

Appellate Tribunal for Electricity
(Appellate Jurisdiction)

APPEAL No.143 OF 2011

Dated:23rd March, 2012

Present: Hon'ble Mr. Justice M. Karpaga Vinayagam, Chairperson
Hon'ble Mr. V J Talwar, Technical Member

In the Matter Of

Vegan Inc
7/1st Floor, 28
Kika Street,
Mumbai-400 002

..... Appellant(s)

Versus

1. The Maharashtra Electricity Regulatory Commission,
World Trade Centre No.1,
13th Floor, Cuffe Parade,
Colaba,
Mumbai-400 001
2. State of Maharashtra
Through Energy Secretary
Government of Maharashtra
Mumbai-220 032
3. Reliance Infrastructure Limited
H Block, 1st Floor,
Dhirubhai Ambani Knowledge City,
Mumbai-400 710
4. Wardha Power Company Limited
8-2-293/82/A/431/A
Road No.22, Jubilee Hills,
Hyderabad-500 033

..... Respondent(s)

Counsel for the Appellant :Mr.S B Upadhyay,Sr Advocate
Mr. Pawan Upadhyay
Ms. Anisha Upadhyay
Mr. Ankit Vij
Mr. Pawan Kishore Singh
Mr. Param Mishra

Counsel for the Respondent : Mr. Jayant Bhushan Sr Adv for R-1
Mr. Buddy A. Ranganadhan for R-1
Ms. Richa Bhardwaj for R-1
Mr. Sugam Seth for R-1
Mr. Arijit Mitra for R-1
Mr. Ramji Srinivasan,Sr Adv for R-2
Mr. Hasan Murtaza for R-2
Mr. Vivek Paul for R-2
Mr. M.G. Ramachandran for WPCL
Mr. Hemant Singh for WPCL
Mr. Sanjay Sen for WPCL
Ms. Shikha Ohri for WPCL

JUDGMENT

PER HON'BLE MR. JUSTICE M. KARPAGA VINAYAGAM, CHAIRPERSON

1. Vagan Inc is the Appellant herein. The Appellant is a non Governmental organization. Some of the members of the Appellant are the consumers of the Electricity supplied from Reliance Infrastructure Limited (R-3).
2. The State Commission (R-1) by the order dated 31.5.2011, set aside the termination notice issued by the Reliance Infrastructure Limited (R-3) as against the Wardha Power Company Limited and consequently directed the Reliance Infrastructure Limited to

purchase the power from Wardha Power Company Limited for the agreed price of Rs.4.85 Kwh pursuant to the PPA dated 4.6.2010.

3. The Appellant claiming itself as one of the Governmental organization having consumers of electricity of M/S. Reliance Infrastructure Limited and claiming that they are directly affected by the cost of purchase of power on which the Reliance Infrastructure was constrained to purchase the power from Wardha Power Company Limited, this Appeal has been filed.
4. According to the Appellant, the impugned order dated 31.5.2011 affecting the interest of consumers would militate against the provisions of Section 63 of the Act, 2003, National Electricity Policy and National Tariff Policy and therefore the same is liable to be set-aside.
5. At the outset it shall be stated that the impugned order dated 31.5.2011 in this Appeal has been held valid by this Tribunal in the other Appeal No.115 of 2011 filed by the Reliance Infrastructure Limited, finding that that termination notice was illegal and consequently the Reliance Infrastructure has to purchase the power from the Wardha Power Company in terms of the PPA dated 4.6.2010. That apart, the grounds urged in this Appeal has no relevance to the issue as in the instant case, the State Commission has followed the mandate of Section 63 of the Electricity Act to approve the PPA dated 4.6.2010 which has been executed in pursuant to a transparent and fair process of bidding in compliance with the bidding guidelines of the Government. As such, the order

dated 31.5.2011 which has been made in the present Appeal has been passed in accordance with Section 63 of the provisions of the Electricity Act.

6. Once an Evaluation Committee approves the bidding procedure and holds that the same is in compliance with the guidelines and consequently distribution licensee executes the PPA, the same is required to be approved under Section 63.
7. When the terms of the PPA has not been followed in letter and spirit by the Reliance Infrastructure Limited while issuing the terminating notice, it is the duty of the State Commission to set right the position and pass a necessary order in terms of the PPA which has been approved under Section 63 of the Electricity Act, 2003.
8. In view of the fact that the impugned order has been confirmed in the other Appeal, we do not find any reason to differ from the view taken by us in the other Appeal.
9. Therefore, the Appeal is dismissed not only for the reason that it is not maintainable in law by also for the reason that the Appeal is not sustainable in the facts.
10. The Appeal is dismissed. However, there is no order as to costs.

(V.J. Talwar)
Technical Member

(Justice M. Karpaga Vinayagam)
Chairperson

Dated: 23th Mar, 2012

Reportable/Not Reportable