

**COURT-I**

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

**R.P. No. 9 of 2014 in**  
**Appeal No. 51 of 2014**

**Dated : 23<sup>rd</sup> May, 2014**

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

**Salasar Steel & Power Ltd.**

**.....Appellant(s)/Review Petitioner (s)**

**Versus**

**Chhattisgarh State Load Despatch**  
**Centre & Anr.**

**....Respondent(s)**

**Counsel for the Review Petitioner(s): Mr. Raunak Jain**  
**Counsel for the Respondent(s):**

**ORDER**

This is a Review Petition filed by M/s. Salasar Steel & Power Limited seeking for the Review of the Judgment dated 22.4.2014 passed by this Tribunal.

State Load Dispatch Centre Chhattisgarh filed a Petition before the State Commission as against 20 different

private generating companies including the Appellant Petitioner complaining about the non compliance of different Backing Down Instructions (BDIs) issued between the period from April, 2012 and June, 2012 and praying for imposition of penalty for each non compliance event. The Review Petitioner/Appellant as a Respondent in the said Petition raised the preliminary objection with regard to maintainability of the said Petition. The State Commission, after considering the objections regarding the maintainability, has passed the Impugned Order dated 23.12.2013 holding that the Petition filed by SLDC was maintainable and thereby proceeded on with an inquiry.

This order was challenged by the Review Petitioner by way of an Appeal before this Tribunal in Appeal No.51 of 2014. The Appeal was heard by this Tribunal which in turn, dismissed the said Appeal at the admission stage itself by the Judgment dated 22.4.2014 holding that the Order passed by the State Commission rejecting the preliminary objections raised by the Appellant with regard to maintainability of the Petition is perfectly justified. This Order of this Tribunal is sought to be reviewed in this Review Petition. The grounds urged by the Review Petitioner in this Review are as follows:

“The Tribunal considered the issue of misjoinder of causes of action and gave a finding as against the Review Petitioner. But with regard to the other important issue, raised in the Appeal with respect to discrimination and arbitrariness in the manner

of issuance of BDIs by the SLDC which has not issued any Backing Down Instructions to State Generating Companies, thereby showing discrimination which is contrary to Regulations of the Grid Code was not considered by this Tribunal. This issue has been specifically raised by the Appellant. The issue regarding non-joinder of necessary parties was also pressed before this Tribunal on the date of hearing on 14.2.2014 but no finding has been given with regarding to the issue. Hence, this Review Petition has been filed with regard to discrimination and non-joinder of State Generating Companies”.

The learned Counsel for the Review Petitioner has argued in line with the above points.

At the outset, it shall be mentioned that though several grounds had been raised in the Appeal Petition, the only one ground was argued before this Tribunal. This has been categorically mentioned in our Order dated 22.4.2014. The said ground is as follows:

“As per Order 2, Rule 3 of the Code of Civil Procedure, the joinder of various parties and joinder of different causes of action are not permissible in a single suit. When there are two or more causes of action with reference to two or more defendants, the plaintiff may unite jointly only when the joint interest is involved. The present case filed by the SLDC pertains to instances of non-compliance of 55 different Backing Down Instructions (BDIs) issued to 20 different Companies over a period of three months and this would not mean that there are common questions of facts and law and that Companies are jointly interested in the litigation so as to permit Joinder of Defendants and Causes of Action. Therefore, the liability of different companies which are distinct and separate cannot be combined in Appeal a single Petition which

has been wrongly entertained by the State Commission in the Impugned Order”

So, the above quoted portion will indicate that the ground of the Appeal urged before this Tribunal with regard to joinder of various parties and joinder of different cause of action. Except this ground, no other grounds were argued before us.

It may be true that other grounds referred to in this Review Petition have been raised in the Appeal grounds but our order dated 22.4.2014 shows that the argument on the other issues were not argued before this Tribunal. Therefore, it is incorrect on the part of the learned Counsel for the Petitioner to contend that the issue regarding discrimination or arbitrariness have been argued and not considered.

However, it is to be pointed out as rightly observed by the State Commission the other issues are not of preliminary nature. It is now stated that in respect of other issues, already reply had been filed by the Petitioner before the before the Commission in the main Petition. Since we do not give any opinion on the other issues, it is open to the Petitioner to argue the other issues in the main complaint. If the arguments are advanced on these issues, the State Commission may consider the same and pass the appropriate orders in accordance with the law after hearing all the parties concerned. Since there is no apparent error on the face of

record in our order, the Review is liable to be rejected at the admission stage itself.

Accordingly, the Review is dismissed with the above directions.

**(Rakesh Nath)**  
**Technical Member**

**(Justice M. Karpaga Vinayagam)**  
**Chairperson**