

**Appellate Tribunal for Electricity
Appellate Jurisdiction
Appeal No. 208 of 2006**

Present - **Hon'ble Mr Justice E. Padmanabhan – Judicial Member**
Hon'ble Mr H. L. Bajaj – Technical Member

Bengal Metal Industries & Anr.

Appellant/s

Versus

WBERC & Ors.

Respondent/s

For the appellant : Mr. Suresh Agarwal

For the respondents : Mr. Pratik Dhar with Mr. C.K. Rai, Advocates
for WBERC

Dated 5th September, 2006.

Order

1. Mr. Suresh Agarwal appears in person. On our direction, Mr. Pratik Dhar, Standing Counsel for the Regulatory Commission takes notice.

2. on 10th July, 2006, the Commission passed the order as under:-

"1.0 We find that the complaint case under Section 142 of The Electricity Act, 2003 has substantially similar subject matter as in the Writ Petition being W.P. 1815 of 2005. In the said Writ Petition, by an order dated 22nd September, 2005, Hon'ble Justice Jayanta Kumar Biswas stayed the notice dated 30th May, 2005. The said notice [at page 169 of the instant application] is also one of the subject matters of the instant complaint case. The Hon'ble Division Bench in appeal also did not set aside the interim order dated the 22nd September, 2005. Under such circumstances, we feel that the Commission should wait till a decision is taken by the Hon'ble High

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court, Calcutta in W.P. 1815 of 2005. Accordingly, we adjourn the matter sine die with liberty to the parties to inform the Commission about the development of the case being W.P. 1815 of 2005.

2.0 Copies of this order are to be given to all those who are parties to this case"

3. This being not a final order and just an adjournment, no appeal is maintainable under Section 111 of The Electricity Act, 2003. That apart adjournment of the proceeding is well within the authority of the Commission and we will not be justified in interfering with such orders. Hence, the appeal is dismissed.

4. The grievance, according to the appellant, is that his application should be decided on merits after affording an opportunity. Without expressing any opinion on the petition presented by the appellant before the Commission, it would be desirable for the WBERC to afford an opportunity to the appellant, thereafter, pass suitable orders including postponement or stay of proceedings or direct the party to go before the High Court and pray for clarification or other order as the facts of the case may warrant.

5. We would persuade the Commission to give such priority as the Commission deems fit in hearing the petition. With the above directions appeal is dismissed.

(Mr. H. L. Bajaj)
Technical Member

(Mr. Justice E. Padmanabhan)
Judicial Member

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