

COURT – I

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

**R.P. No. 5 of 2009 IN
APPEAL No. 181 OF 2008**

Dated: 27th January, 2012

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

D.E.R.C. ... Appellant(s)

Versus

BSES Rajdhani Power Pvt. Ltd. ... Respondent(s)

Counsel for the Appellant(s): Mr. Meet Malhotra, Sr. Adv. with
Mr. Ravi S.S. Chauhan

Counsel for the Respondent(s):- Mr. Amit Kapur

ORDER

This is a Petition seeking clarification with reference to some observations made in the Judgment dated 30.03.2009 by way of Review.

We have heard the learned counsel for the parties.

Mr. Meet Malhotra, the learned Senior Counsel refers to paragraph 14 (B) of our Judgment and seeks clarification over the observation made in that paragraph. The relevant portion reads as follows:

“Section 142 of the Act provides the powers for State Commission to punish the licensee only for the violation of the direction issued by the Commission. This is not the case where any particular direction which has been issued by the Commission has been violated by the licensee.”

According to the learned Senior Counsel appearing for the Petitioner, the State Commission has got powers under Section 142 of the Act to punish the licensee not only for the violation of directions issued by the Commission, but also for violation of the Rules and Regulations and any other provisions of the Act and as such the above observation made by this Tribunal, needs clarification.

The above observation was made in the Judgment rendered by this Tribunal in Appeal No. 181 of 2009, in the light of the facts and circumstances of this case and in the context of ordering imposition of compensation on the Appellant under Section 142 of the Act, which was not provided in the said Section.

Therefore, we make it clear, through this order that Section 142 of the Act confers power to the State Commission to punish the licensee by imposing penalty not only for violation of the directions

issued by the Commission but also for the contravention of other provisions of the Act and Rules and Regulations framed by the Commission. We further make it clear that the Commission has got full powers to pull up or punish those licensees to see that Rules and Regulations framed by the Commission are properly complied with.

At this juncture, we would like to quote the legal principle laid down through the observation made by the Hon'ble Supreme Court reported in 2007 (8) SCC 381 at Para 18, which reads as follows:

“The Commission has full power to pull up any of its licensee or distribution company to see that the rules and regulations laid down by the Commission are properly complied with. After all, it is the duty of the Commission under Sections 45(5), 55(2), 57, 62, 86, 128, 129, 181 and other provisions of the Electricity Act, 2003 to ensure that the public is not harassed.”

Therefore, in view of the law laid down by the Hon'ble Supreme Court and also by way of correct interpretation of Section 142 of the Act, we observe that the Commission has got powers to pull up and punish the licensees not only for the violation of the directions issued by the Commission but also for

the contravention of the provisions of the Act as well as the Rules and Regulations framed by the Commission.

With this clarification, the Review is disposed of.

(Rakesh Nath)
Technical Member
Ts

(Justice M. Karpaga Vinayagam)
Chairperson