

**COURT-I**

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY  
(APPELLATE JURISDICTION)**

**Appeal No. 78 of 2015 &  
I.A. No. 381 of 2016**

**Dated : 3<sup>rd</sup> August, 2016**

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

**In the matter of:-**

**Adani Power Rajasthan Ltd.**

**-Appellant(s)**

**Vs.**

**Rajasthan Electricity Regulatory Commission & Ors.**

**-Respondent(s)**

Counsel for the Appellant(s)

: Mr. J.J. Bhatt, Sr. Adv.  
Mr. Amit Kapur  
Ms. Poonam Verma  
Mr. Gaurav Dudeja

Counsel for the Respondent(s)

: Mr. Raj Kumar Mehta  
Mr. Abhishek Upadhyay and  
Ms. Himanshi Andley for R-1  
  
Mr. Sanjay Jain, ASG  
Mr. Nitish Gupta for R.2 to 4

**ORDER**

The present appeal is filed against Order dated 30/5/2014 passed by the Rajasthan Commission in Case No.RERC-392/2013 to the limited extent it rejects the Appellant's claim of *Force Majeure* and Change in Law. However, by the impugned order, the Rajasthan Commission has held that the Adani Power Rajasthan nevertheless is entitled to be compensated for the increase in cost of coal. The Rajasthan Commission, in exercise of its power under Section 94(2) of the Electricity Act ("**the said Act**") has, as an interim measure, granted compensatory tariff of 25p per unit.

By Judgment dated 7/4/2016 in Appeal No.100 of 2013 and batch matters, the Full Bench of this Tribunal has held that the Appropriate Commission has no regulatory power to grant compensatory tariff to the generating companies where the tariff is discovered by a competitive bidding process under Section 63 of the said Act. The Full Bench has also held that if a case of *Force Majeure* or Change in Law is made out, relief available under the PPA can be granted under the adjudicatory power of the Appropriate Commission. The Full Bench has also held that it is not possible to stretch the definition of the term Change in Law to include Change in Policy.

In view of the above, in our opinion, it is necessary for the Rajasthan Commission to examine the matter in the light of the Full Bench Judgment dated 7/4/2016 in Appeal No.100 of 2013 and batch matters. Hence, without expressing any opinion on the merits of the case including the issue of *Force Majeure* involved in this case, we set aside the impugned order and remand the matter to the Rajasthan Commission and direct the Rajasthan Commission to examine the matter in the light of the aforesaid Full Bench judgment. Appeal is disposed of.

In view of disposal of the Appeal, the interim application being I.A. No. 381 of 2016 does not survive and is dismissed as such.

**I.J. Kapoor**  
[Technical Member]

**Justice Ranjana P. Desai**  
[Chairperson]