

COURT-I

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

**IA NO. 1076 OF 2019 IN
DFR NO. 2127 OF 2019**

Dated : 2nd September, 2019

**Present: Hon'ble Mrs. Justice Manjula Chellur, Chairperson
Hon'ble Mr. S. D. Dubey, Technical Member**

In the matter of:

Prayas (Energy Group)	Versus	...	Appellant(s)
Gujarat Urja Vikas Nigam Limited & Ors.		...	Respondent(s)

Counsel for the Appellant(s) : Mr. M. G. Ramachandran, Sr. Adv.
Mr. Shubham Arya

Counsel for the Respondent(s) : Mr. Anand K. Ganesan
Ms. Swapna Seshadri for R-1

Ms. Poonam Verma
Ms. Aparajita Upadhyay for R-2

ORDER

[PER HON'BLE MRS. JUSTICE MANJULA CHELLUR, CHAIRPERSON]

**IA NO. 1076 OF 2019
*(Application for waiver of court fee)***

1. This application is filed for waiver of court fee by the Appellant – Prayas (Energy Group). The Appellant claims that it is a non-governmental, non-profit organization working to protect and promote the public interest and interests of the disadvantaged sections of the society. The Appellant further claims that it has been actively participating in the public interest issues and the

consumer issues in the area of electricity sector since 1990. Further the Appellant contends that it has been recognized by the Central Electricity Regulatory Commission (**CERC**) as one of the authorized consumer representatives to participate in the proceedings before CERC. The Appellant also is a member of the Advisory Committees of the Central Commission as well as Maharashtra Electricity Regulatory Commission constituted under the provisions of Sections 80 and 82 respectively. Therefore, the Appellant has been actively taking part before the above said Commission in matters relating to sector policy as well as consumer interest.

2. The present Appeal is with regard to the tariff admissible to second Respondent – Adani Power (Mundra) Limited, a project developer for generation and sale of electricity to Gujarat Urja Vikas Nigam Limited. The Power Purchase Agreements pertain to 02.02.2007 and 06.02.2007 entered into between the parties.

3. The impugned order dated 12.04.2019 in the Appeal is filed at the behest of project developer i.e., Adani Power (Mundra) Limited in 155/MP/2012 before the Central Electricity Regulatory Commission. In this proceedings, the Petitioner had sought impact of the import of coal price on account of the promulgation of the Indonesian Regulations providing for the benchmark price. On the invitation of CERC, the Appellant participated in the proceedings representing the interest of the consumers. Ever since then, the

Appellant is participating in the matter relating to the reliefs sought by the project developer in tariff matters. The Appellant further contends that the Appellant participated in Appeal arising out of the earlier order passed by CERC in tariff matter and thereafter before the Hon'ble Supreme Court of India as well as this Tribunal, and the judgment of the Apex Court was reported in the case of **Energy Watchdog v. Central Electricity Regulatory Commission (2017) 14 SCC 80**. Therefore, the Appellant is persistently pursuing the matter pertaining to the compensatory relief sought by the project developer, with regard to promulgation of the Indonesian Regulations, at all stages.

4. The Appellant further contends that it participated in the proceedings before the Hon'ble Supreme Court of India in MA Nos. 2705-2706 of 2018 filed by the Government of Gujarat which came to be disposed of on 29.10.2018 wherein the Hon'ble Supreme Court opined as under:

“

We make it clear that our judgment will not stand in the way of maintaining such applications, we also make it clear that each of the consumer groups, who had appeared before us and who have appeared before us today, will be heard on all objections that they may make to the proposed amendments to the PPA, after which, it will be open to the C.E.R.C. to decide the matter in accordance with law. Given the

conclusions in the High Power Committee report, we are of the view that the C.E.R.C. should decide this matter as expeditiously as possible, and definitely within a period of eight weeks from today. The miscellaneous applications are disposed of accordingly. Pending applications, if any, stand disposed of.”

5. Therefore, the Appellant contends that when first Respondent – Gujarat Urja Vikas Nigam Limited filed the Petition No. 374/MP/2018, CERC had issued notice to the Appellant and the Appellant actively participated in the proceedings which led to the passing of the impugned order.

6. The Appellant further contends that on earlier occasions, the Appellant had prayed for exemption from paying court fee pertaining to Petition No. 155/MP/2012 and this Tribunal by Order dated 13.05.2014, the court fee was reduced by 50% and accordingly the Appellant paid Rs.50,000/- (Rupees Fifty Thousand only) as court fee. Appellant also referred to IA No. 370 of 2013 in DFR No. 2183 of 2013 to contend that such benefit of waiver of 50% of the court fee was granted to the Appellant. Appellant rely upon Regulation 55(3) of Appellate Tribunal for Electricity Rules 2007 to contend that this Tribunal has power to waive payment of court fee or portion thereof for any reason which is considered to be sufficient apart from the economic condition or indigent circumstances of the Appellant.

7. The Appellant further contends that in the present Appeal, the impugned order has granted substantial increase in the tariff, burdening the consumers at large by allowing amendment to the Power Purchase Agreement entered into between the parties based on the Tariff Based Competitive Bid Process. The Appeal involves substantial questions of public importance arising for the first time for consideration by the Tribunal.

8. According to the Appellant, approval of supplemental agreements by the impugned order of Respondent – CERC by Order dated 12.04.2019 requires reconsideration of the matter by this Tribunal.

9. With the above submissions, the Appellant filed the present application seeking the following prayers:

“(a) Waive the requirement of payment of the court fees of Rs.1,00,000/- for maintaining the appeal as provided in the applicable Rules and entertain the appeal without the requirement to pay such court fees; and

(b) pass such other order or orders as this Hon’ble Tribunal may deem just and proper in the circumstances of the case.”

10. We have gone through various documents filed along with affidavits on different dates. It is noticed that the Appellant Association got registered and Registration Certificate is dated 20.07.1994 registered under Mumbai Public Charitable Trust Act at registration office - Pune Jurisdiction, Pune. The

Appellant also placed on record copy of the Registration Certificate from Office of the Commissioner of Income Tax, Pune, dated 21.10.1994. It also filed copies of report of auditor for 2016-2017 and 2017-2018. The Appellant also placed copy of Trust Deed dated 08.06.1994 which clearly indicates that it is a public charitable Trust. One of the aims and objects indicate that the Trust was established to collect, compile and publish data and other information relating to the issues having a bearing on issues relating to resource utilization including energy and environment, learning and parenthood and health.

11. Apart from aims and objects, it is seen from the application that the Appellant is actively participating before Central Electricity Regulation Commission and State Electricity Regulatory Commission of Maharashtra representing interest of consumers of energy in general, and also with reference to proceedings pertaining to the Petition from which the impugned order has come up for consideration in this Appeal. It is noticed that the Appellant is representing consumer group and is even part of Advisory Committee before CERC. The Hon'ble Supreme Court of India has clearly mentioned that the judgment will not stand in the way of maintaining application of present nature representing consumer group. Therefore, we are of the opinion that the Appellant can maintain this Appeal.

12. It is clear from records that the Appellant had appeared before the Respondent – Central Electricity Regulatory Commission as third Respondent. The Appeal is filed challenging the impugned order.

13. The Appellant is seeking relief of waiver of court fee. On earlier occasions, the Appellant was allowed to pay 50% of the court fee. We are of the opinion that it would be appropriate to direct the Appellant/applicant to pay 50% of court fee i.e., Rs.50,000/- (Rupees Fifty Thousand only) within two weeks from today. We waive the court fee to an extent of Rs.50,000/- (Rupees Fifty Thousand only) out of Rs.1,00,000/- (Rupees One Lakh only).

14. Accordingly, the Application is disposed of. Registry is directed to list the matter on **14.10.2019**.

15. Pronounced in the open court on this the **2nd September, 2019**.

(S.D. Dubey)
Technical Member

(Justice Manjula Chellur)
Chairperson

REPORTABLE / NON-REPORTABLE

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