

COURT - I

Before the Appellate Tribunal for Electricity
(Appellate Jurisdiction)

Appeal No. 199 of 2011 &
IA No. 308 of 2011

Dated : 10th July, 2012

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

Himalayan Crest Power Pvt. Ltd **.... Appellant (s)**

Versus

Himachal Pradesh Electricity Regulatory
Commission & Ors. **...Respondent (s)**

Counsel for the Appellant(s): Ms. Sampada Narang

Counsel for Respondent (s): Mr. Anand K. Ganesan for HPSEB
Ms. Swagatika Sahoo for R-2

Appeal No.170 of 2011

Himalayan Crest Power Pvt. Ltd **.... Appellant (s)**

Versus

Himachal Pradesh Electricity Regulatory
Commission & Ors. **...Respondent (s)**

Counsel for the Appellant(s): Ms. Sampada Narang

Counsel for Respondent (s): Ms. Shikha Ohri and
Mr. Anurag Sharma for R-1
Mr. Anand K. Ganesan for HPSEB
Ms. Swagatika Sahoo for R-2

ORDER

The learned counsel for the Appellant has argued the matter at length. Both the parties have filed their respective written submissions.

On the face of it, we do not find any merits in the contentions urged by the learned counsel for the Appellant seeking to set aside the impugned order with regard to jurisdiction.

Therefore, we have to conclude that there is no merit in the Appeal. However, it is now submitted by the learned counsel for the Appellant that the Appellant has not sought for reopening of the PPA but is interested only in seeking for enforcement of the PPA. The learned counsel for the Appellant made her submissions on the basis of clause 8.8 of the PPA. On this aspect we have heard the learned counsel for the Respondent. As correctly pointed out by the learned counsel for the Board that this was not the prayer made by the Appellant before the State Commission.

In view of the above, while we confirm the findings of the State Commission with regard to jurisdiction, we deem it appropriate to give liberty to the Appellant to approach the State

Commission to file a fresh petition seeking for the relief in respect of the enforcement of the PPA, with reference to the clauses of PPA including the clause 8.8 in which the reimbursement of various factors such as statutory taxes, duties, cess or imposition of charges by the Government etc. after the effective date are mentioned.

If such a petition is filed by the Appellant, the State Commission would consider the same and decide the issue in accordance with the law after hearing all the parties concerned. With these observations, the Appeal is disposed of.

(Rakesh Nath)
Technical Member

(Justice M. Karpaga Vinayagam)
Chairperson

mk/av