mr. Buddy A Ranganadhan for R-2**

Order

Rakesh Nath, Technical Member

This Review Petition has been filed by Municipal Corporation of Greater Mumbai against the Judgment dated 25.11.2014 passed by this Tribunal in Appeal No.216 of 2014.

2. The Petitioner has raised the following grounds for review:
 - a) The Judgment dated 25.11.2014 has patently erred by deciding and holding that the ratio of decidendi of Noida Power case would not apply to the Appeal filed by BEST, the Appellant.
 - b) The Judgment has patently erred by deciding and holding that all the grounds of points (except for this specific ground involving the Noida Power case) raised in Appeal No. 216 of 2014 will be considered by the Tribunal in Appeal No. 243 of 2014 filed by BEST which is pending before the Tribunal, even though the grounds of Appeal No. 243 of 2014 are distinct from that of Appeal No. 216 of 2014.
 - c) The Impugned Judgment has patently erred by deciding that the Appeal No. 216 of 2014 filed by BEST was not maintainable as BEST was not a person aggrieved in respect of grant of licence to Tata Power for the area

of supply common to RInfra and Tata Power i.e. area of suburban Mumbai.

- d) The Impugned Judgment has patently erred by speciously diluting the principal grounds raised by BEST about Noida Power case and diluting the legal action of BEST by relegation to a distinct and independent Appeal filed by BEST.
 - e) Even otherwise, Impugned Judgment is contrary to equity, justice and / or law.
2. We have heard Mr. Harinder Toor, Learned Counsel for the Petitioner and Shri C.S. Vaidyanathan, Sr. Advocate for the Respondent No.1 and Shri Parag Tripathi, Sr. Advocate for the Respondent No.2.
3. We find that the only issue argued before this Tribunal in the main Appeal no. 216 of 2014 was non-fulfillment of pre-requisite eligibility criteria by Tata Power, the Respondent No.1 and in support of the argument the Appellant had relied on the findings of this Tribunal in Noida Power case (Appeal No. 7 of 2010). The Tribunal after referring to the findings in Noida Power case came to the conclusion that the ratio decidendi in this case would not support Appellant's case and Tata Power has proved its credit worthiness and capital adequacy as held by the State Commission. The Tribunal has only stated that other points relating to grant of licence in respect of area of supply of BEST

exclusively could be heard in Appeal No. 243 of 2014 wherein BEST was a person aggrieved.

4. The Review Petitioner has not pointed out any error apparent on the face of the record or discovery of new or important matters or any other sufficient reasons for review of the Tribunal's Judgment dated 25.11.2014. Therefore, we do not find any reason for review of the Judgment.
5. Accordingly, the Review Petition is dismissed.
6. We find that in paragraph 9 A(ii) of the Review Petition, the Review Petitioner has used certain derogatory remarks undermining the majesty of the bench of this Tribunal which passed the Judgment dated 25.11.2014. We direct that these remarks be expunged from the Petition.
7. Pronounced in the open court on this 12th day of March, 2015.

(Rakesh Nath)
Technical Member

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REPORTABLE/NON-REPORTABLE

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(Justice Ranjana P. Desai)
Chairperson