

**Before the Appellate Tribunal for Electricity
(Appellate Jurisdiction)**

Appeal No. 37/09

Dated: 26th May, 2009

**Present : Hon'ble Mr. Justice M. Karpaga Vinayagam, Chairperson
Hon'ble Mr. A.A. Khan, Technical Member**

Maharashtra State Electricity Distribution Co. Ltd. ... Appellant (s)

Versus

Maharashtra Electricity Regulatory Commission & Ors. ... Respondent (s)

Counsel for the Appellant/ (s) : Shri Vikrant Ghumare

Counsel for the Respondent (s) : Shri Buddy A. Ranganadhan for Resp. No. 1

ORDER

Contending that the observation made by the Commission in para 41 of the order dated 7.10.2008 is not factually correct, the Appellant has filed this appeal.

According to the learned counsel for the Appellant those observations have been made by the Commission without considering the relevant materials alleged to be placed by the parties before the Commission.

We have heard the learned counsel for the appellant as well as the learned counsel for the Commission. On the face of it we are to state that the Appeal is not maintainable in view of the fact that the core of the order has not

been challenged and on the other hand the order impugned has already been implemented.

The only grievance by the appellant is that there is an observation which has been made by the Commission in para 41 of the Commission's order is not correct. We are not inclined to give any opinion in regard to the question whether the observation is correct or not especially when it is not certain that those documents had been placed before the Commission. Therefore, it is open to the Appellant to approach the Commission to point out the alleged wrong observation made in para 41 and made his submission. In that event, the Commission may hear the matter and dispose the same in accordance with law.

The appeal is **dismissed**.

(A.A. Khan)
Technical Member

(Justice M. Karpaga Vinayagam)
Chairperson