

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

JUDGMENT IN APPEAL NO. 346 OF 2018 &
IA NO. 1364 OF 2018 ON THE FILE OF THE
APPELLATE TRIBUNAL FOR ELECTRICITY, NEW DELHI

Dated: 5th April, 2019

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

In the matter of:

Avaada Sustainable Energy Private Limited

Having its Correspondence and Corporate Office at:

3rd Floor, PTI Building

4, Parliament Street

New Delhi – 110 001

(Represented through its Authorized
Signatory Mr. Ashish Bhardwaj)

.....Appellant

VERSUS

1. **Karnataka Electricity Regulatory Commission**
Through its Secretary
912, 6 & 7th Floor, Mahalakshmi Chambers
Mahatma Gandhi Road
Bengaluru, Karnataka – 560 001
2. **Bangalore Electricity Supply Company Limited**
Through its Managing Director,
K.R. Circle, Bangalore – 560 001
3. **Hubli Electricity Supply Company Limited**
Through its Managing Director
P.B. Road, Navanagar
Hubli – 580 025
4. **Mangalore Electricity Supply Company Limited,**
Through its Managing Director
MESCOM Bhavana,
Kavoor Cross Road, Bejai
Mangaluru – 575 004

5. **Gulbarga Electricity Supply Company Limited,**
Having its Office at Station Main Road
Kalaburagi – 585 101
(Represented by its Managing Director)
6. **Chamundershwari Electricity Supply Corporation Limited**
Through its Managing Director,
No. 29, Javeri Grameena Bank Road
Hinkal, Vijayanagar, 2nd Stage
Mysuru – 570 019
7. **Karnataka Power Transmission Corporation Limited**
Having its registered office at:
28, Race Course Road
Bangalore – 560 009
(Represented by its Managing Director)Respondents

Counsel for the Appellant(s) : Mr. Tejasv Anand

Counsel for the Respondent(s): Mr. Balaji Srinivasan
Ms. Sumana Naganand
Ms. Pallavi Sengupta for R-2, R-4 & R-7

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, Avaada Sustainable Energy Private Limited, New Delhi, is questioning the legality, validity and propriety of the common order passed by Karnataka Electricity Regulatory Commission, Bengaluru (1st Respondent herein) dated 09.01.2018 in OP No. 100/2016 and OP No. 47 of 2017.
2. The Appellant has sought the following reliefs in Appeal No. 346 of 2018:

- i. That this Tribunal may be pleased to allow the present Appeal and set aside the Impugned order dated 09.01.2018 passed in OP No. 90/2016 in terms of the grounds raised in Para 9 above;
 - ii. Pass such other and further orders as this Tribunal may deem fit and proper in the facts and circumstances of the case.

1. We have heard the learned counsel, Mr. Tejasv Anand, appearing for the Appellant and the learned counsel, Mr. Balaji Srinivasan, appearing for the Respondent Nos.2, 4 & 7.

2. The learned counsel for the Appellant and the learned counsel for the Respondent Nos.2, 4 & 7, 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.

3. Submissions of the learned counsel appearing for the Appellant and the Respondent Nos.2, 4 & 7, as stated supra, are placed on record.

4. In the light of the submissions of the counsel appearing for the Appellant and the Respondent Nos.2, 4 & 7 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 No. 90 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 Respondents herein are directed to appear before the first Respondent, KERC personally or through their counsel without notice on 29.04.2019.

IA NO. 1364 of 2018

In view of the Appeal No. 346 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. 1364 of 2018 does not survive for consideration and, hence, stands disposed of.

Order accordingly.

(Ravindra Kumar Verma)
Technical Member
mk/bn

(Justice N.K. Patil)
Judicial Member