

COURT-II
IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

IA NO. 233 OF 2018 IN
APPEAL NO. 46 OF 2018

Dated : 26th February, 2018

Present: **Hon'ble Mr. Justice N.K. Patil, Judicial Member**
Hon'ble Mr. S.D. Dubey, Technical Member

In the matter of:

Sai Wardha Power Generation Ltd.

.... **Appellant(s)**

Vs.

**Maharashtra Electricity Regulatory Commission &
Anr.**

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

Counsel for the Appellant (s) : Mr. M.G. Ramachandran
Mr. Anand K. Ganesan
Ms. Swapna Seshadri
Mr. Ashwin Ramanathan

Counsel for the Respondent(s) : Mr. Buddy A. Ranganadhan for R-1

Mr. G. Saikumar
Ms. Nikita Chouksey
Ms. Sowmya Saikumar for R-2

ORDER

(On IA No. 233 of 2018 – for Stay)

1. Heard the learned counsel, Mr. M.G. Ramachandran, appearing for the Appellant and the learned counsel, Mr. G. Saikumar, appearing for the second Respondent.

2. The learned counsel for the Appellant, at the outset, submitted that, the second Respondent, inspite of the matter was being pending for adjudication, has taken steps denying the open access to the Appellant. Therefore, he submitted that, statement made by the Appellant in his application may kindly be accepted. Further, he vehemently submitted that, if the prayer sought in the interim application is not granted, the Appellant will be put in the great hardship and inconvenience and the second Respondent will discontinue the operation of open access to the Appellant. The second Respondent may be directed not to take any coercive step in the matter with respect to the 19 Medium Term Open Access

(MTOA) connections and 7 Short Term Open Access (STOA) connections as per Comments on STOA application of M/s SWPGCL in view of MERC Order No. 206 of 2014 dated 01.02.2018 submitted by the learned counsel appearing for the second Respondent during the course of the hearing otherwise, they will disconnect the open access after 31.03.2018. Therefore, he submitted that, the interim order prayed in the instant application may kindly be granted and the instant IA No. 233 of 2018 may kindly be allowed.

3. *Per contra*, the learned counsel appearing for the second Respondent submitted that, they have issued the following MTOA permissions to 19 consumers of M/s SWPGL and also issued short term open access permissions for the month of February, 2018:

Medium Term Open Access (MTOA)

Sr. No.	Consumer Name	OA Capacity	Period
01	Viraj Profiles Ltd.	2.87	01.06.2015 to 31.03.2018
02	Viraj Profiles Ltd.	3.00	01.06.2015 to 31.03.2018
03	Viraj Profiles Ltd.	23.00	01.06.2015 to 31.03.2018
04	Viraj Profiles Ltd.	2.21	01.06.2015 to 31.03.2018
05	Bebitz Flanges Works (P) Ltd.	2.00	01.06.2015 to 31.03.2018
06	Mahindra & Mahindra Ltd.	1.75	01.06.2015 to 31.03.2018
07	Mahindra & Mahindra Ltd.	6.00	01.06.2015 to 31.03.2018
08	Mahindra CIE Automotive Ltd.	5.00	01.06.2015 to 31.03.2018
	Mahindra CIE Automotive Ltd.	2.4	01.07.2015 to 31.03.2018
11	Mahindra Hinodaya Ind. Ltd.	10.00	01.06.2015 to 31.03.2018
12	Mahindra Sanyo Special Steel Pvt. Ltd.	25.00	01.06.2015 to 31.03.2018
13	Mahindra Vehicle Manufacturers Limited	7.00	01.06.2015 to 31.03.2018
14	M/s Lupin Ltd.	12.00	01.04.2016 to 31.07.2018
15	Hindalco Industries Limited	7.00	01.07.2017 to 31.03.2018
16	Hindalco Industries Limited	4.00	01.07.2017 to 31.03.2018
17	ACG Associated Capsules Pvt. Limited	1.85	01.07.2017 to 31.03.2018
18	Inox Air Products Private Limited	6.73	01.07.2017 to 31.03.2018
19	ACG Associated Capsules Pvt. Limited	3.00	01.07.2017 to 31.03.2018
		124.81 MW	

Short Term Open Access (STOA)

Sr. No.	Consumer Name	OA Capacity
01	Asahi India Glass Ltd.	3.00
02	M/s Mahindra CIE Automotive Ltd.	2.40
03	M/s Bekaert Industries Private Ltd.	7.00
04	M/s AYM Syntex Ltd.	2.50
05	Owens Corning (India) Private Ltd.	7.50
06	M/s Pudumji Paper Product Ltd.	7.50
07	M/s Lupin Ltd.	1.00
		30.90 MW

4. Further, he submitted that, they have not made any attempt to discontinue the operation of Open Access facilities to 19 MTOA connections and 7 STOA connections. Therefore, prayer sought by the Appellant for not to take any coercive step by the second Respondent on the ground of apprehension is not justiceable. Further, he submitted that, the instant application filed by the Appellant may be dismissed as premature.

5. Submissions made by the learned counsel appearing for both the parties, as stated above, are placed on record.

6. After hearing the learned counsel appearing for both the parties and after careful perusal of the grounds made out by the Appellant in the instant application and the submissions made by the learned counsel appearing for the second respondent that the second Respondent has not discontinued any operational open access and thus there is no coercive action has been initiated by the second Respondent and having regard to the facts and circumstances of the case, prima-facie, we are satisfied that the matter requires hearing on merits. Therefore, in the interest of justice and equity, we deem fit to direct the second Respondent not to discontinue any operational open access i.e. 124.81 MW provided with respect to 19 MTOA consumers and 30.9 MW provided with respect to 7 STOA consumers, as per the list submitted by the learned counsel for the second Respondent, as stated above, until further Orders

(S.D. Dubey)
Technical Member

(Justice N.K. Patil)
Judicial Member

pr/vt