

Before the Appellate Tribunal for Electricity
(Appellate Jurisdiction)

Appeal No. 87 of 2008

Dated: March 18, 2009

Present: Hon'ble Mrs. Justice Manju Goel, Judicial Member
Hon'ble Mr. H.L. Bajaj, Technical Member

IN THE MATTER OF:

Karnataka Power Corporation Ltd.
82, Shakti Bhavan,
Race Course Road
Bangalore 560 001
(A Generating Company)
Represented by its Managing Director

... Appellant(s)

Versus

1. Karnataka Electricity Regulatory Commission
6th & 7th Floor, Mahalaxmi Chambers,
No. 9/2, Mahatma Gandhi Road,
Bangalore 560 001.
Represented by its Chairman
2. Karnataka Power Transmission Corporation Limited
Kavery Bhavan, Bangalore 560 009
Represented by its Managing Director
3. Chamundeshwari Electricity Supply Corporation Limited
(A Government of Karnataka Enterprise)
Regd. Office: No. 927, LJ Avenue Commercial complex,
New Kantharaj Urs Road, Saraswathipuram,
Mysore-570 009.
4. Gulbarga Electricity Supply Company Limited
(A Government of Karnataka Enterprise)
Regd. Office: Gulbarga Main Road,
Gulbarga 585 102.

5. Mangalore Supply Company Limited
(A Government of Karnataka Enterprise)
Regd. Office: "Paradigm Plaza",
AB Shetty Circle,
Mangalore-575 001

6. Hubli Electricity Supply Corporation Limited
(A Government of Karnataka Enterprise)
Corporate Office, Office: Navanagar
Hubli 25.

7. Bangalore Electricity Supply Company Limited
(A Government of Karnataka Enterprise)
Corporate Office,
Regd. Office : KR circle,
Bangalore 560 009

-Respondent(s)

Counsel for the Appellant(s) : Mr. Pratap Venugopal

Counsel for the Respondent(s) : Mr. S. Balaji and Mr. B. N. Prakash

Mr. Anand K. Ganesan and
Mr. M. G. Ramachandran for KPTCL

ORDER

Mr. Pratap Venugopal, appearing for the appellant, submits that the principal ground raised in the appeal is denial of principles of natural justice in as much as the appellant was not afforded opportunity of being heard before the impugned order was passed.

2. It is submitted by Mr. Venugopal that the impugned order was passed in the matter of the draft PPA of Yelahanka Diesel Generating Station between the Karnataka Power Transmission Corporation Limited(KPTCL) and M/s Visvesvaraya Vidyuth Nigama Limited(VVNL), predecessor of the appellant. Before approval of the PPA, the Commission issued advertisement in the English and Kannad dailies. Pursuant to the advertisement objections were filed by the Mysore Grahaka Parishad, after the date fixed i.e. 16/8/2003. It is contended by the

appellant that the impugned order dated 10/10/2003 was passed without affording to the appellant any opportunity to put-forth its views on the objection filed and also making its submissions in respect of terms and conditions in the PPA which the Commission wanted to modify.

3. Mr. Anand K. Ganesan, advocate representing the respondent Karnataka Power Transmission Commission Limited(KPTCL) does not have any objection to the prayer. The Commission represented by Mr. S. Balaji is prepared to take the directions as per the prayer made today. No other respondent has put in appearance.

4. Having heard parties counsel, we think it will be appropriate for the Commission to re-determine the issue of approval of the PPA after affording to the appellant an opportunity to present its views and submissions to the Commission. Needless to say that the objector Mysore Grahaka Parishad should be duly intimated about the opportunity being given to the appellant.

5. Accordingly, we allow the appeal and set-aside the impugned order and direct the Karnataka Electricity Regulatory Commission (KERC) to pass a fresh order within two months hereof on the PPA between the appellant and the respondent no. 2(KPTCL) after affording an opportunity to the appellant to make its submission vis-à-vis objections to the PPA filed by the Mysore Grahaka Parishad as well as regarding its views on the intended modifications in the PPA.

(H. L. Bajaj)
Technical Member

(Justice Manju Goel)
Judicial Member