

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

**APPEAL No.16 OF 2013**

**Dated: 13<sup>th</sup> Jan, 2014**

**Present: HON'BLE MR. JUSTICE M KARPAGA VINAYAGAM,  
CHAIRPERSON  
HON'BLE MR. RAKESH NATH, TECHNICAL MEMBER**

**In the Matter of:**

**M/s. Meenakshi Energy Private Limited.,  
Meenakshi House, 8-2-418,  
Road No.7, Banjara Hills,  
Hyderabad-500 034**

**..... Appellant**

**Versus**

- 1. Central Electricity Regulatory Commission  
3<sup>rd</sup> and 4<sup>th</sup> Floor, Chanderlok Building  
36, Janpath,  
New Delhi-110 001**
- 2. Southern Regional Load Despatch Centre  
29, Race Course Road,  
Bangalore-560 009**
- 3. Power Systems Operation Corporation Ltd (POSOCO)  
B-9, Qutab Institutional Area,  
Katwaria Sarai,  
New Delhi-110 016**
- 4. Power Grid Corporation of India Limited (PGCIL),  
Saudamini, Plot No.2,  
Sector-29, Gurgaon-122 001**
- 5. Southern Regional Power Committee (SRPC)  
Central Electricity Authority,**

No.29, Race Course Cross Road,  
Bangalore-560 009

6. Simhapuri Energy Private Limited.,  
Madhucon Greenlands,  
6-3-866/2, 3<sup>rd</sup> Floor,  
Begumpet,  
Hyderabad-500 016

..... Respondent(s)

Counsel for the Appellant : Mr. Sitesh Mukherjee  
Mr. Sakya Singha Chaudhur  
Ms. Mandakini Ghosh

Counsel for the Respondent(s): Mr. Nikhil Nayyar  
Mr. TVS Rahavendra Sreyas for R-1  
Mr. M G Ramachandran  
Ms. Swagatika Shoo  
Ms. Swapna Seshadri for R-4  
Mr. S B Upadhyay, Sr Adv  
Mr. Param Kumar Mishra  
Ms. Nirmala Upadhyay  
Mr. Pawan Upadhyay,  
Ms. Sharmila Upadhyay  
Mr. Jyoti Prasad  
Mr. Vivek Tripathi  
Mr. Sarvjit Pratap Singh  
Mr. Pawan Kishore Singh for R-2 & 3

## **J U D G M E N T**

**PER HON'BLE MR. JUSTICE M. KARPAGA VINAYAGAM,**  
**CHAIRPERSON**

1. M/s. Meenakshi Energy Private Limited is the Appellant herein. The Appellant has field this Appeal, challenging the

impugned order dated 09.10.2012 passed by the Central Commission rejecting the Petition filed by the Appellant.

2. The relevant facts that are required for disposal of this Appeal are given as below:

(a) The Appellant is an Independent Power Producer who is developing a coal based thermal power plant with a present installed capacity of 1000 MW near Krishnapatnam Port, Andhra Pradesh.

(b) M/s. Simhapuri Energy Private Limited is the Respondent No.6. M/s. Simhapuri Energy Pvt Limited (R-6) has also developed a plant of 600 MW which is situated adjacent to the Appellant's project.

(c) Both these plants have been sharing a common boundary.

(d) The Southern Regional Load Dispatch Centre is the Second Respondent. It is coordinating operations of all the Southern India Regional Grid comprising the States of Andhra Pradesh, Karnataka, Kerala, Puducherry and Tamilnadu.

(e) This Load Dispatch Centre is owned, operated and maintained by the Power Systems Operation Corporation which is Respondent No.-3.

(f) The Power Grid Corporation of India, the Central Utility is the 4<sup>th</sup> Respondent. It is engaged in the power transmission business with the mandate for planning, coordination, supervision and control over the complete inter-State Transmission System.

(g) In June, 2008, the Meenakshi Energy Private Limited, the Appellant filed an application before the Power Grid Corporation of India Limited (R-4) for Long Term Open Access for evacuation of power from its power plant. Similarly, Simhapuri Energy Private Limited (R-6) also approached the Power Grid for connectivity. The Power Grid Corporation of India Limited (R-4) had advised both the Appellant and Simhapuri Energy Private Limited (R-6) for developing a common transmission line for connecting the two Generating Stations to the sub stations of the Power Grid at Nellore.

(h) Accordingly, the Appellant and Simhapuri Energy Private Limited (R-6) mutually agreed to jointly construct the transmission line for evacuation of power from both the projects to connect their respective power stations to the sub station of the Power Grid and share the cost for laying such lines jointly between themselves.

(i) Subsequently, this decision was informed to the Power Grid (R-4). Thereafter, the Power Grid through the letter dated 15.7.2011, approved the revised scheme of transmission line connecting the plant of M/s. Meenakshi Energy Private Limited and M/s.Simhapuri Energy Private Ltd to Nellore substation.

(j) Consequent to the approval, the Appellant and the Simhapuri Energy Private Limited (R-6) proceeded to construct the transmission line from their respective Generating Stations to Nellore sub station of Power Grid and a transmission line inter-connecting the power plants . Thereafter, the Power Grid (R-4) had informed the Load Dispatch Centre (R-2) that it had granted connectivity and Long Term Open Access to the Appellant and the Simhapuri Energy Private Limited (R-6) as two separate and independent entities. It further requested the Load Dispatch Centre (R-2) to treat their two projects as two different entities and to provide the exact details of the location required for energy accounting. However, the Load Dispatch Centre (R-2) despite the recommendation of the Power Grid (R-4) had proceeded to treat the project of the Appellant and the Simhapuri Energy Private Limited (R-6) as a single entity with a

combined energy accounting instead of treating the projects as two separate and independent projects. Thereupon, the Power Grid had also indicated to the Load Dispatch Centre that it was possible for the Load Dispatch Centre to independently deal with the two Generating Companies for scheduling, dispatch and other functions having regard to the metering scheme which was proposed by the Power Grid (R-4). But this was not heeded to. The Appellant in fact, had questioned the decision of the Load Dispatch Centre to treat these two Generating Companies as a single Generating Station in view of the fact that the common transmission system was developed by these two companies only on the advice of the Power Grid (R-4) and that therefore, it was not practically possible for the Appellant to continue its business as a common entity with the Simhapuri Energy Private Limited (R-6) for accounting, scheduling, dispatch and other functions.

(k) Through their letter dated 29.2.2011, the Appellant made a request to the Load Dispatch Centre that both the Generators should be treated independently as different entities and therefore respective switchyards of both the power projects

should be revised as point of inter connection for the purpose of scheduling and energy accounting.

(l) However, the Load Dispatch Centre (R-2) issued a reply letter dated 4.10.2011 reiterating that scheduling and metering will be considered by the Load Dispatch Centre at the interconnection point at sub station and the inter-se settlements between the Appellant and the Simhapuri Energy Private Limited (R-6) can be done by forming a coordination Centre.

(m) Through this letter on 4.10.2011, the Appellant and the Simhapuri Energy Private Limited (R-6) who were generating companies were asked to workout arrangements between them for carrying out only scheduling, accounting and such functions up to the Nellore sub-station. This was not possible for this projects as they are neither transmission licensees nor Grid operators.

(n) Therefore, the Appellant filed a Petition before the Central Commission(R1) in Petition No.205 of 2011 praying for a direction to be issued to the Load Dispatch Centre (R-2) and the and Power Systems Operation Corporation Ltd (R-3) to revise the 1000 MW project of the Appellant as an independent Generating Station and to treat the projects developed

by both the Appellant and the Simhapuri Energy Private Limited (R-6) as separate and independent generating stations for the purpose of scheduling and dispatch, metering and energy accounting including UI computation.

(o) However, the Central Commission(R1) passed the Impugned Order dated 9.10.2012 rejecting the prayer of the Appellant on the Ground that the interface meters can only be situated at the interconnection point at the Nellore substation as per CEA metering Regulations.

(p) Central Commission further directed that the inter-connecting line between the Generating Station of the Appellant and Simhapuri Energy Private Limited (R-6) be opened to ensure that the evacuation from two Generating Stations is done through dedicated transmission lines.

(q) The Appellant, having gravely prejudiced and aggrieved by such Impugned Order of the Central Commission, has filed this Appeal.

**3.** The learned Counsel for the Appellant has made the following submissions while challenging the validity of the Impugned Order:



(a) The Impugned Order suffers from inherent inconsistency in as much as the outcome directed by the Central Commission in the Impugned Order is completely contrary to the interpretation of various clauses that have been adopted by the Central Commission in the Impugned order. In the impugned order, the Central Commission imposed onerous conditions that are detrimental to the Appellant's ability to carry on its business of generation of electricity in a smooth manner even though the circumstances leading to the present proceedings have been caused due to the advice of the Power Grid, the Statutory Authority constituted under the Act.

(b) The Central Commission failed to take into consideration all the relevant facts and documents which would demonstrate that the common transmission line for evacuation of power from the Appellant and Simhapuri Energy Pvt Ltd (R-6)'s Generating Stations to the Nellore substation was designed by the Power Grid (R-4) for providing connectivity to the two generating stations. It is for the concerned authority namely the Power Grid to ensure that the connectivity of the generating stations are carried out in the manner that facilitates the Load Dispatch Centre to discharge its functions of

scheduling, metering, supervision etc., The Power Grid (R-4) having designed the common Transmission line for both the generating stations in discharge of its statutory functions, the Appellant cannot be directed to form a coordination committee with the Simhapuri Energy Pvt Ltd (R-6) plant to carry out the statutory functions of the Load Dispatch Centre on the ground that the Load Dispatch Centre will treat the two generating stations of the Appellant and the Simhapuri Energy Pvt Ltd (R-6) as a single generating unit. The Appellant cannot be subject to these onerous conditions when it is not responsible for designing of common transmission lines. This aspect has not been taken note of by the State Commission while passing the Impugned Order.

(c) The Central Commission has failed to take into account, in fact, that Under Regulation 7 of the CEA metering Regulations a provision has been made for the Generating Companies to install meters at additional locations in their system depending upon their requirements. This is applicable to the present case where the independent provision of the Generating station can be facilitated through the requisite metering proposed by the Power Grid.

(d) The Central Commission in the Impugned order has adopted an inconsistent stand in as much as while on the one hand, it has denied the installation of meters at the bus bar of the Appellant and Simhapuri Energy Private Limited (R-6)'plant, on the ground that the transmission line connecting these stations to the sub station was a common dedicated line but on the other hand, it has directed the disconnection of the interconnecting lines between the two stations on the ground that such inter connecting lines would facilitate transmission of electricity through the common transmission line.

(e) The Central Commission has erroneously proceeded to hold that a Coordination Committee between the Appellant and the Simhapuri Energy Private Limited (R-6) had to be constituted for the purpose of scheduling, metering, dispatch and other functions of both the generating stations. These functions are in the nature of the statutory functions u/s 28 of the Act. This function cannot be delegated to any person namely Generating Companies other than statutory authorities namely the Load Dispatch Centre. Where the statute provides for particular functions to be discharged by a particular statutory authority such functions have to be discharged only by

the said authority and the same cannot be delegated to any other authority.

(f) The approach adopted by the Central Commission to open the inter connecting lines between these two generating stations for treating them as a separate and independent generation station is not consistent with the provisions of IEGC(Grid Code). It has the potential to affect the functions of the Appellant in the event that a single circuit of transmission line connecting the Appellant Generating Station to the substation to which suffers any operational difficulty at any point of time, it will compel the Appellant to back down or shut down the generating facility in such a situation. Such, an arrangement is clearly contrary to the Grid security as well as the operational security of the Generating Station.

4. In reply to the above submissions, the Respondent 2 and 3 namely Load Dispatch Centre and Power System Operation have made elaborate submissions in support of the impugned order.
5. However, R-4 made submissions and also filed written submissions to support the plea of the Appellant as in this

case the common transmission line was developed by both the Generating Stations only on their advice.

6. In the light of the above submissions made by the parties, the following question would arise for consideration:

- (a) Whether a common dedicated evacuation system/transmission lines can be developed by more than one generating station to connect to the Grid?
- (b) Whether the statutory role of a load dispatch centre of scheduling, dispatch, metering energy accounting and similar functions relating to the control and supervision of the Generation Stations connected to the grid through a common dedicated transmission system can be abdicated by the load dispatch centre?
- (c) Whether the jurisdiction and role of the load dispatch centre in the EA 2003 can be circumscribed by the CEA Metering Regulations?
- (a) If two generating stations can make use of a common evacuation system, consisting of dedicated transmission lines, whether the metering system and the energy computation formula proposed by the Appellant and endorsed by Power Grid could be utilized for the energy accounting for the two power stations?

7. Before dealing with these issues, it is better to refer to the findings given in the Impugned Order dated 9.10.2012 passed by the Central Commission. The following are the findings:

(a) *A generating Station connected to the ISTS including its dedicated transmission line fall within the jurisdiction of the concerned Load Dispatch Centre.*

(b) *The injection point for the Appellant is Nellore. In accordance with the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006, the interface meters shall be installed at Nellore point only. In case of the Generating Stations of the Appellant and Simhapuri Energy Private Limited., the inter-connection point with ISTS being Nellore, scheduling, energy accounting and UI accounting of both generating stations would take place only at Nellore.*

(c) *The interconnection line between the Appellant and Respondent No.6 should be opened and each circuit of the 400 kV D/C transmission line should be operated as an independent dedicated transmission line. This will facilitate the operation of the Appellant and Respondent No.6 as independent generation stations connected to the ISTS separately at Nellore point. Accordingly, their scheduling, energy accounting, UI accounting could be undertaken separately by Load Dispatch Centre at Nellore point without any difficulty”.*

8. The Appellant while filing the present Appeal as against these findings has sought for the stay of the operation of the Impugned Order during the pendency of this Appeal.

9. After hearing the parties, we had granted a stay of the operation of the Impugned Order by giving some directions. The relevant order is as follows:

**“ORDER**

*The above I.A. in Appeal No. 16 of 2013 has been filed by M/s. Meenakshi Energy Private Limited praying for an interim order against the impugned order dated 9.10.2012 passed by the Central Electricity Regulatory Commission directing that the tie-line between the power plant of the Appellant and the Respondent no. 6 be kept open.*

*2. The Appellant and the Respondent no. 6 are the generating companies that have developed power projects which are situated in nearby vicinity. On the advice of the Central Transmission Utility, the Appellant and the Respondent no. 6 have developed a common dedicated transmission system for evacuation of power from the two generating stations to Powergrid’s sub-station at Nellore. The transmission system comprises 400 kV Meenakshi – Nellore, Simhapuri - Nellore lines and a line interconnecting Simhapuri Power Plant and Meenakshi Power Plant.*

*3. The Appellant filed a petition before the Central Commission for directions to the Southern Regional Load Despatch Centre (SRLDC) and Power Systems Operation Corporation Ltd. (POSOCO), Respondent nos. 2 and 3 respectively to take into account the metering scheme given by Powergrid and to treat the generating stations of the Appellant and the Respondent no. 6 as independent generating stations for scheduling, dispatch and energy accounting purposes.*

**4. The Central Commission by its impugned order dated 9.10.2012 directed that the generating stations of the Appellant and Respondent no. 6 shall be treated by SRLDC as separate and independent entities for the purpose of scheduling and despatch, metering and energy accounting by opening the inter-connection line between the generating stations and installing separate meters at the inter-connection points at Nellore.**

**5. The Appellant has sought grant of stay of operation of the impugned order to the extent it is directed that the tie-line connecting the generating stations of the Appellant and the Respondent no. 6 be kept open and to implement the metering arrangement for facilitating independent scheduling, dispatch and energy accounting of the two Power Stations.**

**6. We have heard the learned counsel for the parties on the above I.A.**

**7. We are inclined to pass an interim order in the matter as the balance of convenience lies in favour of the Appellant as no harm will be caused to the Respondents if the tie-line between the power plants of the Appellant and the Respondent no. 6 is closed and the metering scheme for ensuring separate scheduling and energy accounting for the two power stations is facilitated in the interim period. Accordingly, we pass the following interim order.**

**(A) The Appellant shall install and maintain the correct Special Energy Meters on Meenaskhi-Nellore, Meenakshi - Simhapuri transmission lines at the Meenakshi end. Similarly, the Respondent no. 6 shall install and maintain the correct Special Energy Meters at Simhapuri end on Simhapuri-Nellore and Simhapuri-Meenakshi transmission**



**lines. These meters shall be jointly tested and sealed by the Appellant and the Respondent no.6.**

**(B) SRLDC/Powergrid shall maintain Special Energy Meters at Nellore end on Nellore-Simhapuri and Nellore-Meenakshi transmission lines.**

**(C) After installation of the energy meters at the power plant ends, the tie line between Meenakshi and Simhapuri power plants shall be closed.**

**(D) The metering data at Meenakshi end and Simhapuri end will be jointly taken by the Appellant and the Respondent no. 6 and communicated to SRLDC in the form and periodicity as desired by SRLDC for the purpose of energy accounting.**

**(E) SRLDC will compute the respective injection of Simhapuri power station and Meenakshi power station at Nellore sub-station on pro-rata basis taking into account their combined injection on Meenakshi-Nellore and Simhapuri-Nellore lines at Nellore end and the respective sent out of energy at the bus bars of the power plants computed from the energy meters installed at the two power plants and communicated by the Appellant and the Respondent no. 6. The computed data of energy injection for Simhapuri and Meenakshi power plants shall be utilized by SRLDC for energy accounting.**

**(F) Scheduling, dispatch and energy accounting including UI computation will be carried out for the power plants of Appellant and the Respondent no. 6 separately by the SRLDC.**

**8. The above interim arrangement will be without prejudice to the respective rights of the parties and subject to the final outcome of the Appeal. With these directions the IA is disposed of.**

**9. Post the main matter for further hearing on 16<sup>th</sup> April, 2013. In the meantime, pleadings be completed.”**

10. After this order was passed, both the parties have carried out the directions given in the interim order.
11. In the light of the above facts, we shall now discuss each of the issues one by one.
12. The **First issue** is this: **Whether a common dedicated evacuation system / transmission lines can be developed by more than one generating station to connection to the Grid?**
13. According to the Appellant, this issue has already been decided by this Tribunal in Appeal No.81 of 2011 dated 2.1.2013.
14. In this judgment, this Tribunal has considered the issue of a common evacuation system for more than one generating station and held that it is perfectly legal for two generating stations to plan in coordination with the CEA and Power Grid and construct and operate & maintain their

dedicated transmission system together for optimal utilization of the transmission corridor.

15. We shall now refer to the said portion of the judgment rendered in Appeal No.81 of 2011 which reads as under:

*“24.19. It is perfectly legal for two generating companies to plan in coordination with CEA and Power Grid and construct and operate & maintain their dedicated transmission systems together for optimal utilization of the transmission corridor with a view to minimize cost of point to point transmission of electricity and minimize the requirement of transmission corridor as long as the dedicated transmission system is used exclusively for evacuation and point to point transmission of power of their generating stations”.*

16. In the above judgment, this Tribunal has further held that in the event that a dedicated transmission line becomes part of the ISTS for carrying the power from more than one generating station, it will not necessitate the parties to obtain a transmission licensee under the Electricity Act, 2003.
17. As pointed out by the learned Counsel for the Appellant in view of the above judgment, it is now settled position that a common evacuation system/transmission line can be built for more than one generating station without obtaining a transmission license.

18. It cannot be disputed that in the present case, it is the Power Grid (R-4) which is also Central Transmission Utility had planned the common evacuation system for evacuation of power from these generating stations up to sub-station at Nellore in coordination with CEA as provided u/s 38 of the Electricity Act, 2003.
19. This common evacuation system for these two generating stations was constructed as there was limitation of availability of adequate bays at the Nellore sub-station which had only two spare bays for terminating transmission lines from these Generating Stations.
20. Therefore, the evacuation of power from these two stations through the common evacuation system was the only technically feasible solution.
21. It cannot be debated that the Power Grid (R-4) which is also the Central Transmission Utility is the authority under the EA, 2003 for ensuring development of inter-State transmission system in an efficient, coordinated and economical manner. Further, the decision for development of a common dedicated transmission system has been taken with a view to economise the development of the transmission system and considering the technical constraint of availability of only two spare bays at Nellore Sub-Station of Power Grid.

22. According to the Appellant, both the Appellant and the Simhapuri Energy Private Limited (R-6) constructed the common evacuation system only on the advice of the Power Grid (R-4). The Appellant and the Simhapuri Energy Private Limited informed the Power Grid of the decision to construct the common evacuation system on 21.5.2010. The scheme of common evacuation system was admittedly approved by the Power Grid by the letter dated 15.7.2011. This fact has been admitted by the Power Grid itself (R-4) in its reply filed in the Appeal.

23. The Power Grid(R4) has stated as follows in the reply:

(a) The common evacuation system had been designed by the Power Grid in the capacity as the CTU under Section 38 of the Electricity Act, 2003. U/s 38 (2), the transmission utility has to undertake the transmission of electricity through inter-State transmission system and to discharge all the functions relating to inter-State transmission system with specified agencies including the generating companies.

(b) The common evacuation system for the two generation stations of both the generating station was constructed as there was limitation of availability of adequate bays at the nearest substation. The

Nellore substation had only two spare bays for terminating lines from these generating stations. Thus, the evacuation of power from these two stations through a common evacuation system was the only technically feasible solution.

(c) The common evacuation system under consideration has been evolved in consultation with the CEA and other stake holders.

(d) Such a common system should be encouraged to avoid infructuous investments.

(e) Time and again the decision in regard to scheduling dispatch, metering for the two generating station are to be dealt by the Load Dispatch Centre (R-2) and the Corporation (R-3).

24. These submissions by the Power Grid through its reply assume significance.

25. That apart, the dedicated transmission lines as defined under the Act contemplate the same to connect two generating stations.

26. The definition of the term “dedicated transmission lines under the Electricity Act, 2003 is extracted below:

2(16) *“Dedicated Transmission Lines “means any electric supply line for point to point transmission which are required for the purpose of connecting electric lines or electric plants of a captive generating plant referred to in Section 9 or generating station referred to in Section 10 to any transmission lines or sub-stations or generating stations or the load centre, as the case may be;”*

27. The reading of the above definition would make it clear that merely because a transmission line connects two generating stations, it does not lose the character of a dedicated transmission line.
28. As mentioned earlier, the common evacuation system for the Appellant and the Simhapuri Energy Private Limited (R-6) was built primarily to ensure evacuation of power from the two generating stations while maintaining the grid security in a contingency of tripping of one of the transmission lines. Thus, such an evacuation system falls within the definition of a dedicated transmission line.
29. From this, it is clear that the common transmission system constructed by the Appellant and the Simhapuri Energy Private Limited on the advice of the Power Grid/CTU for evacuation of power from their generating stations to Power Grid's Nellore sub-station including the transmission line between the two generating stations is a dedicated transmission system.

30. Therefore, this issue is decided accordingly.
31. Let us deal with the second issue which is this: **Whether the statutory role of scheduling, dispatch, metering, energy accounting and similar functions relating to the control and supervision of a generating station by a load dispatch Centre can be abdicated by the load dispatch Centre?**
32. U/s 28 and 29 of the Electricity Act, 2003, the Load Dispatch Centre (R-2) is the Apex Body to ensure integrated operation of the power system in the concerned region.
33. The term 'Power System' has been defined under Section 2 (5) of the Electricity Act, 2003. It means that all aspects of generation, transmission, distribution and supply of electricity and includes generating stations, transmission or main transmission lines, sub-stations, tie-lines, load dispatch activities, service lines etc.,
34. The Regional Load Dispatch Centre is responsible for optimum scheduling and dispatch of electricity within the region in accordance with the contracts entered into with the licensees or the generating companies operating in the region, monitoring grid operations, keeping accounts of the quantity of electricity transmitted through the regional grid



and exercising supervision and control over the Inter-State transmission system.

35. Let us now refer to the relevant section which deals with the functions of the Regional Load Dispatch Centre which is an Apex Body to ensure integrated operation of the power system.

36. The relevant Sections are 28 and 29 as under:

***“28. Functions of Regional Load Despatch Centre***

*(1) The Regional Load Despatch Centre shall be the apex body to ensure integrated operation of the power system in the concerned region.*

*(2) The Regional Load Despatch Centre shall comply with such principles, guidelines and methodologies in respect of wheeling and optimum scheduling and despatch of electricity as the Central Commission may specify in the Grid Code.*

*(3) The Regional Load Despatch Centre shall—*

*(a) be responsible for optimum scheduling and despatch of electricity within the region, in accordance with the contracts entered into with the licensees or the generating companies operating in the region;*

*(b) monitor grid operations;*

*(c) keep accounts of quantity of electricity transmitted through the regional grid;*

*(d) exercise supervision and control over the inter-State transmission system; and*

*(e) be responsible for carrying out real time operations for grid control and despatch of electricity within the region through secure and economic operation of the regional grid in accordance with the Grid Standards and the Grid Code.*

*(4) The Regional Load Despatch Centre may levy and collect such fee and charges from the generating companies or licensees engaged in inter-State transmission of electricity as may be specified by the Central Commission.*

## **29. Compliance of directions**

*(1) The Regional Load Despatch Centre may give such directions and exercise such supervision and control as may be required for ensuring stability of grid operations and for achieving the maximum economy and efficiency in the operation of the power system in the region under its control.*

*(2) Every licensee, generating company, generating station, sub-station and any other person connected with the operation of the power system shall comply with the directions issued by the Regional Load Despatch Centres under sub-section (1).*

*(3) All directions issued by the Regional Load Despatch Centres to any transmission licensee of State transmission lines or any other licensee of the State or generating company (other than those connected to inter-State transmission system) or sub-station in the State shall be issued through the State*

*Load Despatch Centre and the State Load Despatch Centres shall ensure that such directions are duly complied with by the licensee or generating company or sub-station.*

*(4) The Regional Power Committee in the region may, from time-to-time, agree on matters concerning the stability and smooth operation of the integrated grid and economy and efficiency in the operation of the power system in that region.*

*(5) If any dispute arises with reference to the quality of electricity or safe, secure and integrated operation of the regional grid or in relation to any direction given under subsection (1), it shall be referred to the Central Commission for decision:*

*PROVIDED that pending the decision of the Central Commission, the directions of the Regional Load Despatch Centre shall be complied with by the State Load Despatch Centre or the licensee or the generating company, as the case may be.*

*(6) If any licensee, generating company or any other person fails to comply with the directions issued under sub-section (2) or sub-section (3), he shall be liable to a penalty not exceeding rupees fifteen lacs.”*

37. Similarly, Regulation 6.4 of the Indian Electricity Grid Code provides with reference to the functions of the Load Dispatch Centre. The same is as follows:

*“6.4.1 The national interconnected grid is divided into control areas, like Regional ISTS, States, DVC,*

*etc. where the load dispatch centre or system operator of the respective control area controls its generation and/or load to maintain its interchange schedule with other control areas whenever required to do so and contributes to frequency regulation of the synchronously operating system. The Load Despatch Centre of a control area therefore is responsible for coordinating the scheduling of a generating station, within the control area, real-time monitoring of the station's operation, checking that there is no gaming (gaming is an intentional mis-declaration of a parameter related to commercial mechanism in vogue, in order to make an undue commercial gain) in its availability declaration, or in any other way revision of availability declaration and injection schedule, switching instructions, metering and energy accounting, issuance of UI accounts within the control area, collections/disbursement of UI payments, outage planning, etc. The following clause gives the criteria for demarcation of control area jurisdiction.*

*2. The following generating stations shall come under the respective Regional ISTS control area and hence the respective RLDC shall coordinate the scheduling of the following generating stations:*

*a) Central Generating Stations (excluding stations where full Share is allocated to host state),*

*b) Ultra-Mega power projects*

*(c) In other cases, the control area shall be decided on the following criteria:*

*(i) If a generating station is connected only to the ISTS, RLDC shall coordinate the scheduling, except for Central Generating Stations where full share is allocated to one State.....”*

- 38.** The conjoint reading of these Sections as well as the Regulation would make it evident that the Load Dispatch Centre is responsible for coordinating the scheduling of the generating stations of the Appellant and Simhapuri Energy Private Limited (R-6).
- 39.** As held by the Central Commission in the Impugned Order that the generating station connected to the ISTS including its dedicated transmission line falls within the operational control of the Regional Load Dispatch Centre. Thus, it is required to carry out all activities relating to the real time monitoring of station's operation, checking gaming in its availability declaration or revision of availability declaration and injection schedule, switching instructions, metering and energy accounting, issuance of UI accounts within the control area, collection/disbursement of UI payments and outage planning etc.,
- 40.** Apart from these it is important to refer to Regulation 2.3 and 2.3.2 of the Indian Electricity Grid Code.
- 41.** These Regulations provide for the exclusive functions to be discharged by the concerned Load Dispatch Centre.

42. The relevant provision are extracted below:

***“2.3 Role of RLDC***

*2.3.1 According to sections 28 and 29 of Electricity Act, 2003, the functions of RLDCs are as follows:*

*(1) The Regional Load Despatch Centre shall be the apex body to ensure integrated operation of the power system in the concerned region.*

*(2) The Regional Load Despatch Centre shall comply with such principles, guidelines and methodologies in respect of wheeling and optimum scheduling and despatch of electricity as may be specified in the Grid Code.*

*(3) The Regional Load Despatch Centre shall-*

*(a) be responsible for optimum scheduling and despatch of electricity within the region, in accordance with the contracts entered into with the licensees or the generating companies operating in the region;*

*(b) monitor grid operations;*

*(c) keep accounts of quantity of electricity transmitted through the regional grid;*

*(d) exercise supervision and control over the Inter-State transmission system ; and*

*(e) be responsible for carrying out real time operations for grid control and despatch of electricity within the region through secure*

*and economic operation of the regional grid in accordance with the Grid Standards and the Grid Code.*

*(4) The Regional Load Despatch Centre may give such directions and exercise such supervision and control as may be required for ensuring stability of grid operations and for achieving the maximum economy and efficiency in the operation of the power system in the region under its control.*

*(5) Every licensee, generating company, generating station, substation and any other person connected with the operation of the power system shall comply with the directions issued by the Regional Load Despatch Centers.*

*(6) All directions issued by the Regional Load Despatch Centers to any transmission licensee of State transmission lines or any other licensee of the State or generating company (other than those connected to inter-State transmission system) or substation in the State shall be issued through the State Load Despatch Centre and the State Load Despatch Centers shall ensure that such directions are duly complied with by the licensee or generating company or sub-station.*

*(7) If any dispute arises with reference to the quality of electricity or safe, secure and integrated operation of the regional grid or in relation to any direction given by the Regional Load Despatch Centre, it shall be referred to Central Commission for decision. However, pending the decision of the Central*

*Commission, the directions of the Regional Load Despatch Centre shall be complied with by the State Load Despatch Centre or the licensee or the generating company, as the case may be.*

*2.3.2 The following are contemplated as exclusive functions of RLDCs*

*(a) System operation and control including inter-state transfer of power, covering contingency analysis and operational planning on real time basis;*

*(b) Scheduling / re-scheduling of generation;*

*(c) System restoration following grid disturbances;*

*(d) Metering and data collection;*

*(e) Compiling and furnishing data pertaining to system operation;*

*(f) Operation of regional UI pool account, regional reactive energy account and Congestion Charge Account, provided that such functions will be undertaken by any entity(ies) other than RLDCs if the Commission so directs.*

*(g) Operation of ancillary services”.*

**43.** In view of these provisions, the contention of the Load Dispatch Centre (R-2), and the Power Systems Operation Corporation Ltd(R3) that both these Generating Stations are required to jointly handle the operational and commercial issues with respect to the common evacuation



system, cannot be countenanced as it is contrary to the provisions of Section 28 and 29 of the Electricity Act, 2003 and the provisions of the Indian Electricity Grid Code.

44. The Electricity Act, 2003 and subordinate legislations do not provide for sub-delegation of these functions of the Load Dispatch Centre.
45. Therefore, the contention of the R-2 and R-3 that the Appellant and the Simhapuri Energy Private Limited (R-6) are responsible for the dedicated transmission line is misconceived since the Load Dispatch Centre cannot attempt to abdicate its responsibility which is clearly impermissible under law.
46. When the statute conferred powers upon Load Dispatch Centre, it indicates the confidence and trust reposed on the authority to discharge the power.
47. Therefore, it is not open to the Load Dispatch Centre (R-2) to bypass the trust reposed on it by the legislature by sub delegating the power on the Appellant and the Simhapuri Energy Private Limited (R-6). If the Load Dispatch Centre is allowed to sub delegate/abdicate its functions, it would certainly cause serious effect on the Grid Security and safety.

48. As indicated above, the law is well settled that the statutes provide for a particular thing to be done by a particular authority, such things has to be done by such authority alone and not by any other authority. This principle has been laid down by the Hon'ble Supreme Court in the case of (1989) 3 SCC 132 Marathwada University v Seshrao Balwant Rao Chavan.
49. Therefore, this issue is decided in favour of the Appellant.
50. The next issue is **“Whether the jurisdiction and role of the load dispatch center in the Electricity Act, 2003 can be circumscribed by the CEA Metering Regulations?”**
51. It is noticed from the Impugned Order that the contention of the Load Dispatch Centre that the jurisdiction of the Load Dispatch Centre extends only to the ISTS inter connection point at Nellore sub station and the transmission lines laid down by the Generating Stations had not formed part of the ISTS has been rejected.
52. However, the Central Commission has relied upon the provisions of the CEA metering Rules to hold that the interface meters can be installed only at the inter-connection points as defined under such rules and as such, the metering of the generating stations cannot be carried out at the bus bar.

- 53.** This finding, in our view is not correct. The contention of the Load Dispatch Centre has to be discharged only under the substantial provisions of Electricity Act, 2003. These functions have been further exemplified in the Indian Electricity Grid Code.
- 54.** The role of the Load Dispatch Centre (R-2) cannot be restricted or circumscribed on the basis of the point of metering as suggested in the CEA metering rules. The meters are provided to facilitate Grid recording of data regarding the flow of electricity through a system. The point at which the metering will be required to be done can be modified having regard to the peculiar needs of a specific system.
- 55.** In fact, the Central Commission failed to take into consideration the following aspects while rendering such a finding:
- (a) The metering scheme circulated by Power Grid met with the approval of Power Grid for the purpose of metering of electricity independently for the two generating stations of the Appellant and M/s. Simhapuri Energy Private Limited. This was highlighted in the 16<sup>th</sup> meeting of the commercial sub-committee of SPRC dated 21.6.2011.

(b) The metering system circulated by Power Grid along with computation formula suggested by the Appellant by its letter dated 8.8.2011 would have ensured that the metering, scheduling, dispatch, UI and other functions for the two generating station could be achieved by the State Load Dispatch Centre independently despite the common transmission line connecting both the generating stations to the Nellore sub-station.

(c) There is nothing in the provisions of law regarding connectivity or metering that prohibits the setting up of the SEMs in the manner proposed by Power Grid including at the bus bar of the Appellant's Generating Stations.

(d) By not allowing the installation of SEMs as per the metering schemes proposed by Power Grid, the Central Commission has deprived the Appellant of its right to operate its generating station independently in a secured manner and without any recourse to M/s. Simhapuri Energy Private Limited, even though, the Appellant was in no way responsible for the original planning of the common transmission line for evacuation of power from both the generating stations to Nellore sub-station.

(e) The Central Commission, while rendering the finding that the common transmission line along with the inter-connection line between the Appellant and M/s. Simhapuri Energy Private Limited (R-6) was in the nature of a transmission line and not a dedicated line, failed to appreciate that by its own logic, the transmission line constituted part of the ISTS as defined in Section 2 (36) of the Electricity Act, 2003 and the bus-bar of the Appellant's generating station, which was in fact connected directly to the ISTS. Therefore, even going by the definition of inter-face meters under the CEA Regulations and the provisions of the IEGC, it was open to the Central Commission to allow installation of the meters at the points suggested by PGCIL.

56. Moreover, the CEA Regulations on installation and operation of meters specifically provides that besides the location of inter-face meters provided for in the Regulations, the generating companies or licensees may install meters at additional locations in the system depending on the requirement. The requirement of providing additional meters has arisen in this case for independent scheduling and energy accounting of the two generating stations evacuating their power through a common dedicated transmission system which has been held legal by this Tribunal. Accordingly, additional

meters can be provided at the outgoing feeders at the power plants of the Appellant and Simhapuri Energy Pvt. Ltd., for facilitating separate scheduling and energy accounting including UI accounting.

57. Accordingly, this issue is also decided in favour of the Appellant.

58. The next question is as follows: **If two generating stations can make use of a common evacuation system, consisting of dedicated transmission lines, whether the metering system and the energy computation formula proposed by the Appellant and endorsed by Power Grid could be utilized for accounting among the two systems?**

59. According to the Appellant, the Central Commission has not considered the metering system and the associated formula that has been endorsed by the Power Grid to facilitate the independent accounting and scheduling of the two generating stations. There is material to show that the metering scheme and formula was circulated by both the Appellant and the Simhapuri Energy Private Limited (R-6) through letter dated 8.8.2011 to the Power Grid. The Formula was that on the basis of which the Appellant and

the Simhapuri Energy Private Limited (R-6) had agreed to share their transmission charges and losses for the purposes of the individual energy accounting.

60. In response to such a proposal the Power Grid sent a reply dated 1.9.2011 to the Appellant indicating that the issues pertaining to scheduling, metering and UI will have to be sorted out by the Appellant with Load Dispatch Centre.
61. In this regard, a meeting was held on 21.6.2011 where the location of SEMs for the Appellant's project and Simhapuri Energy Private Limited's project was discussed between the representative of the Load Dispatch Centre and the Power Grid.
62. In fact, the Power Grid intimated the Load Dispatch Centre that it had circulated a schematic drawing of the metering system of the two projects. It requested the Load Dispatch Centre to provide exact details of SEMs locations required for energy accounting.
63. However, the Load Dispatch Centre despite the recommendations of the Power Grid had proceeded to treat the projects of the Appellant and Simhapuri Energy Private Limited which are two separate and independent projects, as a single entity with combined energy accounting. Thereafter, the Power Grid informed the Appellant through

the letter dated 5.7.2011 that the Southern Regional Power Committee (R-5) had informed the Power Grid to install SEMs at all the locations as suggested by the Appellant. In fact, this has been endorsed by the Power Grid in the commercial sub committee of the Southern Regional Power Committee (R-5) dated 21.6.2011.

64. The correctness and efficacy of either the metering scheme or the computation formulae endorsed by the Power Grid has never been questioned.
65. Therefore, we direct the Central Commission to devise a suitable arrangement for carrying out independent scheduling, dispatch, metering and energy accounting including UI accounting in relation to the power stations of the Appellant and Simhapuri Energy Pvt. Ltd.(R6) . Till the Central Commission devises the arrangement for independent scheduling and energy accounting of the two generating stations, the arrangement decided by this Tribunal in the interim order dated 01.3.2013 shall continue.
66. As pointed out by the Appellant, the Appellant and the Simhapuri Energy Private Limited (R-6) cannot be expected to sort out the matters relating to scheduling, dispatch, adjustments of their generated units and other operational issues on a permanent basis in view of the fact that the Appellant does not have the technical expertise to carry out



such functions. The Appellant will have no recourse if there arises any dispute with the Simhapuri Energy Private Limited (R-6) regarding adjustment and validation of the generated units.

67. In other words, the Appellant has no authority under the Electricity Act, 2003 either to carry out the functions of the Load Dispatch Centre or to address any issue that may arise in carrying out such a function.

68. In view of the above analysis, this point is also answered in favour of the Appellant.

69. **Summary of Our Findings**

**i) The issue regarding a common dedicated transmission system for more than one generating station has already been decided by this Tribunal in its judgment dated 02.1.2013 in Appeal No.81 of 2011 that a common dedicated transmission system can be built for more than one generating station for evacuation of their power without obtaining a transmission line to minimize the cost of point transmission of electricity and minimize the requirement of transmission corridor as long as the dedicated transmission system is used exclusively for evacuation of point to point**

transmission of power of the generating stations. In this case the common dedicated transmission system was planned by the Appellant in co-ordination with Power Grid/Central Transmission Utility. Therefore, the common transmission system constructed by the Appellant and Simhapuri Pvt. Ltd., on the advice of Power Grid/CTU for evacuation of power from their generation stations to the Power Grid's Nellore sub-station including the transmission line between the two generating stations is a dedicated transmission system.

- ii) According to the Electricity Act,2003 and the Indian Electricity Grid Code, the Regional Load Dispatch Centre is responsible for optimum scheduling and dispatch of electricity within the region, in accordance with the contracts entered into with the licensees or the generating companies operating in the region, keep accounts of quantity of electricity transmitted through the regional grid etc. The Indian Electricity Grid Code contemplates as exclusive functions of Regional Load Dispatch Centre, the system operation and control, scheduling/re-scheduling of generation, metering and data collection, operation of regional

**UI pool account, etc. According to these provisions, the Regional Load Dispatch Centre has to handle the scheduling and energy account/UI accounting of the Power Station of the Appellant and Simhapuri Power Station of the Respondent No.6 separately. Therefore, it is not open for the Regional Load Dispatch Centre to abdicate the statutory role of scheduling, dispatch, metering, energy accounting and similar functions.**

- iii) The jurisdiction and role of Regional Load Dispatch Centre cannot be restricted or circumscribed on the basis of the point of metering specified in the CEA metering rules.**
- iv) The Central Commission has been directed to devise a suitable arrangement for independent scheduling and energy accounting including UI accounting of the Power Stations of the Appellant and Simhapuri Energy Pvt. Ltd.,(R6) and till the arrangement is devised and implemented, the interim-arrangement for separate scheduling and energy accounting of the two power stations of SLDC as decided by this Tribunal in the interim order dated 01.3.2013 shall continue.**

70. In view of our above findings, the Impugned Order is set-aside. The Appeal is allowed.

71. However, there is no order as to costs.

72. Pronounced in the Open Court on the **13<sup>th</sup> day of January,2014.**

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

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

Dated: 13<sup>th</sup> Jan, 2014

√REPORTABLE/~~NON-REPORTABLE~~