

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY  
(Appellate Jurisdiction)**

**APPEAL NO. 439 OF 2019 &  
IA NO. 2230 OF 2019**

Date : 04.11.2022

**Present: Hon'ble Mr. Justice R. K. Gauba, Officiating Chairperson  
Hon'ble Mr. Sandesh Kumar Sharma, Technical Member**

In the matter of:

**N. Narayanswamy,**  
No. 104, 2<sup>nd</sup> Cross, BFW Layout,  
Iyyangar Badavane, Laggere,  
Bengaluru – 560058.

.... Appellant(s)

***Versus***

1. **Karnataka Electricity Regulatory Commission**  
*(Through its Secretary)*  
No. 16, C-1, Millers Tank Bed Area,  
Vasanth Nagar,  
Bengaluru – 560052  
Karnataka.

2. **Bangalore Electricity Supply Company Limited**  
*(Through its Chairman)*  
K. R. Circle,  
Bangalore – 560001.

.... Respondent(s)

Counsel for the Appellant(s) : Mr. Matrugupta Mishra  
Mr. Nipun Dave  
Ms. Ishita Thakur

Counsel for the Respondent(s) : Mr. S. Sriranga, Sr. Adv.  
Ms. Sumana Naganand  
Ms. Samiksha Jain for R-2

## **J U D G E M E N T** (Oral)

**PER HON'BLE MR. JUSTICE R. K. GAUBA, OFFICIATING CHAIRPERSON**

1. The short issue which gives rise to this dispute is as to whether the rooftop solar power plant set up by the appellant is mounted on a shed like structure which can be equated with a building or, to put it more clearly, as to whether the structure on which the said power plant has been mounted qualifies as a building which is “*constructed as per building construction acts/norms*” within the meaning of the clarificatory circular issued vide No. EN 70 VSC 2015 on 17.08.2016 by Energy Department of the Government of Karnataka.

2. While rejecting the claim of the appellant that his solar power plant has been set up properly on a building, the State Commission appears to have examined the issue with reference to certain inspection reports and materials submitted by the appellant as well. But we find that the matter requires a further factual inquiry in above light. Therefore, with consent of learned counsel for both sides, we vacate the impugned order and return the dispute to the State Commission for fresh consideration in accordance with law. The Commission shall hear the parties, if necessary call for a report from the concerned municipal or State authority dealing with the building bye-laws, and pass a fresh reasoned order on the subject.

3. The Commission is requested to complete the above exercise and decide the matter within a period of three months from today.

4. With these observations, the appeal and the pending application are disposed of.

PRONOUNCED IN THE OPEN COURT ON THIS  
04<sup>TH</sup> DAY OF NOVEMBER 2022

**(Sandesh Kumar Sharma)**  
Technical Member

*tpd/mkj*

**(Justice R.K. Gauba)**  
Officiating Chairperson