

COURT-II
IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(APPELLATE JURISDICTION)

JUDGMENT IN APPEAL NO. 385 OF 2018 &
IA NO. 1601 OF 2018 ON THE FILE OF THE
APPELLATE TRIBUNAL FOR ELECTRICITY, NEW DELHI

Dated: 3rd April, 2019

Present: **Hon'ble Mr. Justice N.K. Patil, Judicial Member**
Hon'ble Mr. Ravindra Kumar Verma, Technical Member

In the matter of:

Narayanpur Power Company Private Limited

A company incorporated and governed by
the provisions of the Companies Act, 1956
having its registered office at:

No. A-21, Manyata Residency,
Arabic College Post,
Bengaluru – 560 045

Represented by its Managing Director
Mr. Y.S.V.K. Vasudeva Rao

..... Appellant

VERSUS

1. Karnataka Electricity Regulatory Commission

Having its Office at No. 16, C-1,
Millers Bed Area, Vasantha Nagar
Bengaluru – 560 001
(Represented by its Chairperson)

2. State of Karnataka,

Department of Energy,
Vikasa Soudha,
Bengaluru – 560 001
(Represented by the Addl. Chief Secretary)

3. Karnataka Power Transmission Corporation Limited

A company registered under the Provisions of
Companies Act, 1956 having its registered office at:
Kaveri Bhavan, K.G. Road,
Bengaluru – 560 009
(Represented by its Managing Director)

4. Bengaluru Electricity Supply Entity Limited

A company registered under the Provisions of Companies Act, 1956 having its registered office at:
K.R. Circle,
Bengaluru – 560 001
(Represented by its Managing Director)

5. Gulbarga Electricity Supply Company Limited

A company registered under the Provisions of Companies Act, 1956 having its registered office at:
Station Road,
Gulbarga– 585 102
(Represented by its Managing Director)

Respondents

Counsel for the Appellant(s) : Mr. Shridhar Prabhu
Mr. Anantha Narayana M.G.

Counsel for the Respondent(s): Mr. Joseph Aristotles
Mr. Shiva P. for R-2

Mr. Balaji Srinivasan
Mr. Siddhanth Kohli for R-3 & 4

The Appellant has presented this Appeal for considering the following Question of Law:

- A. Whether the alteration of Banking period and introduction of TOD Banking norms would tantamount to alteration of tariff?
- B. Whether KERC can alter the tariff within same financial year without any justifiable grounds?
- C. Whether opportunity of hearing and principles of natural justice are essential components of adjudication?

J U D G M E N T

PER HON'BLE MR. JUSTICE N.K. PATIL, JUDICIAL MEMBER

1. In the instant Appeal, the Appellant, Narayanapur Power Company Private Limited, Bengaluru, is questioning the legality, validity and

proprietary of the common order passed by Karnataka Electricity Regulatory Commission, Bengaluru (1st Respondent herein) dated 09.01.2018 in OP No. 90/2016 and OP No. 47 of 2017.

2. The Appellant has sought the following reliefs in Appeal No. 385 of 2018:

- i. Call for records.
- ii. Set aside the common Order dated 09th January, 2018 passed by 1st Respondent produced herein as Annexure-A1 in O.P. No.90/2016 and O.P. No. 47/2017
- iii. Grant the cost of the Appeal;
- iv. Pass such other and further orders as this Hon'ble Tribunal may deem fit to rant under the facts and circumstances of the case in the interest and justice and equity.

3. We have heard the learned counsel, Mr. Shridhar Prabhu, appearing for the Appellant, the learned counsel, Mr. Joseph Aristotle S., appearing for the 2nd Respondent and the learned counsel, Mr. Siddhant Kohli, appearing for the Respondent Nos. 3 & 4.

4. The learned counsel for the Appellant and the learned counsel for the Respondent Nos. 2 and 3 & 4, at the outset, fairly submitted that, the instant appeal filed by the Appellant may kindly be disposed of following the Judgment and Order dated 29.03.2019 passed in Appeal No. 42 of 2018 & IA No. 214 of 2018 and connected cases (M/s Fortune Five Hydel Projects Pvt. Ltd, vs Karnataka Electricity Regulatory Commission

& Ors.) and in terms and for the reasons stated therein in the interest of justice and equity.

5. Submissions of the learned counsel appearing for the Appellant and the Respondent Nos. 2 and 3 & 4, as stated supra, are placed on record.

6. In the light of the submissions of the counsel appearing for the Appellant and the Respondent Nos. 2 and 3 & 4 and having regard to the facts and circumstances of the case in hand, it is just and proper to pass an appropriate order to meet the ends of justice as requested by the learned counsel for both the parties in the interest of justice and equity.

ORDER

Having regard to the facts and circumstances of the case, as stated above, the instant appeal filed by the Appellant is allowed.

The common impugned Order dated 09.01.2018 in Petition Nos. 90/2016 and 47 of 2017 on the file of the Karnataka Electricity Regulatory Commission (1st Respondent herein) is hereby set aside so far it relates the prayers sought by the Appellant in the instant appeal.

The matter stands remitted back to the first Respondent, KERC with the direction to pass the appropriate order in the light of the observations made in the preceding paragraphs of the Judgment dated

29.03.2019 passed in Appeal No. 42 of 2018 & IA No. 214 of 2018 and connected cases (M/s Fortune Five Hydel Projects Pvt. Ltd, vs Karnataka Electricity Regulatory Commission & Ors.), in accordance with law as expeditiously as possible at any rate within six months.

The Appellant and the Respondent Nos. 2 to 5 herein are directed to appear before the first Respondent, KERC personally or through their counsel without notice on 29.04.2019.

IA NO. 1601 of 2018

In view of the Appeal No. 385 of 2018 on the file of the Appellate Tribunal for Electricity, New Delhi being disposed of, on account of which, the reliefs sought in IA No. 1601 of 2018 does not survive for consideration and, hence, stands disposed of.

Order accordingly.

(Ravindra Kumar Verma)
Technical Member
vt/bn

(Justice N.K. Patil)
Judicial Member