

**COURT-II**

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

**ORDER IN IA NO. 558 OF 2018 IN  
DFR NO. 1660 OF 2018 ON THE FILE OF  
THE APPELLATE TRIBUNAL OF ELECTRICITY, NEW DELHI**

**Dated: 11<sup>th</sup> May, 2018**

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

**IN THE MATTER OF:**

**Simhapuri Energy Limited**  
Madhucon Greenlands,  
6-3-866/2, 3<sup>rd</sup> Floor  
Begumpet, Hyderabad – 500 016

.... **APPELLANT**

***VERSUS***

**1. Central Electricity Regulatory Commission**  
Through its Secretary,  
Chanderlok Building,  
36, Janpath Road, New Delhi – 110 001.

**2. Power Grid Corporation of India**  
(Govt. of India undertaking)  
Registered Office: B-9,  
Qutub Institutional Area,  
Katawaria Sarai, New Delhi – 110 016

.... **RESPONDENTS**

Counsel for the Appellant(s) : Mr. Hemant Singh  
Mr. Nishant Kumar

Counsel for the Respondent(s) : -

**(1) The Appellant has sought the following reliefs in DFR No. 1660 of 2018:**

- (a) To set aside the impugned order dated 10.04.2018 passed by the Respondent No. 1 Commission in Petition No. 129/MP/2017; and pass such other and further order or orders as this Hon'ble Tribunal may deem fit and proper under the facts and circumstances of the present and in the interest of justice.

**(2) Presented this Appeal for consideration under the following Question of Law:**

- (i) Whether the Respondent Commission exercised improper jurisdiction by deciding an issue which was beyond the scope of the petition before it?
- (ii) Whether the Respondent Commission exercised improper jurisdiction by granting relief to a Respondent (PGCIL) in a petition filed by the Petitioner (Appellant herein)?
- (iii) Whether the Respondent Commission exercised improper jurisdiction by passing an order on an issue which is seized before a higher forum (this Hon'ble Tribunal)?
- (iv) Whether the Respondent No. 2 could have been allowed to raise the issue of regulating supply and / or opening of Letter of Credit for non-relinquished quantum of 400 MW, when the only issue in Petition No. 129/MP/2017 was that of relinquishment of LTA of 146 MW?
- (v) Whether the Respondent Commission overstepped its jurisdiction in giving order upon a subject matter pending adjudication before this Hon'ble Tribunal, thereby exercising its power and authorities in a colarable and arbitrary manner?
- (vi) Whether the Respondent Commission failed to consider that it is a well settled law that a matter pending adjudication before an appellate authority cannot be entertained by an authority of the first instance?

(vii) Whether the Respondent Commission failed to appreciate that the only issue before it in Petition No. 129/MP/2017 was the one relating to relinquishment of 146 MW of power and that it could not have travelled outside the scope of pleadings / prayer in the said petition?

(viii) Whether the impugned order is clearly in violation of well settled principles of law and not expected from a quasi-judicial authority?

## **ORDER**

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

The Appellant questioning the correctness of the impugned order dated 10-4-2018 passed in Petition No. 129/MP/2017 on the file of the first Respondent (Central Electricity Regulatory Commission, New Delhi) presented this appeal.

We have heard Learned Counsel for the Appellant, Mr. Hemant Singh for some time. During the course of the submission, he submitted that the instant appeal may kindly be dismissed as withdrawn reserving the liberty to file necessary application for modification / vacating the impugned order dated 10.4.2018 passed by the first Respondent within one week, and all the contentions may kindly be left open.

Submissions made by the learned counsel for the appellant, as stated above, are placed on record.

In the light of the statement made by the learned counsel for the Appellant, the instant appeal filed by the Appellant is dismissed as withdrawn reserving the liberty to file necessary application for modification / vacating the impugned order dated 10-4-2018 passed in Petition No.

129/MP/2017 on the file of the first Respondent within one week, if they so advise or need arises.

With these observations, the appeal under DFR No. 1660 of 2018 stands disposed of.

The appeal (DFR No. 1660 of 2018) may be given a regular number.

In view of the instant appeal being disposed of, the application being IA No. 558 of 2018, filed by the appellant does not survive, hence stands disposed of as it has become infructuous.

**(S. D. Dubey)**  
**Technical Member**

*tpd/vg*

**(Justice N. K. Patil)**  
**Judicial Member**