

COURT-I

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(APPELLATE JURISDICTION)**

APPEAL NO. 106 OF 2017

Dated: 16th May, 2017

**Present: Hon'ble Mrs. Justice Ranjana P. Desai, Chairperson
Hon'ble Mr. I.J. Kapoor, Technical Member**

In the matter of:

**Gujarat Granito Manufactures Association ... Appellant(s)
Vs.
Central Electricity Regulatory Commission & Ors. ... Respondent(s)**

Counsel for the Appellant(s) : Ms. Sakie Jakharia

Counsel for the Respondent(s) : Mr. C.K. Rai
Mr. Umesh Prasad for R-1

Mr. M.G.Ramachandran
Ms. Poorva Saigal
Mr. Shubham Arya for R-2

ORDER

The Appeal challenges Order dated 08/09/2016 passed by the Gujarat Electricity Regulatory Commission (**the State Commission**) in Petition No.1567 of 2016. Having heard learned counsel for the parties we are of the opinion that the present appeal can be disposed of at the admission stage. Counsel for the parties are also agreed that it can be disposed of at the admission stage.

The challenge in the petition, as represented by the Appellant is primarily on the aspect of the decision by the State Commission that a

petition by the Appellant Association is not maintainable, in the absence of an individual member being joined as a party. In this regard paragraph 15 of the impugned order passed by the State Commission is material. It reads as under:

“15) We note that each application for open access needs to be considered independently. It is also necessary to see that the person who seeks the relief against the respondent must be an aggrieved person. The aforesaid prayers sought by the Petitioner are not permissible in the present Petition without verifying the facts of the individual case. The petitioner is an Association and is not an Open Access Customer and hence, cannot be considered to be aggrieved. Therefore, if any person who is the Open Access Customer and is aggrieved against the action of the respondent, he has to approach the Commission with facts of his case and grounds of the petition and legal provisions in that regard with the prayers in support therefore. The concerned person, who is affected shall have to file a Petition with necessary fees and affidavit in support of the contention raised in the Petition before the Commission for adjudication of the disputes. As the aforesaid preliminary requirements are not fulfilled by the Petitioner, we are of the view that the present Petition is not admissible.”

The consent of the Respondents on the maintainability of the proceedings by the Appellant Association is in respect of matters involving a proposed proceeding under Section 142 of the Electricity Act, 2003 and also in respect of matters relating to individual claims of a member being agitated by the Appellant Association.

The main grievance in regard to the issue of Open Access being not granted stands settled with Respondent Nos.2 & 3 having accepted the judgment dated 06/04/2016 in Appeal No.70 of 2015 and by implementing the same. Open Access to the Open Access Customers has since been granted.

Considering the above, it is clarified that the observations contained in paragraph 15 of the impugned order quoted above should not be read as meaning that the Appellant Association can never be an aggrieved person even in cases where the cause for filing the petition before the State Commission is of a general nature and not of the nature of an individual in respect of an individual grievance or a complaint under Section 142 of the Electricity Act, 2003 or otherwise. The Electricity Act does recognise the right of the consumer organisations and associations to agitate the cause of their members generally. It will depend on facts and circumstances of each case. The impugned order cannot, therefore, be read as applying generally to all proceedings that may be initiated by an Association.

It is, therefore, clarified that the impugned order of the State Commission shall be read subject to the above clarification. Accordingly, the appeal filed by the Appellant is disposed of in terms of the above at the admission stage itself with no costs or any other reliefs.

(I.J. Kapoor)
Technical Member

(Justice Ranjana P. Desai)
Chairperson

ts/kt