

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

**Appeal No.66 of 2009 &
IA Nos. 161 & 325 of 2009**

Dated: 3rd August, 2010

**Present : Hon'ble Mr. Justice M. Karpaga Vinayagam, Chairperson
Hon'ble Mr. Rakesh Nath, Technical Member
Hon'ble Mr. Justice P.S. Datta, Judicial Member**

Rajasthan Rajya Vidyut Prasaran Nigam Ltd. & Anr. ... Appellant (s)

Versus

Central Electricity Regulatory Commission & Anr. ... Respondent (s)

Counsel for the Appellant(s): Mr. Aditya Madan
Mr. Dinesh Khandelwal, Sushil Mathur &
Mr. V.K. Gupta & Mr. Sudhir Jain (Reps.) for RRVPNL

Counsel for the Respondent(s): Mr. Dharmesh Misra & Mr. Arpit Higgins for R.2

ORDER

The Respondent No. 2 earlier filed an Application before the Central Electricity Regulatory Commission for directing the Appellant herein to dispose of the open access Application filed by them, by granting open access. After hearing the parties, the Central Commission passed the final order directing the Appellant herein to grant the open access while disposing of their application.

Accordingly, the open access has been granted by the Appellant. Even then, the Appellant has filed this Appeal feeling aggrieved by the said Order of the Central Commission.

It is noticed that the final order had been passed by the Central Commission on 27.8.2008 and the open access had been granted on 06.10.2008. Now, the main grievance projected by the learned counsel for the Appellant is that open access granted to R.2 by the Appellant in pursuance of the Order of the Central Commission directing for grant of open access is being misused and therefore, impugned order is to be set aside.

We have heard the learned counsel for the parties.

After hearing the learned counsel for both the parties, we do not think it fit to interfere with the impugned Order, especially when the order that was passed by the Central Commission directing the Appellant to grant open access to the Respondent has been said to be complied with. The grievance of the Appellant now presented before this Tribunal would relate to the alleged subsequent instances, which we are not concerned with in this Appeal. These are all the things, which may be brought to the notice of the Central Commission for necessary action.

The learned counsel for Respondent No.2 submits that he is not misusing the said grant of open access.

Therefore, it is for the Appellant to approach the Central Commission and seek for necessary action by placing the materials to prove its plea. In that event,

the Central Commission may give an opportunity of hearing to both the Appellant and respondent No. 2 before considering the said issues and pass orders in accordance with law.

With these observations, Appeal is disposed of.

(Justice P.S. Datta)
Judicial Member

(Rakesh Nath)
Technical Member

(Justice M. Karpaga Vinayagam)
Chairperson

ts/vn