

Before the Appellate Tribunal for Electricity
(Appellate Jurisdiction)

IA No.245 of 2012
in DFR No.1089 of 2012

Dated : 8th August, 2012

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

Tamil Nadu Electricity Board **.... Appellant (s)**

Versus

M/s Indian Wind Power Association & Anr. **...Respondent (s)**

Counsel for the Appellant(s): Mr. S. Vallinayagam
Counsel for the Respondent(s): Mr. T. Srinivasa Murthy for R.1

ORDER

IA No.245 of 2012
(Appl. for condonation of delay)

This is an Application to condone the delay of 119 days in filing the Appeal against the Order dated 28.12.2011.

On finding that there is no proper explanation in the affidavit filed by the party along with the Appeal, we directed the learned counsel appearing for the Applicant/Appellant to file a better affidavit. Accordingly, better affidavit has been filed. This also does not give any explanation for the delay.

As a matter of fact, as against the impugned Order dated 28.12.2011, the respondent has already filed Appeal Nos. 51 & 56 of 2012 as early as in the month of March 2012. Despite service of notice in those Appeals, the Applicant/Appellant has not chosen to file the cross Appeal immediately.

In the meantime, the Sumo Moto notice has been issued for non-implementation of the Order earlier passed. Even then, they have not thought it fit to file the Appeal immediately.

At last, they have filed the Appeal on 15.06.2012 with a delay of 119 days.

We are not concerned with the number of days delay. But we are concerned with the conduct of the party, who was not prompt in prosecuting the Appeal immediately after the Order was passed, or immediately after the receipt of notice in the Appeals filed by the Respondents.

The details given in both the affidavits do not reflect the diligence on the part of the Applicant/Appellant. As such, we feel that there is no promptness on the part of the Applicant/Appellant

to approach this Tribunal to file an Appeal as against the Order dated 28.12.2011 promptly in time.

The learned counsel for the Respondent also vehemently opposed the Application to condone the delay. We find force in the said objection.

The learned counsel for the Applicant/Appellant strenuously argued that if the Appeal is not entertained after condoning the delay, there will be hardship to the Applicant/Appellant and the Applicant is prepared to pay any amount of cost to some charitable organization. We are not inclined to accept the same.

In the absence of sufficient cause shown in both the affidavits filed by the Applicant/Appellant, we cannot entertain this Application for condoning the delay. Accordingly, this Application to condone the delay in filing the Appeal is dismissed.

Consequently, the Appeal is also rejected.

(Rakesh Nath)
Technical Member

(Justice M. Karpaga Vinayagam)
Chairperson

ts/mk