

COURT-I

In the Appellate Tribunal for Electricity
(Appellate Jurisdiction)

IA NO.191 OF 2016 IN DFR NO.806 OF 2016

Dated : 11th 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:-

Adani Power Maharashtra Ltd.

-Appellant(s)

Vs.

Maharashtra Electricity Regulatory Commission & Anr.

-Respondent(s)

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

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

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

ORDER

The present appeal is filed against Order dated 5/5/2014 in 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 over and above the tariff fixed under Section 63 of the said Act. The appellant is aggrieved by the formula determined by the Maharashtra Commission for computation of compensatory energy tariff.

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. Since the Maharashtra Commission has come to a conclusion that the case of *Force Majeure* event is not made out, it could not have granted compensatory tariff to Adani Power Maharashtra.

While Section 79 refers to powers of Central Commission, Section 86 refers to powers of the State Commission. The powers conferred on 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.

In view of the above, today we have allowed Appeal No.166 of 2014 filed by Maharashtra State Electricity Distribution Co. Ltd. and Appeal No.218 of 2014 filed by Prayas and set aside the same impugned Order dated 5/5/2014 passed by the Maharashtra Commission in Case No.63 of 2014.

In the circumstances, nothing survives in this Appeal and the Appeal is dismissed. Accordingly, all connected IAs are also disposed of. It is made clear that the dismissal of this appeal will not come in the way of consideration of DFR No.2635 of 2014, which is transferred to the Regular Bench by us.

I.J. Kapoor
[Technical Member]

T. Munikrishnaiah
[Technical Member]

Justice Ranjana P. Desai
[Chairperson]