

In the Appellate Tribunal for Electricity,
New Delhi
(Appellate Jurisdiction)

Appeal No. 73 of 2015

Dated: 20th July, 2016

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

In the matter of:

M/s. Armaan Steels
A-07, Industrial Focal Point
Mandi Gobindgarh
Distt. Fatehgarh, Punjab

...Appellant

Versus

1. Punjab State Electricity Regulatory
Commission
SCO NO. 220-21, Sector 34-A,
Chandigarh

...Respondent No 1

2. Punjab State Power Corporation Limited
Patiala, Punjab

...Respondent No 2

Counsel for the Appellant:

Mr. S. Vallinayagam

Counsel for the Respondent(s):

Mr. Sakesh Kumar for R-1

Mr. Anand K. Ganesan
Ms. Swapna Seshadri and
Mr. Sandeep for R-2

JUDGMENT

PER HON'BLE MR. I. J. KAPOOR, TECHNICAL MEMBER

1. The present Appeal is being filed under Section 111 of the Electricity Act, 2003 against the Impugned Order dated 11.09.2014 passed by the Punjab State Electricity Regulatory Commission (hereinafter referred to as the “**State Commission**”) in Petition No. 17 of 2014 which was filed by M/s Armaan Steels (hereinafter referred to as the “**Appellant**”).
2. The Appellant, M/s. Armaan Steels planned to set up large induction furnace of 15 tonne capacity, for which it had applied for a power load of 6300 KVA with Punjab State Power Corporation Limited (hereinafter referred to as “**Respondent No 2**”).
3. The Respondent No. 1 is the Electricity Regulatory Commission for the State of Punjab exercising jurisdiction and discharging functions in terms of the Electricity Act, 2003.
4. The Respondent No. 2 is Punjab State Power Corporation Limited, Punjab, a Distribution Licensee in the State of Punjab dealing with various designated functions including the sanction of power load to

the industries in the State of Punjab.

5. Aggrieved by the Impugned Order dated 11.09.2014 passed by the State Commission, the Appellant has preferred the present Appeal on the following grounds;
- (a) The Appellant initially applied for HT service connection of 2500 KVA for the induction furnace of 6 tonne capacity at its proposed unit. The Respondent No. 2 raised a demand for earnest money deposit (EMD) vide its letter dated 06.08.2010 of Rs. 3.75 lakhs which was paid by the Appellant to Respondent No. 2 on 13.08.2010. The Respondent No. 2 gave its feasibility clearance on 07.12.2011.
 - (b) The Appellant planned of increasing the capacity of the induction furnace from 6 tonne to 12 tonne and submitted a requisition for increased power load of 5000 KVA vide its application dated 28.01.2012. Due to change in quantum of load, the Respondent No. 2 demanded additional earnest money for carrying out the feasibility clearance. The Appellant deposited the additional amount of Rs. 3.75 lakhs for the increase in load in addition to the earnest money of Rs. 3.75 lakhs paid already by the Appellant on 13.08.2010.
 - (c) The Respondent No. 2 granted the feasibility clearance on 10.04.2012 for the power load of 5000 KVA to the Appellant.
 - (d) Thereafter, the Appellant decided to increase the capacity of the

induction furnace to 15 tonne and sought sanction of load of 6300 KVA instead of 5000 KVA already sanctioned for which the Respondent No. 2 sought the deposit of additional earnest money to the tune of Rs. 1.95 lakhs and the additional EMD of Rs. 1.95 lakhs was deposited by the Appellant on 06.06.2012 thereby making the entire earnest money deposit for sanction of Rs. 6300 KVA load to the tune of Rs. 9.45 lakhs.

- (e) The application of the Appellant for 6300 KVA power supply was placed before the Feasibility Clearance Committee on 17.08.2012 which concluded as hereunder;

“Because the applicant has not complied with instructions to deposit A and A forms within the prescribed period limit against Feasibility Clearance issued, hence, EMD deposited by him is forfeited and may revise his requisition by asking to deposit fresh EMD. Committee also decided that such applicants, who do not comply with “Feasibility Clearance issued” to register A and A forms within time limit and they instead filed revised requisition for enhancement/change in power load, their EMD be forfeited and new requisition be registered to send fresh case.”

- (f) Aggrieved by the arbitrary act of the Respondent No. 2, the Appellant submitted Petition No. 60 of 2012 before the State Commission praying for a direction to the Respondent No.2 to issue Feasibility Clearance in respect of 6300 KVA and to set aside the decision of the

Respondent No. 2 to forfeit the EMD of Rs. 9.45 lacs.

- (g) The State Commission vide its Order dated 30.01.2013 gave the following decision;

“In view of above the Commission decides to set aside memo no. 13942 dated 07.09.2012 of Dy. CE/DS Circle, Khanna regarding forfeiture of EMD. Further, the requisition of applicant for release of 6300 KVA contract demand shall be considered by PSPCL from the date of its registration on 06.06.2012. However, the charges for release of connection shall be recoverable as per the prevailing rates at the time of issue of demand notice after completing requisite formalities.”

- (h) However, the Appellant was informed subsequently by its supplier of induction furnace that for installing the induction furnace of 15 tonnes, it is essential for the Appellant to take prior Environmental Clearance from the Ministry of Environment and Forests (MOE&F), Government of India which the Appellant felt would take considerable time and decided to withdraw its application and requested the Respondent No. 2 vide its letter dated 19.02.2013 for withdrawal of its application seeking power load of 6300 KVA and to refund the EMD paid by it.
- (i) As per the Appellant, even after withdrawl of its application for sanction of 6300 KVA power load, the Feasibility Committee directed forfeiture of earnest money deposited by the Appellant and such an action on the part of the Respondent No. 2 was not called for since

the Appellant made an application to the Respondent No. 2 for withdrawal of its application seeking grant of 6300 KVA power load and refund of earnest money of Rs. 9.45 lakhs on the premise that the Environmental Impact Assessment Clearance from Ministry of Environment and Forest will take more than 10 months and it is not feasible for it to proceed with the formalities of the Respondent No. 2 for grant of feasibility certificate, which requires submissions of A&A forms within 60 days from the grant of feasibility clearance by the Respondent No.2.

- (j) The Appellant filed an application for withdrawal well within the timeline specified and after keeping the issue pending for more than 4 months, the Respondent No. 2 ultimately forfeited the EMD paid by the Appellant without granting the feasibility clearance.
- (k) Aggrieved by the order of Respondent No. 2, the Appellant filed an Appeal before the Chairman of the Respondent No. 2 which was rejected. Thereafter, the Appellant filed Petition No. 17 of 2014 before the State Commission seeking the refund of the EMD of Rs. 9.45 lakhs which was dismissed by the State Commission vide its Impugned Order dated 11.09.2014.

Hence, the Appellant preferred the present Appeal.

6. Looking into the above facts of the Appeal, the only issue which needs to be decided by us is **“Whether the action on the part of Respondent No. 2 to forfeit the earnest money of Rs. 9.45 lakhs of the Appellant is legally tenable?”**

7. We have heard Mr. S. Vallinayagam, learned Counsel for the Appellant, Mr. Anand K. Ganesan learned Counsel for Respondent No. 2 and Mr Sakesh Kumar, learned Counsel for the State Commission and considered the arguments put forth by rival parties during the hearing before us and the gist of the same is discussed hereunder;
 - (A) The learned Counsel for the Appellant made the following submissions for our consideration;
 - (i) The Respondent No. 2 gave its feasibility clearance on 07.12.2011 for 2500 KVA for the induction furnace of 6 tonne capacity as proposed initially by the Appellant, after a gap of one year and 4 months after the submission of the application when the feasibility clearance is required to be given within 30 days as specified in the

Regulations and this delay in granting feasibility clearance delayed the project augmentation.

- (ii) Thereafter, the Appellant submitted requisition form for higher power load to the tune of 5000 KVA vide application dated 28.01.2012 and deposited additional earnest money as demanded by the Respondent No. 2.
- (iii) The Respondent No. 2 granted its feasibility clearance on 10.04.2012 for the power load of 5000 KVA. Thereafter, the Appellant decided to go for a higher range of induction furnace to cater to 15 tonne enhanced capacity with latest technology for achievement of higher production and submitted its application to Respondent No. 2 for enhancement of load from 5000 KVA already sanctioned to 6300 KVA and thereafter the Appellant deposited additional earnest money of Rs. 1.95 lakhs.
- (iv) The Appellant had submitted its case to the Ministry of Environment and Forests (**“MOE&F”**), Government of India vide its letter dated 27.07.2012 for the Environmental Impact Assessment Clearance.
- (v) On 17.08.2012, the Feasibility Clearance Committee took a decision to forfeit the entire money of Rs. 9.45 lakhs.

- (vi) Aggrieved by the arbitrary act of Respondent No. 2, the Appellant approached the State Commission vide Petition No. 60 of 2012 praying for a direction to the Respondent No. 2 to issue feasibility clearance in respect of 6300 KVA setting aside the decision of the Respondent No. 2 to forfeit the EMD of Rs. 9.75 lakhs.
- (vii) The State Commission vide its order dated 30.01.2013 passed the following :

“The applicant again submitted revised requisition on 5.6.2012 in the office of Dy. CE/DS Circle, Khanna for contract demand of 6300 kVA (instead of 5000 kVA for which feasibility was already granted) with a request to adjust the earnest money of Rs. 7.5 lac deposited earlier vide receipt nos. D93817/347 dated 13.8.2010 and D91740/394 dated 31.1.2012 towards the revised requisition of 6300 kVA. This request of the applicant was acceded to vide Dy. CE/DS Circle, Khanna letter no. 8955 dated 5.6.2012 (Annexure-20 of PSPCL reply). The case for grant of feasibility clearance for 6300 kVA demand to the applicant was discussed in the FCC meeting held on 17.8.2012. It has been mentioned in the minutes of this meeting that instructions are silent regarding adjustment/refund/forfeiture of earnest money deposited earlier in such cases. Earnest money deposited in this case has been forfeited vide memo no. 13942 dated 7.9.2012 (Annexure-A of Petition) and applicant has been asked to submit new requisition along with fresh EMD.

There is no fault of the applicant in this case because he was allowed to submit revised / fresh requisition forms twice by adjusting his earlier deposited amount of earnest money. It was also in the knowledge of the PSPCL that applicant had not deposited A & A

forms for release of 2500 kVA and 5000 kVA contract demands. It is not, therefore, justified to disallow consideration of requisition dated 05.06.2012 for contract demand of 6300 kVA under similar circumstances. The applicant was not given any opportunity of being heard before passing orders for forfeiture of EMD amounting to Rs.9.45 lac.

In view of above, the Commission decides to set aside memo no. 13942 dated 07.09.2012 of Dy. CE/DS Circle, Khanna regarding forfeiture of EMD. Further, the requisition of applicant for release of 6300 kVA contract demand shall be considered by PSPCL from the date of its registration on 06.6.2012. However, the charges for release of connection shall be recoverable as per the prevailing rates at the time of issue of demand notice after completing requisite formalities.”

- (viii) The proposed unit with installation of 15 ton induction furnace and rolling unit will exceed production of 40000 tons per annum. Such units exceeding annual production of 30000 tons are required to obtain Environmental Impact Assessment Clearance from the Government of India, Ministry of Environment and Forests (“**MOE&F**”), New Delhi under EIA Notification No. SO 1533 (E) dated 14.09.2006, issued by the Ministry of Environmental and Forests. The Appellant had submitted its case to MOE&F vide letters dated 27.07.2012, 11.03.2013, 24.04.2013 and 16.09.2013 and the same were not process with MOE&F.

- (ix) On 07.02.2013, the Appellant received a letter from its supplier stating that the Appellant cannot install machinery till such permission/clearance is granted by MOE&F. Therefore, it was necessary for the Appellant to get the above clearance from MOE&F as it cannot go ahead for anything until it gets Environmental Impact Assessment Clearance for MOEF, New Delhi.
- (x) In the circumstances, the Appellant intended to withdraw the application for grant of HT service connection for its proposed industry because it was not practically feasible for it to install the equipment and start constructing work without Environmental Impact Assessment Clearance which it would take 8 to 10 months.
- (xi) On 19.02.2013, the Appellant requested the Respondent No. 2 vide its letter No. 345-47 for withdrawal of application seeking power load of 6300 KVA and revision of EMD of Rs. 9.45 lakhs paid by it and in this letter, the Appellant specifically stated that it will take a minimum of 8 to 10 months to obtain Environmental Impact Assessment Clearance from Government of India and its inability to proceed with the establishment of the industry.

(xii) The Feasibility Clearance Committee in their meeting on 05.06.2013 forfeited the EMD without giving any show cause notice or opportunity or personal hearing to the Appellant.

(xiii) Forfeiture without giving opportunity to the affected party is against the settled principles of law. The forfeiture is illegal because there is no provision for forfeiture of EMD provided under the Supply Code. The extract of the observations conveyed to the Appellant vide letter dated 17.09.2013 of the Respondent No. 2 is as under:-

“Superintending Engineer (Operation), Khanna has informed that entrepreneur has been informed that condition to obtain no objection certificate from Punjab State Pollution Control Board has been revoked by Punjab State Power Corporation Ltd and they may install machinery immediately. In this regard, no reply has been received. As such the Committee decided to forfeit EMD.”

(xiv) The Appellant states that it has never received the above letter informing the Appellant that the condition of No Objection Certificate from Pollution Control Board (**“PCB”**) has been revoked and even if the clearance from PCB is waived, the mandatory Environmental Impact Assessment Clearance of MOE&F cannot be ignored and the Appellant cannot put its industry without the said approval from

MOE&F relying on the basis of the alleged information by the Superintendent Engineer (Operation), Khanna to the Appellant.

(xv) It is pertinent to note that the Feasibility Clearance Committee did not grant feasibility certificate on 05.06.2013 for 6300 KVA and even the decision of forfeiture of EMD was taken after a period of 3 months from the date of 19.12.2013 when the Appellant sought to withdraw its request for grant of 6300 KVA service connection.

(xvi) Aggrieved by the forfeiture, the Appellant made an Appeal to the Chairman of the Respondent No. 2 which was also declined and aggrieved by the dismissal of its appeal before the Chairman of the Respondent No. 2 the Appellant filed Petition No. 17 of 2014 before the State Commission with the following prayers:

(a) To allow our petition directing the Punjab State Power Corporation Limited not to forfeit our EMD and to refund the same. We will deposit fresh EMD as and when we file a fresh application/requisition after taking the Environment Impact Assessment Clearance from MOE&F, GOI, New Delhi.

- (b) That the petition/appeal may please be treated as interim and we reserve our right to amend the same by way of additions/deletions and substitutions.
- (c) That if there is any delay in filing the appeal, the delay may please be condoned as there is no mention in the decision that we can go in appeal against this order.
- (d) That it is also requested that we may be given opportunity to file any other document required by Hon'ble Commission and may be heard in person before the case is decided.

By the Impugned Order dated 11.09.2014 the State Commission `dismissed the petition without giving any relief to the Appellant. The Appellant has preferred the present Appeal seeking setting aside the Impugned Order dated 11.09.2014 of the State Commission and refund of the Earnest Money Deposit ("**EMD**") paid by the Appellant to the tune of Rs. 9.45 lakhs.

- (B) The learned Counsel for the Respondent No. 2 submitted the following for our consideration;
 - (i) The Earnest Money Deposit ("**EMD**") is given under Regulation 5.5 of the Supply Code Regulation. Regulation 5.6 of the same provides

the right to the consumer to get a refund of the earnest money only in the case it is not technically feasible to release the demand. Regulation 5.6 ((amended on 24.05.2010) of the State Commission reads as under;

“5.6 Feasibility clearance will be granted by the licensee within 30 days of the receipt of such a request. Where such clearance is likely to take more than 30 days, the licensee will, within 15 days of the receipt of an application, seek the approval of the Commission for extending the period in which the clearance would be granted. On its receipt the applicant may submit an application for adjusting the amount of earnest money towards initial security.

In the event it is not technically feasible to release the demand/additional demand then the earnest money will be refunded in full without any interest. Where the demand/additional demand can not be released within the period stipulated in Regulation 6.3 or the time frame for its release does not match the commissioning schedule, the applicant may withdraw the request for feasibility clearance and seek refund of earnest money. The Commission will thereafter decide whether or not earnest money is to be refunded.”

- (ii) In the present case none of the conditions specified in Regulation 5.6 as above is satisfied by the Appellant to entitle it for refund of the EMD.

- (iii) On the other hand, the conduct of the Appellant is to somehow prolong the matter and finally seek the entire refund. The following is submitted in support of the same;

- (a) The Appellant right from the beginning avoided submission of the A & A for by seeking additional load. This was initially from 2500 KVA to 5000 KVA and thereafter from 5000 KVA to 6300 KVA. The additional load was sought just before the expiry of time for submission of the A&A form.
- (b) The Petition No. 60 of 2012 was filed before the State Commission seeking the additional load of 6300 KVA and against the action of the Respondent No. 2 regarding forfeiture of earnest money amount. The State Commission vide its Order dated 30.01.2013 decided to set aside the memo of Respondent No. 2 regarding forfeiture of EMD and further directed to consider the requisition of the Appellant for sanction of 6300 KVA power load.
- (c) The Appellant on 19/02/2013 sought withdrawal of its request for 6300 KVA power load and refund of the earnest money deposit. The alleged reason or seeking withdrawal is that the Environmental Impact Assessment Clearance was required to be obtained by the Appellant which was a time consuming process. This was however not a new condition, but was as per the MOE&F notification dated 04/09/2006. This notification was much before even the initial application for 2500 KVA load.

- (d) Further, no such issue was even brought out in the proceedings in Petition No. 60 of 2012 wherein the additional load of 6300 KVA was sought and directions were issued by the State Commission to the Respondent No. 2 for consideration of the same.
- (iv) There is no provision for refund of earnest money in such circumstances. However, there is no equity in favour of the Appellant has evident from the conduct mentioned above.
- (v) The Respondent No. 2 has also spent considerable time and incurred resources on account of carrying out feasibility clearance on various occasions when the Appellant made application initially for grant of 2500 KVA, then for 5000 KVA and thereafter for processing its application for further enhancement of load to the tune of 6300 KVA and as such there is no merit in the present appeal and same is liable to be dismissed.
- (C) The learned Counsel for the State Commission adopted the submissions made by the learned counsel for the Respondent No.
8. After having careful perusal of all the relevant issues of the rival parties submitted before us, our observations are as under;

- (i) There is no doubt in our minds that the Appellant had been changing its decision frequently in making applications for sanction of quantum of load which it sought to have for its proposed industrial unit in the State of Punjab and we have also noted that the feasibility clearances in the earlier two occasions initially for 2500 KVA thereafter 5000 KVA were given to the Appellant by the Respondent No. 2 after a lapse of considerable time.
- (ii) The Earnest Money Deposit (“**EMD**”) is to take care that the entrepreneurs are really serious players desirous of setting up of the proposed industries and for sanction of power load, its feasibility is to be conducted mandatorily by the Respondent No. 2 which involves considerable efforts and documentation of the Distribution Licensees. In the event after grant of feasibility clearance, the entrepreneur does not set up the proposed industry and it is not implementing its proposal, this EMD is forfeited to compensate for the efforts undertaken by the Distribution Licensees.
- (iii) Now lets us examine the relevant observations of Impugned Order dated 11.09.2014 passed by the State Commission while dismissing the petition No. 17 of 2014 filed by the Appellant, reproduced as under;

“Before the case for granting feasibility clearance for release of 6300 kVA Contract Demand was considered by the Feasibility Clearance Committee of PSPCL, the petitioner requested for withdrawal of EMD through its application dated 19.02.2014. In its application the petitioner mentioned that in view of Ministry of Environment and Forest, Govt. of India, New Delhi notification no. SO1533 (E) dated 04.09.2006, all units exceeding annual production of 30000 Ton are required to obtain Environmental Impact Assessment Clearance which according to petitioner is a time consuming process.

This issue of Environmental Impact Assessment Clearance was neither brought out in the petition no. 60 of 2012 filed by the petitioner before the Commission nor was made a ground for any relief sought in that petition. The notification of Govt. of India was issued on 14.09.2006 and it should have been in the notice of the petitioner before he decided to enhance the capacity of the Induction Furnace to 15 tonne and to add Rolling Mill Unit.

The petitioner claimed that it has submitted its case for Environment Impact Assessment to Ministry of Environment and Forests, Gol vide letters dated 27.07.2012, 11.03.2013, 24.04.2013 and 16.09.2013; so it can be safely concluded that requirement to get Environment Clearance from Govt. of India was in the knowledge of the petitioner even at the time of filing of petition No. 60 of 2012 on 01.11.2012. Moreover ignorance of any Rules/Regulations cannot be used to claim any relief on this account.

The plea of the petitioner in its written submissions dated 22.08.2014 that the firm has deposited ‘security’ under Regulation 15 of the Supply Code and not ‘EMD’ is factually incorrect since as per Regulation 5.5 of the Supply Code, the applicant for a new or additional demand exceeding 500 kW /500 kVA is required to first obtain the feasibility clearance after payment of earnest money which will not exceed 10% of the initial security as specified in the Schedule of General Charges. After receipt of feasibility clearance, the applicant can get this EMD adjusted against initial security. Thus it is wrong that ₹ 9.45 lac is security amount under Regulation 15 of the Supply Code and not the earnest money under regulation 5.5 of the Supply Code.

Regulation 5.6 of the Supply Code provides that the earnest money can be refunded in full without any interest in the event it is not technically feasible to release the demand or such demand cannot be released within the period stipulated in Regulation 6.3. The applicant may withdraw the request for feasibility clearance and seek refund of the earnest money if the time frame for release of connection does not match the commissioning schedule. The Commission will there after decide whether or not earnest money is to be refunded. None of these conditions for seeking refund of EMD is applicable in the instant case.

It is also a matter of concern that despite orders of the Commission dated 30.01.2013, the case of the petitioner was considered by the Feasibility Clearance Committee of PSPCL as late as on 05.06.2013 i.e after more than four months. Even in routine cases, feasibility clearance is required to be granted within 60 days of the receipt of such a request as per Regulation 5.6 of the Supply Code. Such casual approach of PSPCL is highly deplorable.

The feasibility clearance granted to an applicant for a large load/demand cannot be kept valid for indefinite period without actual release of load/demand as the release of load to subsequent applicants from the same line/grid sub-stations is affected. So the licensee is justified in prescribing time limit for submission of A&A form along with deposit of various charges within the stipulated time after feasibility clearance.

The Commission finds no merit in the plea of the petitioner against forfeiture of his earnest money and petition is accordingly dismissed.”

From the above, it is clear to us that the State Commission has categorically stated that the Appellant had not brought out the issue of Environmental Impact Assessment Clearance in its earlier Petition No. 60 of 2012 submitted before the State Commission and the fact that such a requirement of MOE&F, Government of India was made

vide its notification dated 04.09.2006 which has been in force much before the Appellant made its initial requisition even for sanction of 2500 KVA power load.

(iv) The Environmental Impact Assessment Clearance of MOE&F has been essential requirement for setting up of such a unit and should have been known to the Appellant when it proposed to set up such an industry as it has been mandated by the Government of India's notification long back and much before the Appellant proposed to set up such an industrial unit. As regards this issue, we cannot see any reason that the Appellant came to know only through its supplier for obtaining such a clearance before installing the equipment since it is the first issue which an entrepreneur would have thought of and would have taken into consideration for even deciding to set up such an industrial unit.

(iv) We do not see any merit in the Appellant's claim that when such a provision for forfeiture of EMD not spelt out in the given Regulations, how EMD could be forfeited. As firstly, the EMD is for a purpose broadly to compensate the Distribution Licensee for the efforts to be made by it for carrying out feasibility study. Secondly, the amount of EMD for the sanction of different loads was known to the Appellant

since the same is clearly spelt out by the Distribution Licensee and on earlier two occasions the Feasibility Clearance for sanction of firstly 2500 KVA and then 5000 KVA was given by the Respondent No. 2. Thirdly, the Appellant's case does not find merit in getting covered under any of the provisions specified for the refund of EMD as spelt out in the Regulations and its action on withdrawal of the application for seeking higher load of 6300 KVA does not save the Distribution Licensee from making its efforts for processing such an application.

- (v) The EMD comes into force the moment you have made an application to the Distribution Licensee for sanction of load as the activity of Distribution Licensee commences just after admitting an application for grant of power load from its Distribution network as it involves considerable efforts in studying the line specific loadings on the part of the Distribution Licensee. It is, therefore, not right to say on the part of the Appellant that when the Distribution Licensee has not given feasibility clearance for its proposed enhanced load of 6300 KVA, the forfeiture of EMD ought not to be done since the withdrawal application by the Appellant is effected before grant of feasibility clearance.

(vi) In our considered opinion, the refund of EMD has been clearly spelt out in the prevailing Regulations and such conditions do not become applicable in the present case which would have entitled the Appellant to seek refund. Since the Appellant does not get covered in the provisions entitling refund of EMD, the forfeiture of EMD by the Respondent No. 2 is legally tenable.

ORDER

We are of the considered opinion that there is no merit in the present Appeal and it is hereby dismissed. The Impugned Order dated 11.09.2014 passed by the State Commission is hereby reaffirmed.

No order as to costs.

Pronounced in the Open Court on this **20th day of July, 2016.**

(I.J. Kapoor)
Technical Member

(Mrs. Justice Ranjana P. Desai)
Chairperson

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