

**COURT-I**

In the Appellate Tribunal for Electricity  
(Appellate Jurisdiction)

**Appeal No.166 of 2014 &**  
**IA No. 275 of 2014**

**Dated :** **11<sup>th</sup> May, 2016.**

**Present:** Hon'ble Mrs. Justice Ranjana P. Desai, Chairperson  
Hon'ble Mr. T. Munikrishnaiah, Technical Member  
Hon'ble Mr. I.J. Kapoor, Technical Member

**In the matter of:-**

**Maharashtra State Electricity Distribution Co. Ltd.** **-Appellant(s)**  
**Vs.**  
**Adani Power Maharashtra Ltd. & Ors.** **-Respondent(s)**

Counsel for the Appellant(s) : Mr. Kiran Gandhi  
Ms. Ramni Taneja  
Mr. Udit Gupta

Counsel for the Respondent(s) : Mr. Amit Kapur  
Ms. Poonam Verma  
Mr. Gaurav Dudeja  
Mr. Akshat Jain for Adani  
Mr. Malav Deliwala (Rep.)

Mr. Buddy A. Ranganadhan  
Mr. Raghu Vamsy for MERC

**ALONG WITH**  
**Appeal No. 218 of 2014 & IA-337of 2014**

**In the matter of:-**

**Prayas Energy Group** **-Appellant(s)**  
**Vs.**  
**Maharashtra Electricity Regulatory Commission & Ors.** **-Respondent(s)**

Counsel for the Appellant(s) : Mr. M.G. Ramachandran  
Ms. Ranjitha Ramachandran  
Ms. Anushree Bardhan

Mr. Shubham Arya  
Mr. Kumar Mihir  
Mr. Avinesh Menon  
Ms. Poorva Saigal

Counsel for the Respondent(s) : Mr. Kiran Gandhi  
Ms. Ramni Taneja  
Mr. Udit Gupta for MSEDCL

Mr. Amit Kapur  
Ms. Poonam Verma  
Mr. Gaurav Dudeja  
Mr. Akshat Jain for Adani

Mr. Buddy A. Ranganadhan  
Mr. Raghu Vamsy for R.1

### **ORDER**

Appeal No.166 of 2014 is filed by Maharashtra State Electricity Distribution Co. Ltd. Appeal No.218 of 2014 is filed by Prayas. Both these appeals are directed against impugned Order dated 5/5/2014 in suo motu proceedings being Case No.63 of 2014 passed by the Maharashtra Commission, whereby the Maharashtra Commission has granted compensatory tariff of Rs.1.01 per unit to Adani Power Maharashtra over and above the tariff fixed under Section 63 of the said Act.

In our Judgment dated 7/4/2016 in Appeal No.100 of 2013 and batch matters, we have 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. We have 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.

While Section 79 refers to powers of Central Commission, Section 86 refers to powers of the State Commission. The powers conferred to the Appropriate Commissions under these Sections are almost similar. Therefore, the ratio of our Judgment dated 7/4/2016 in Appeal No.100 of 2013 and batch matters is squarely applicable to this case also.

Pertinently, today, we have set aside Interim Order dated 21/8/2013 passed by the Maharashtra Commission granting interim compensatory relief to Adani Power Maharashtra in Case No.68 of 2012 except to the extent it holds that the plea of Adani Power Maharashtra that the withdrawal of the Terms of Reference, which led to the inaccessibility of the coal block by Adani Power Maharashtra and the subsequent de-allocation of the said block was not a Force Majeure event as per the terms of the PPA. We have also made clear in that order that we have not expressed any opinion on the aspect of *Force Majeure*. It is important to note that this suo motu proceeding being Case No.63 of 2014 is initiated by the Maharashtra Commission on the Report of the Committee constituted by it in Case No.68 of 2012.

In the circumstances, in view of judgment dated 7/4/2016 referred to hereinabove, the Appeals are allowed. Impugned Final Order dated 5/5/2014 passed by the Maharashtra Commission in Case No.63 of 2014 is set aside. Accordingly, all connected IAs are also disposed of.

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

**T. Munikrishnaiah**  
[Technical Member]

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