

**Appellate Tribunal for Electricity
(Appellate Jurisdiction)**

Appeal No. 101 of 2013 & I.A. No. 169 of 2013
Appeal No. 102 of 2013 & I.A. No. 170 of 2013

Dated: 28th May, 2013

Present: Hon'ble Mr. Justice M. Karpaga Vinayagam, Chairperson
Hon'ble Mr. Rakesh Nath, Technical Member

Appeal No. 101 of 2013 & I.A. No. 169 of 2013

In the matter of:

GVK Gautami Power Limited,
Paigah House, 156-159 SP Road,
Secunderabad-500 003

... Appellant

Versus

- 1. Central Power Distribution Company of Andhra Pradesh Ltd.,**
H.No. 1-64-660, 3rd Floor, Singareni Bhavan,
Adjacent to Hanuman Temple, Red Hills,
Hyderabad-500 004, Andhra Pradesh
and also represented by
Andhra Pradesh Power Coordination Committee
Vidyut Soudha, Khairatabad,
Hyderabad
- 2. Southern Power Distribution Company of Andhra Pradesh Ltd.,**
Beside Srinivasa Kalyana Mantapam,
Tiruchanur Road, Tirupathi-517 501
Andhra Pradesh
and also represented by
Andhra Pradesh Power Coordination Committee
Vidyut Soudha, Khairatabad,
Hyderabad.
- 3. Northern Power Distribution Company of Andhra Pradesh Ltd.,**
House No.1-1-503 & 504 (Opp. NIT Petrol Pump),
Chaitanyapuri,
Hanamkonda, Warangal (AP)-506 004
and also represented by
Andhra Pradesh Power Coordination Committee
Vidyut Soudha, Khairatabad,
Hyderabad.

4. **Eastern Power Distribution Company of Andhra Pradesh Ltd.,**
P&T Colony, Seethammadhara,
Visakhapatnam-530 020, Andhra Pradesh
and also represented by
Andhra Pradesh Power Coordination Committee
Vidyut Soudha, Khairatabad,
Hyderabad.
5. **Transmission Corporation of Andhra Pradesh Limited,**
Through its Chairman & Managing Director,
Vidyut Soudha, Khairatabad,
Hyderabad-500 049, Andhra Pradesh
6. **Andhra Pradesh Electricity Regulatory Commission,**
4th & 5th Floors, Singareni Bhavan, Red Hills,
Hyderabad-500 004. **...Respondent(s)**

Counsel for the Appellant : **Mr. M.G. Ramachandran**
Ms. Swagatika Sahoo

Appeal No. 102 of 2013 & I.A. No. 170 of 2013

In the matter of:

GVK Industries Limited (Phase-II),

Paigah House, 156-159 SP Road,

Secunderabad-500 003

... Appellant

Versus

1. **Central Power Distribution Company of Andhra Pradesh Ltd.,**
H.No. 1-64-660, 3rd Floor, Singareni Bhavan,
Adjacent to Hanuman Temple, Red Hills,
Hyderabad-500 004, Andhra Pradesh
and also represented by
Andhra Pradesh Power Coordination Committee
Vidyut Soudha, Khairatabad,
Hyderabad.
2. **Southern Power Distribution Company of Andhra Pradesh Ltd.,**
Beside Srinivasa Kalyana Mantapam,
Tiruchanur Road, Tirupathi-517 501
Andhra Pradesh
and also represented by
Andhra Pradesh Power Coordination Committee
Vidyut Soudha, Khairatabad,
Hyderabad.

3. **Northern Power Distribution Company of Andhra Pradesh Ltd.,**
House No.1-1-503 & 504 (Opp. NIT Petrol Pump),
Chaitanyapuri,
Hanamkonda, Warangal (AP)-506 004
and also represented by
Andhra Pradesh Power Coordination Committee
Vidyut Soudha, Khairatabad,
Hyderabad.
4. **Eastern Power Distribution Company of Andhra Pradesh Ltd.,**
P&T Colony, Seethammadhara,
Visakhapatnam-530 020, Andhra Pradesh
and also represented by
Andhra Pradesh Power Coordination Committee
Vidyut Soudha, Khairatabad,
Hyderabad.
5. **Transmission Corporation of Andhra Pradesh Limited,**
Through its Chairman & Managing Director,
Vidyut Soudha, Khairatabad,
Hyderabad-500 049, Andhra Pradesh
6. **Andhra Pradesh Electricity Regulatory Commission,**
4th & 5th Floors, Singareni Bhavan, Red Hills,
Hyderabad-500 004. **...Respondent(s)**

Counsel for the Appellant : **Mr. M.G. Ramachandran**
Ms. Swagatika Sahoo

JUDGMENT

RAKESH NATH, TECHNICAL MEMBER

These Appeals have been filed by GVK Gautami Power Limited and GVK Industries Ltd. (Ph.II) against the two similar interim orders both dated 17.4.2013 in the applications filed by the Appellants simply directing the IAs to be posted alongwith the main

petition on a future date without granting the interim reliefs sought for in those applications.

2. The Distribution Licensees, the Transmission Licensee and the State Commission are the Respondents.

3. The prayers in the IAs filed before the State Commission filed by the Appellant seeking for restraining the Distribution Licensees from making any deductions on account of capacity charges and for directing them to refund the capacity charges and disincentives deducted for the tariff year ending 5.6.2012 and certain charges payable under the Gas Transmission Agreements.

4. Learned counsel for the Appellants has made elaborate submissions to urge that the State

Commission should have allowed the IA in respect of restraining the distribution licensees from making any deductions in capacity charges including the disincentives pending final disposal of the petition instead of simply adjourning the said petitions directing to be posted alongwith main Petition.

5. We have heard both the parties. We are not inclined to interfere with the orders passed by the State Commission in the Interim Application directing the IA to be posted alongwith the main petition. However, considering the fact that the issue relating to payment of capacity charge due to non-availability of the main fuel has been pending for a long time and also the financial difficulties pointed out by the Appellants, we deem it fit to give directions to the State Commission that the main petitions filed on 30th October, 2012 pending before the State

Commission for a long time shall be disposed of expeditiously.

6. Learned counsel for the Appellants submitted that the post of Chairperson has recently fallen vacant and the State Commission now has only two Members which may cause further delay in disposal of the Petition and therefore, the Tribunal may pass interim orders at least on further deduction of capacity charges.

7. We are unable to agree that vacancy of one Member of the State Commission will render the State Commission inoperative. Therefore, vacancy of one Member would not cause any delay in disposal of the petition.

8. Accordingly, we dispose of the Appeal nos. 101 and 102 of 2013 as well as IAs 169 & 170 of 2013 with the direction to the State Commission that it shall dispose of the main petition as expeditiously as possible preferably within 3 months from the date of this order. With these observations, the Appeals are disposed of.

9. Pronounced in the open court on this **28th day of May, 2013.**

(Rakesh Nath)
Technical Member

(Justice M. Karpaga Vinayagam)
Chairperson

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REPORTABLE/NON-REPORTABLE

vs