

COURT-II
IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(APPELLATE JURISDICTION)

APPEAL NO. 32 OF 2019 &
IA NOS. 101 & 487 OF 2019

Dated: 12th April, 2019

Present: Hon'ble Mr. Justice N.K. Patil, Judicial Member
Hon'ble Mr. Ravindra Kumar Verma, Technical Member

In the matter of:

Indian Wind Power Association
Maharashtra State Council
Empire House, 214, Dr. D.N. Road
Ent. A.K. Nayak Marg, Fort,
Mumbai – 400 001

... Appellant(s)

Versus

- 1. Maharashtra Electricity Regulatory Commission**
World Trade Centre
Centre No.1, 13th Floor, Cuffe Parade
Colaba, Mumbai – 400 005
- 2. Maharashtra State Electricity Distribution Co. Ltd.**
5th Floor, Prakashgad
Bandra (East)
Mumbai – 400 051
- 3. Jawahar Shetkari Sahakari Sakhar Karkhana Limited**
Sri Kallappa Anna Awade Nagar
Hupari – Yalgad
Tal. Hathkangle, Distt. Kolhapur – 416 203 & Ors. ...Respondent(s)

Counsel for the Appellant(s) : Mr. Sanjay Sen, Sr. Adv.
Ms. Dipali Seth

Counsel for the Respondent(s) : Mr. Buddy A. Ranganadhan for R-1
Mr. Anup Jain
Ms. S. Rama for R-2

J U D G M E N T

PER HON'BLE MR. JUSTICE N.K. PATIL, JUDICIAL MEMBER

- 1. The Appellant has presented the instant Appeal seeking the following reliefs:**

- a) Allow the present Appeal and set aside the Impugned Order dated 02.11.2018 in Case No. 264 of 2018;
- b) Hold and direct that the State Commission and Respondent No.2 are not entitled to impose any ceiling on competitive bidding for Group III wind generators for procurement of power post expiration of EPAs;
- c) Hold and direct that Respondent No.2 is not entitled to disconnect the Group III wind generators post expiry of EPAs and/or take any coercive steps stalling operations of such Group III wind power projects;
- d) Hold and direct that Respondent No.2 is required to procure power from Group III wind generators post expiry of EPAs at APPC or Base Year tariff;
- e) Pass such other Order(s) and this Tribunal may deem just and proper.

2. In the instant Appeal, Indian Wind Power Association in short, the “**Appellant**”) is questioning the legality and validity of the Impugned Order dated 02.11.2018 passed in Case No. 264 of 2018 by the Maharashtra Electricity Regulatory Commission, Mumbai.

3. The learned senior counsel appearing for the Appellant has filed a copy of Order dated 09.04.2019 passed in Case No. 50 of 2019 by the Maharashtra Electricity Regulatory Commission, Mumbai. The same is taken on record.

3. The learned senior counsel Mr. Sanjay Sen appearing for the Appellant at the outset submitted that the instant Appeal filed by the Appellant may kindly be disposed of in view of the Order dated 09.04.2019 passed in Case No. 50 of 2019 on the file of the Maharashtra Electricity Regulatory Commission, Mumbai.

5. **Per contra**, the learned counsel Mr. Buddy A. Ranganadhan appearing for the Respondent No.1/Maharashtra Electricity Regulatory Commission, Mumbai and the learned counsel Mr. Anup Jain appearing for the Respondent No.2. inter alia contended and fairly submitted that the Order dated April 9th, 2019 passed in Case No. 50 of 2019 by the Maharashtra Electricity Regulatory Commission, Mumbai filed by the Appellant may kindly be taken on record.

6. Submissions made by the learned senior counsel appearing for the Appellant and the learned counsel appearing for the Respondent Nos.1 and 2, as stated supra, are placed on record.

7. The Order dated April 9th, 2019 reads as follows:-

- “1. The Case No. 50 of 2019 is partly allowed.*
- 2. The Commission directs Maharashtra State Electricity Distribution Co. Ltd. to procure wind power through competitive bidding route from projects under Group II, III and IV whose EPAs have expired.*
- 3. Maharashtra State Electricity Distribution Co. Ltd is allowed to decide the ceiling rate after proper due diligence at their end but the same shall not be more than the rates approved for the short term procurement of wind energy.*
- 4. Competitive rate so discovered will be dealt with by the Commission during the tariff adoption process for meeting the non-Solar RPO requirement.”*

8. In light of the submissions of the learned senior counsel appearing for the Appellant and the learned counsel appearing for the Respondent Nos.1 & 2 and the reasons stated in Order dated 09.04.2019, the instant Appeal filed by the Appellant stands

disposed of in terms of Order dated 09.04.2019 passed in Case No. 50 of 2019 by the Maharashtra Electricity Regulatory Commission, Mumbai.

9. In view of the Appeal No. 32 of 2019 on the file of the Appellate Tribunal for Electricity, New Delhi being disposed of, on account of which, the reliefs sought in IA No. 101 of 2019 and IA No. 487 of 2019 do not survive for consideration and, hence, stand disposed of.

Order accordingly.

(Ravindra Kumar Verma)
Technical Member
mk/bn

(Justice N.K. Patil)
Judicial Member